

The Senate

Economics
Legislation Committee

Major Bank Levy Bill 2017 [Provisions]

Treasury Laws Amendment (Major Bank
Levy) Bill 2017 [Provisions]

June 2017

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ISBN 978-1-76010-599-0

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Printed by the Senate Printing Unit, Parliament House, Canberra.

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Abbreviations and Acronyms

ABA	Australian Bankers Association
ACCC	Australian Competition and Consumer Commission
ADIs	authorised deposit-taking institutions
ANZ	Australia and New Zealand Bank
APRA	Australian Prudential Regulation Authority
CBA	Commonwealth Bank of Australia
NAB	National Australia Bank
RBA	Reserve Bank of Australia
SSCSB	Senate Standing Committee for the Scrutiny of Bills

Chapter 1

Introduction

1.1 On 13 June 2017, the Senate referred the provisions of the Major Bank Levy Bill 2017 and the Treasury Laws Amendment (Major Bank Levy) Bill 2017 (the bills) to the Senate Economics Legislation Committee for inquiry and report by 19 June 2017.

Overview of the bills

1.2 The Major Bank Levy Bill 2017 (Major Bank Levy Bill) will introduce a levy on authorised deposit-taking institutions (ADIs) with total liabilities of greater than \$100 billion. The levy is imposed at a rate of 0.015 per cent on certain liabilities of the ADI that are reported to the Australian Prudential Regulation Authority (APRA) on a quarterly basis under a reporting standard.¹

1.3 The amount of liabilities on which the Major Bank Levy will be payable is the total reported liabilities of the ADI for the quarter, reduced by the sum of:

- the ADI's total Additional Tier 1 Capital at the end of the quarter;
- the ADI's total holdings of deposits protected by the Financial Claims Scheme at the end of the quarter;
- an amount equal to the lesser of the derivative assets and derivative liabilities at the end of the quarter in relation to the ADI; and
- the exchange settlement account balance held with the Reserve Bank of Australia (RBA) for the quarter in relation to the ADI.²

1.4 Schedule 1 to the Treasury Laws Amendment (Major Bank Levy) Bill 2017 (the Treasury Laws Amendment Bill) amends the *Australian Prudential Regulation Authority Act 1998* (APRA Act), the *Financial Sector (Collection of Data) Act 2001* (Collection of Data Act), the *Income Tax Assessment Act 1997* (ITAA 1997) and the *Taxation Administration Act 1953* (TAA 1953) to specify certain administrative features relating to the Major Bank Levy, including the requirement that the levy is payable to the Commissioner of Taxation (Commissioner) quarterly.³ In particular, the amendments:

- modify the TAA 1953 to:
 - specify that the Major Bank Levy is payable to the Commissioner;
 - ensure that the ordinary collection and recovery provisions apply in relation to the levy;

1 Explanatory Memorandum, p. 3.

2 Explanatory Memorandum, p. 6.

3 Explanatory Memorandum, p. 3.

- introduce an anti-avoidance law for the levy; and
- allow the Commissioner to give information relating to the levy to APRA;
- modify the ITAA 1997 so that the \$100 billion threshold is indexed to grow in line with nominal Gross Domestic Product;
- modify the Collection of Data Act to allow APRA reporting standards to include information relating to reporting amounts for the purposes of the Major Bank Levy; and
- modify the APRA Act to allow APRA to provide information relating to the Major Bank Levy to the Commissioner.⁴

1.5 Subject to the passage of the bill, the Major Bank Levy is due to take effect from 1 July 2017.

Financial impact

1.6 The Major Bank Levy is expected to raise \$6.2 billion between 2017-18 and 2020-21 (Table 1). The implications for the underlying cash balance are \$5.5 billion over the same period.⁵

Table 1: Financial impact of the Major Bank Levy over the forward estimates

<i>2016-17</i>	<i>2017-18</i>	<i>2018-19</i>	<i>2019-20</i>	<i>2020-21</i>
—	\$1 600m	\$1 500m	\$1 500m	\$1 600m

Source: Explanatory Memorandum, p. 3.

Conduct of the inquiry

1.7 The committee advertised the inquiry on its website. It also wrote to relevant stakeholders and interested parties inviting submissions by 15 June 2017. The committee received 21 submissions, which are listed at Appendix 1.

1.8 The committee held a public hearing in Canberra on 16 June 2017. The witnesses who appeared at the hearing are listed at Appendix 2.

1.9 The committee appreciates the efforts of all stakeholders who contributed to the inquiry.

Background

1.10 In the 2017-18 Budget, the government announced that it would introduce a levy on major banks with assessable liabilities greater than \$100 billion. The levy will contribute to budget repair over the forward estimates period and contribute to strengthening the structural position of the budget for the long term—providing

⁴ Explanatory Memorandum, pp. 6-7.

⁵ Explanatory Memorandum, p. 3.

greater fiscal capacity to accommodate shocks such as those seen in the global financial crisis.⁶

1.11 Repairing the budget and maintaining the Australian Government's AAA credit rating will also benefit the largest banks, as their credit ratings, and hence funding costs, are more closely linked to the government's credit rating.⁷

1.12 In his second reading speech, the Treasurer emphasised that:

Our banks must be unquestionably strong, but they must also be unquestionably accountable, unquestionably fair and our banking system must be unquestionably competitive.

The government is also committed to ensuring that Australia's largest banks are held to account and make a fair additional contribution to the Australian community which they serve.⁸

1.13 The bank levy will have a number of other beneficial impacts for ongoing stability and competition settings, notably:

- ensuring a fair contribution from major banks to the economy given risks to the economy arising from large leveraged banks;
- providing a more level playing field for smaller banks and non-bank competitors; and
- complementing broader prudential reforms being implemented by APRA and the government.⁹

1.14 The levy will also bring Australia's taxation arrangements for ADIs into alignment with other advanced countries.¹⁰

A fair contribution from major banks to the community

1.15 Australia's major banks are among the most profitable in the advanced world. Rates of return on equity for the largest banks have averaged around 15 per cent over the past five years, far exceeding peers in the United States, Europe and Japan, and matched only by Canadian banks.¹¹

1.16 In the last year alone, the five banks that will be affected by the levy—Australian and New Zealand Bank (ANZ), Commonwealth Bank of Australia (CBA),

6 Explanatory Memorandum, p. 5.

7 Explanatory Memorandum, pp. 25-26.

8 The Hon. Scott Morrison (Treasurer), Major Bank Levy Bill 2017—Second Reading Speech, *House of Representatives Hansard*, 30 May 2017, p. 1.

9 Explanatory Memorandum, p. 26.

10 Explanatory Memorandum, p. 26.

11 Explanatory Memorandum, p. 26.

National Australia Bank (NAB), Westpac and Macquarie Bank—collectively earned more than \$30 billion in profit after tax.¹²

1.17 The global financial crisis demonstrated that large, leveraged banks are a major source of systemic risk. If one or more of Australia's major banks became distressed or was seen to be at risk of failing, there could be the potential for significant contagion to other financial institutions.¹³

1.18 This would impose large costs on Australia's financial system and economy. The costs of borrowing would rise, with significant flow-on effects to mortgage holders, business and government finances. Credit supply could also be disrupted, starving the economy of the capital needed for it to grow and create jobs. In essence, the levy represents a fair additional contribution from the largest banks for the risks they pose to the financial system and economy.¹⁴

Provide a more level playing field for smaller banks and non-bank competitors

1.19 The major banks represent 80 per cent of the bank deposit market, 80 per cent of all credit provided by the banks and around three-quarters of the credit card market.¹⁵

1.20 A number of factors contribute to the ongoing dominance of major banks in the market for consumer and business lending. In his second reading speech, the Treasurer noted that:

The House of Representatives Economics Committee's review of the four major banks, commissioned by the Prime Minister and myself last year, concluded that Australia's banking sector is an oligopoly and that Australia's largest banks have significant pricing power which they have used to the detriment of everyday Australians.¹⁶

1.21 Further, these banks have benefited:

...[F]rom a regulatory system that has helped to embed their dominant position in the market. For example, the major banks are accredited to use internal ratings-based models that allow them to reduce the amount of capital that they must hold, lowering their funding costs relative to the smaller banks who rely on standardised risk weights.¹⁷

1.22 The imposition of the levy will reduce the largest banks' funding cost advantage and contribute to a more level playing field. This will enhance the ability of

12 Explanatory Memorandum, p. 26.

13 Explanatory Memorandum, p. 26.

14 Explanatory Memorandum, p. 27.

15 Explanatory Memorandum, p. 27.

16 The Hon. Scott Morrison (Treasurer), Major Bank Levy Bill 2017— Second Reading Speech, *House of Representatives Hansard*, 30 May 2017, p. 2.

17 The Hon. Scott Morrison (Treasurer), Major Bank Levy Bill 2017— Second Reading Speech, *House of Representatives Hansard*, 30 May 2017, p. 1.

smaller banks and non-bank lenders to compete more aggressively with the largest banks.¹⁸

Complement prudential reforms to strengthen the financial system

1.23 The Major Bank Levy will complement prudential reforms being implemented by the government and APRA to improve financial system resilience. These reforms include:

- setting bank capital levels such that they are 'unquestionably strong';
- strengthening APRA's crisis management powers; and
- ensuring banks have appropriate loss absorbing capacity.¹⁹

1.24 The design of the levy complements the 'unquestionably strong' direction of prudential policy. The levy will not apply to common equity and Additional Tier 1 capital (capital instruments that can be converted to equity or be written off in the event of distress). According to APRA, the payment of the levy will not have a material impact on the resilience of the banking system and the levy regime does not harm APRA's prudential policy objectives.²⁰

1.25 As the levy excludes deposits protected by the Financial Claims Scheme, it also creates an additional incentive for affected banks to move towards more stable, deposit-based funding. In doing so, it complements prudential measures aimed at making banks more resilient to market disruptions of the sort seen in the global financial crisis.²¹

The Major Bank Levy is comparable with bank levies in other jurisdictions

1.26 A number of foreign jurisdictions have introduced bank levies that are similar in design to the Major Bank Levy.²² A summary of these levies is provided in Table 2.

1.27 These bank balance sheet levies commonly adopt a liabilities base rather than other options such as assets or regulatory capital. Consideration of their design, in particular that of the United Kingdom, has reinforced the value of adopting a broad base/low rate approach that limits exclusions from total liabilities in setting the base.²³

1.28 Analysis following their introduction indicates that the incidence of bank levies being passed on to consumers (in the form of higher interest rates) is not universal and is likely to depend in part on country-specific factors. There is some evidence to suggest that bank levies can promote financial stability—levies introduced

18 Explanatory Memorandum, p. 27.

19 Explanatory Memorandum, pp. 5-6.

20 Explanatory Memorandum, pp. 27-28.

21 Explanatory Memorandum, p. 28.

22 Explanatory Memorandum, p. 37.

23 Explanatory Memorandum, p. 38.

in Europe have been found to have induced large increases in bank capital levels, due to the levies increasing the cost of wholesale funding relative to equity.²⁴

Table 2: International Bank Levies

<i>Jurisdiction (introduced)</i>	<i>Levy base</i>	<i>Levy rate</i>	<i>Exemptions & threshold</i>
<i>Australia (proposed 2017)</i>	Liabilities	0.06% (annualised)	Deposits protected by the FCS, AT1 capital before deductions, derivatives Threshold: \$100bn
<i>Austria (2011)</i>	Liabilities	<€20bn: 0.09% >€20bn: 0.11%	Insured deposits Threshold: €1bn
<i>Belgium (2012)</i>	Liabilities	0.13231% (2016)	Levied on 'debt towards clients'
<i>France (2011)</i>	Minimum regulatory capital	0.5%	Threshold: €500m
<i>Germany (2011)</i>	Liabilities Derivatives	Liabilities: >€300m: 0.02% progressively increasing to >€300bn: 0.06% Derivatives: 0.0003%	Retail deposits, certain reserves, certain profit participation rights Threshold: €300m Maximum: 20% of annual earnings Minimum: 5% of calculated annual contribution
<i>Hungary (2010)</i>	Assets	<HUF50bn: 0.15% >HUF50bn: 0.24%	Interbank loans
<i>Iceland (2011)</i>	Total liabilities	0.376%	Threshold: ISK50mn
<i>Netherlands (2012)</i>	Liabilities	Long-term: 0.022% Short-term: 0.044%	Protected deposits, regulatory capital, insurance liabilities Threshold: €20bn
<i>Poland (2016)</i>	Assets	0.44%	Equity capital and government securities Threshold: PLN4bn
<i>Portugal (2011)</i>	Liabilities	0.01-0.11%	Tier 1 and 2 capital, and protected deposits
<i>Slovakia (2012)</i>	Liabilities	0.2%	'Own funds' and subordinated debt
<i>Sweden (2009)</i>	Liabilities	0.09%	Protected deposits
<i>United Kingdom (2011)</i>	Liabilities	Long-term and equity: 0.09% (0.05% from 2021) Short-term: 0.18% (0.1% from 2021)	Protected deposits, Tier 1 capital, sovereign repos, other selected liabilities

Source: Explanatory Memorandum, pp. 37-38.

Human rights implications and other considerations

Human rights implications

1.29 The bills do not engage any of the applicable rights or freedoms.²⁵

Senate Standing Committee for the Scrutiny of Bills

1.30 The Senate Standing Committee for the Scrutiny of Bills (SSCSB) commented on both bills in the *Scrutiny Digest 6 of 2017*.

1.31 In relation to both bills, the SSCSB was concerned about provisions that allow the incorporation of external materials existing from time to time:

At a general level, the committee will have scrutiny concerns where provisions in a bill allow the incorporation of legislative provisions by reference to other documents because such an approach:

- raises the prospect of changes being made to the law in the absence of parliamentary scrutiny, (for example, where an external document is incorporated as in force 'from time to time' this would mean that any future changes to that document would operate to change the law without any involvement from Parliament);
- can create uncertainty in the law; and
- means that those obliged to obey the law may have inadequate access to its terms (in particular, the committee will be concerned where relevant information, including standards, accounting principles or industry databases, is not publicly available or is available only if a fee is paid).

As a matter of general principle, any member of the public should be able to freely and readily access the terms of the law. Therefore, the committee's consistent scrutiny view is that where material is incorporated by reference into the law it should be freely and readily available to all those who may be interested in the law.²⁶

1.32 The SSCSB has requested that the Treasurer provide advice as to the type of documents that it is envisaged may be applied, adopted or incorporated by reference under subclauses 5(5), 6(5) and 8(2) of the Major Bank Levy Bill 2017 subsection 13(2C) of the Treasury Laws Amendment (Major Bank Levy) Bill 2017, whether these documents will be made freely available to all persons interested in the law and why it is necessary to apply the documents as in force or existing from time to time, rather than when the document is first made.²⁷

25 Explanatory Memorandum, p. 24.

26 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2017*, 14 June 2017, p. 46.

27 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2017*, 14 June 2017, pp. 46-47 and 71-72.

1.33 In relation to the Treasury Laws Amendment (Major Bank Levy) Bill 2017, the SSCSB was concerned about provisions that reverse the evidential burden of proof:

Section 56(2) of the Australian Prudential Regulation Authority Act 1998 makes it an offence to disclose information acquired without authorisation. The offence carries a maximum penalty of imprisonment for 2 years. Proposed subsection 56(5D) provides an exception (offence specific defence) to this offence, stating that the offence does not apply if the production by a person of a document that was given to the Australian Prudential Regulation Authority (APRA) under section 13 of the Financial Sector (Collection of Data) Act 2001 is to the Commissioner of Taxation for the purposes of the Major Bank Levy Act 2017.

Subsection 13.3(3) of the Criminal Code Act 1995 provides that a defendant who wishes to rely on any exception, exemption, excuse, qualification or justification bears an evidential burden in relation to that matter.

At common law, it is ordinarily the duty of the prosecution to prove all elements of an offence. This is an important aspect of the right to be presumed innocent until proven guilty. Provisions that reverse the burden of proof and require a defendant to disprove, or raise evidence to disprove, one or more elements of an offence, interferes with this common law right.²⁸

1.34 The SSCSB has requested that the Treasurer provide advice as to why it is proposed to use an offence-specific defence (which reverses the evidential burden of proof) in this instance.²⁹

28 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2017*, 14 June 2017, pp. 70-71.

29 Senate Standing Committee for the Scrutiny of Bills, *Scrutiny Digest 6 of 2017*, 14 June 2017, p. 71.

Chapter 2

Views on the bills

General views on the measure

2.1 The proposed introduction of the Major Bank Levy (the levy) drew mixed responses from a variety of stakeholders.

2.2 Opposition to the levy was voiced from a number of different perspectives:

The bank levy as it is currently framed is misguided, inefficient, poorly considered, and likely to reduce productivity while encouraging an increase in financial market risk.¹

The Government's proposed levy should be abandoned. It is a tax on all Australians which will increase the cost of buying a house and starting business, was designed without consultation, and is predicated on highly illiberal grounds.²

The FSU [Financial Sector Union] supports a fairer and more progressive tax system, however focusing on a single industry to address short term fiscal deficit does not strengthen the government's ability to provide the high-quality public services and social security that Australians want, need and deserve.³

2.3 Unsurprisingly, the five banks affected by the levy also objected to its introduction. While smaller banks, under the \$100 billion liability threshold, support the levy's introduction believing it will increase competition in the banking sector:

COBA [Customer Owned Banking Association] welcomes the levy as a modest step towards reducing the unfair funding cost advantage enjoyed by the major banks as a result of the implicit guarantee provided by taxpayers due to the perception that the major banks are 'too big to fail'.⁴

...[ME Bank] strongly support[s] the levy as an important initiative that will have some positive impact on banking competition.⁵

...[Suncorp] welcome[s] any initiative which helps to improve competitive neutrality in the banking sector, and believe[s] that the proposal in the Bill as currently before the Senate has the potential to support a more level playing field.⁶

1 Centre for Independent Studies, *Submission 12*, p. 2.

2 Institute of Public Affairs, *Submission 13*, p. 1.

3 Financial Sector Union of Australia, *Submission 15*, p. 2.

4 COBA, *Submission 9*, p. 2.

5 ME Bank, *Submission 2*, [p. 3].

6 Suncorp, *Submission 20*, p. 1.

2.4 ING Direct, the only foreign owned bank that took up the committee's invitation to provide a submission, supports initiatives—such as the levy—which 'promote competition in what is acknowledged as a highly concentrated Australian banking market'.⁷

2.5 The Australian Bankers Association (ABA)—representing the major banks, regional banks, foreign banks and customer-owned banks—noted that the interests of its members were not aligned regarding the introduction of the levy. However, the ABA voiced concerns that:

- Consultation for the bank levy was rushed and inadequate.
- The legislation leaves open the possibility that the base will be broadened and the rate increased by future governments.
- The levy cannot be 'absorbed'—it will be borne by savers, borrowers, shareholders, employees, suppliers or a combination of all.
- The imposition of a new levy on institutions that are profitable and successful sets a worrying precedent for other successful Australian businesses.⁸

Potential to achieve the stated outcomes

2.6 Some stakeholders noted that the measure was aimed at addressing multiple objectives which did not appear to be reflected in the policy development process or legislation itself. The CBA reflected these concerns:

If the levy is to address competition in the financial services sector, the best course of action would be to await the outcome of the Productivity Commission Inquiry into Competition in the Australian Financial System. If the levy has been introduced to assist with Budget repair, the Bill should include a sunset clause for when the Budget returns to surplus. If the rationale for the introduction of the levy is that banks should make a contribution for the 'implicit guarantee', this would run counter to the findings of the government's own Financial System Inquiry. If the policy objective of the levy is to complement prudential reforms, then options are available to support the stability of the system which do not seem to have been considered, such as differential rates of the levy applying to short and long term debt, as applies in the United Kingdom (UK).⁹

Revenue estimates

2.7 Stakeholders also raised concerns about whether the levy will raise the estimated \$6.2 billion in revenue as outlined in the budget papers. Many of these concerns related to the release of the Treasury modelling underlying the budget estimates.

7 ING Direct, *Submission 21*, [p. 2].

8 ABA, *Submission 6*, p. 1.

9 CBA, *Submission 7*, p. 1.

2.8 The ABA noted that:

It remains unclear whether the Government's revenue target of \$6.2 billion over four years will be met. Banks were promised, but did not receive, Treasury's calculations of their individual levy, nor has broader modelling been released.¹⁰

2.9 When questioned at the hearing, the ABA commented that:

It would be much easier for the banks to provide more full and thoughtful commentary back to the Government and to Treasury if they were party to the modelling...the banks have made market disclosures on the basis of their own estimates of what is likely to be raised by the levy, and there is a significant discrepancy between their estimates and those that the government have identified for this measure.¹¹

2.10 Treasury dismissed the banks' claim stating that the internal government modelling was never promised or supplied to the banks.¹²

Competition concerns and regulatory oversight

2.11 As noted above, a number of the smaller banks indicated that the introduction of the levy could lead to better outcomes for consumers. However, there were concerns that the effect on competition may only be small, particularly given the banks are yet to decide whether to increase the cost of retail products. The Customer Owned Banking Association considered that:

We think it [the levy] will have a small positive impact on competition but it is certainly not enough on its own to influence competition in the way that we would like to see banking competition promoted within the Australian banking market.¹³

2.12 Stakeholders also warned that the cost of the levy may be borne by customers through higher mortgage rates. The Business Council of Australia considered that lending rates must increase for competition outcomes to be achieved:

The bank levy can only benefit untaxed banks if costs and market prices (lending rates) of taxed banks increase, and the costs of untaxed banks do not rise in line with those of taxed banks. If lending rates of taxed banks do not increase then untaxed banks cannot benefit...¹⁴

2.13 Recognising the potential for the levy to be passed on to consumers, the Treasurer announced on 9 May 2017, the establishment of an Australian Competition and Consumer Commission (ACCC) inquiry into residential mortgage pricing:

10 ABA, *Submission 6*, p. 3.

11 Ms Anna Bligh, Australian Bankers Association, *Committee Hansard*, 16 June 2017, p. 5.

12 Mr John Lonsdale, Treasury, *Committee Hansard*, 16 June 2017, p. 73.

13 Mr Mark Degotardi, Customer Owned Banking Association, *Committee Hansard*, 16 June 2017, p. 60.

14 Business Council of Australia, *Submission 19*, p. 3.

The ACCC inquiry will illuminate how the banks respond to the introduction of the levy and give all Australians the information they need to get a better deal elsewhere from any of the more than 100 other banks, credit unions and building societies, as well as other non-bank competitors.¹⁵

2.14 In undertaking this work, the ACCC noted that:

The discipline of exposing conduct and making it public, we think, is likely to be successful in terms of putting a real incentive on banks to seek to maintain or improve their name.¹⁶

Effect on the prudential regulation system and resilience

2.15 Some stakeholders were not convinced that the levy would strengthen the prudential regulation system and promote stability. The Centre for Independent Studies argued that the proposed levy will result in risk being mispriced which, in turn, would reduce bank resilience.¹⁷

2.16 The Business Council of Australia also questioned whether the levy would contribute to an 'unquestionably strong' financial system:

...the design of the levy creates a disincentive to hold high quality and longer term borrowings. These are critical for building liquidity buffers and withstanding any crisis—contrary to the government's stated aim.¹⁸

2.17 NAB argued that the inclusion of funding for high quality liquid assets and double counting of internal intercompany balances in the calculation of the levy payment creates a system-wide disincentive to further improve liquidity buffers.¹⁹

2.18 Further, NAB highlighted the potential risk in the function of certain institutional banking markets:

Including wholesale banking activities, such as repurchase agreements, collateral for derivatives and interbank cash flows in the levy liability calculation has the potential to reduce liquidity in those markets...

In addition...the application of the levy to only five Australian banks could see important institutional banking activities such as custodian services, derivatives, trade finance, repurchase agreements and corporate lending migrate to global institutional competitors. As illustrated in the GFC, these banks have typically looked to rapidly exit the Australian market in times of stress which, if repeated, could have broad economic consequences.²⁰

15 The Hon. Scott Morrison (Treasurer), Major Bank Levy Bill 2017—Second Reading Speech, *House of Representatives Hansard*, 30 May 2017, p. 3.

16 Mr Marcus Bezzi, ACCC, *Committee Hansard*, 16 June 2017, p. 64.

17 Centre for Independent Studies, *Submission 12*, p. 3.

18 Business Council of Australia, *Submission 19*, p. 3.

19 NAB, *Submission 5*, p. 2.

20 NAB, *Submission 5*, p. 2.

2.19 The Australian Prudential Regulation Authority (APRA) does not believe the levy will affect the stability of the financial system:

APRA does not consider six basis points on the portion of large bank liabilities to be a material consideration when you are thinking of overall financial strength and stability.

...

Again, taking six basis points is, in our view, not very material in terms of the overall earnings profile and capital strength.²¹

2.20 The CBA also considered that the bank levy would not affect stability of the financial system:

It certainly reduces the potential accumulation of capital or the pace of the accumulation of capital so this is not necessarily aligned with some of the policy objectives of strengthening the system but it does not, in the grand scheme of things, undermine the system.²²

Scope of the levy

Inclusion of Macquarie Group

2.21 Macquarie Group argued that, in the context of domestic retail competition, it is not a 'major bank' as it has less than 2 per cent share in domestic mortgages, less than 2.5 per cent in deposits, less than 2 per cent of Total Australian Lending and Advances and less than 1.5 per cent of the credit card market. It is a price taker in the retail products that it offers and that its return on equity has averaged approximately 10 per cent for the last five years.²³

2.22 Macquarie Group concluded that the application of the major bank levy:

...will place it at a competitive disadvantage in offshore markets and may lead to it no longer being able to compete in some products.²⁴

2.23 At the hearing, Macquarie Group summarised their position:

...we would like to express our surprise that the levy is applying to Macquarie Bank, given our size and the benefit we bring to domestic competition and the role we play in bringing export income into the Australian economy. Whilst we recognise and respect the government's right to introduce laws and impose taxes for the good of all Australians, we are concerned that the impact of the major bank levy on Macquarie Group is not fully understood and that unintended consequences may result.²⁵

21 Mr Pat Brennan, APRA, *Committee Hansard*, 16 June 2017, p. 68.

22 Mr Paolo Tonucci, CBA, *Committee Hansard*, 16 June 2017, p. 13.

23 Macquarie Bank, *Submission 8*, pp. 2-3.

24 Macquarie Bank, *Submission 8*, p. 4.

25 Mr Nicholas Moore, Macquarie Group, *Committee Hansard*, 16 June 2017, p. 20.

2.24 Bendigo and Adelaide Bank contested the position put forward by the Macquarie Group highlighting that they do get benefits from having a favourable credit rating, being able to apply an advanced regulatory model and being able to apply lower capital:

Macquarie is a very successful business. They are very good at changing direction as the market changes. Even though they may say they are not a strong retail bank today—and, in fact, through the GFC they did not have much of a retail business at all—who knows what they are going to be tomorrow. I would be looking at whether or not they are advantaged in some way at the moment and using that.²⁶

Capturing the economic rent from 'too big to fail' status

2.25 The ABA raised fairness concerns about targeting only five banks:

The ABA believes it is unfair to impose a new levy only on the customers, shareholders or employees of targeted institutions, simply because of the institutions they choose to bank with or invest in.²⁷

2.26 However, many of the smaller banks considered it entirely appropriate to only impose the levy on large banking institutions that receive a funding cost advantage because of their status as 'too big to fail' and the implicit government guarantee associated with this status. For example, Suncorp highlighted that:

S&P [rating agency] has consistently stated that it values the Australian Government's implicit support as being worth a two-notch uplift, and that the credit ratings of these institutions are therefore two notches higher than they would be in the absence of this support.

More recently, the scale of this advantage has become even greater. Last month, S&P lowered the credit rating of 23 financial institutions, but left the credit ratings of the major banks and Macquarie unchanged...this means the two-notch upgrade that was previously enjoyed by the major banks has now been increased to three notches.²⁸

2.27 Similarly, ME Bank considered that a levy should be imposed on those banks that are receiving financial benefits from being classified as systemically important:

We respectfully submit however that the competitive intention of the legislation would be improved by amending section 4(3), levy threshold to fully reflect the benefit and linking the application of the levy to those banks designated by APRA as systemically important.²⁹

2.28 At the hearing, ME Bank elaborated:

...we should accurately calculate the benefit that is being accrued and all agree so we can stop having that philosophical debate and actually have a

26 Mr Mike Hirst, Bendigo and Adelaide Bank, *Committee Hansard*, 16 June 2017, p. 50.

27 ABA, *Submission 6*, p. 4.

28 Suncorp, *Submission 20*, pp. 1-2.

29 ME Bank, *Submission 2*, [p. 3].

facts based discussion, and then I think that benefit should go back to its rightful owner over time, and I believe that is the taxpayer, but it should be done in such a way that would not impact on having an unquestionably strong banking system in this country, which is in everyone's best interest. That would be my core philosophy.³⁰

2.29 However, much of the market power and associated financial benefits that these banks—and their customers, shareholders and employees—enjoy is derived from their more favourable credit ratings which, in turn, are supported by the government through the prudential regulatory system. Bendigo and Adelaide Bank concluded that:

The major banks' contribution to budget repair will simply shore up the unearned benefit they currently receive.³¹

Foreign banks and international operations

2.30 Stakeholders raised concerns about the competitiveness of their international operations, particularly when foreign branches are included but foreign subsidiaries are excluded.³² ANZ commented that the levy in its current form:

...is declining to tax activities that occur within its borders but is taxing activities that occur outside them.³³

2.31 At the hearing, ANZ also noted that:

When we look at...the policy reasons that have been stated for the levy, we do not think that any of those policy reasons are inconsistent with the foreign banks being included.³⁴

2.32 The major banks advocated for an extension of the levy to very large foreign banks operating in Australia. For example, CBA contended that:

Our experience is that the segments in which the foreign banks operate are highly competitive and often sensitive to changes in the cost of borrowing. In light of the current low interest rate environment, where Australian bank margins have been under pressure and overall competition heightened, we believe the imposition of the levy only on the major banks will give foreign banks a pricing advantage in these segments. This would be in addition to the competitive advantage foreign banks already have from less conservative regulatory requirements, and therefore carry substantially less capital than their Australian peers...³⁵

30 Mr Jamie McPhee, ME Bank, *Committee Hansard*, 16 June 2017, p. 55.

31 Bendigo and Adelaide Bank, *Submission 3*, [p. 3].

32 See, for example, ABA, *Submission 6* and Macquarie Bank, *Submission 8*.

33 ANZ, *Submission 4*, p. 1.

34 Ms Michelle Jablko, ANZ, *Committee Hansard*, 16 June 2017, p. 38.

35 CBA, *Submission 7*, p. 2.

2.33 Westpac provided examples in two market segments—trade finance and repurchase agreements—which would be directly affected by the imposition of the bank levy. Specifically in relation to trade finance, Westpac commented that:

Trade finance is a market that is international, so it can be provided either onshore or offshore. If you have different players with different funding costs it may impact where the business goes, because customers will move their business for six basis points.³⁶

2.34 Similarly, NAB noted that:

In wholesale markets in Australia and offshore, the main market participants are the five impacted banks and global international banks. Excluding these international banks will result in a clear disadvantage for the impacted Australian banks when competing against global competitors in these markets...³⁷

2.35 The CBA provided some insight into the effect of six-basis point levy on the government bond market:

The government bond market is obviously associated with the repo market that provides much of the immediate liquidity and funding to the system. Six basis points in the government market can be the difference between profitability and loss making. This is one of the areas which we think is most affected by the inconsistency in the treatment of large foreign banks and the domestic banks.³⁸

2.36 Westpac argued that not extending the levy to foreign bank operations:

...places Australian banks at a competitive disadvantage in these key markets. This will likely result in businesses transferring from the Australian Banks to the foreign banks, and as a result, it may even deplete the tax base for the levy. In effect, Australians will be subsidising foreign bank shareholders.³⁹

2.37 A number of the affected banks argued that liabilities associated with their foreign activities should be excluded from the levy. For example, Macquarie Bank noted that:

Foreign subsidiaries are excluded from the definition of liabilities for the purposes of calculating the levy payable. This exclusion should be extended to foreign branches to achieve consistency and ensure the foreign operations of Australia banks remain globally competitive.⁴⁰

2.38 Similarly, ANZ commented that:

36 Mr Peter King, Westpac, *Committee Hansard*, 16 June 2017, p. 30.

37 NAB, *Submission 5*, p. 2.

38 Mr Paolo Tonucci, CBA, *Committee Hansard*, 16 June 2017, p. 14.

39 Westpac, *Submission 1*, p. 2.

40 Macquarie Bank, *Submission 8*, pp. 4-5.

By applying to Australian bank liabilities in our offshore branches, the levy will also increase the costs of Australian banks to seek to compete overseas...The levy has the potential to make our services more expensive and less competitive.⁴¹

2.39 In addition, concerns were raised about the potential for double taxation of international activities, further eroding the competitiveness of Australian banks operating in international markets. ANZ stated that:

...in applying to our offshore activities, the levy enlivens the risk of double taxation.⁴²

2.40 ANZ considered that many of the competitiveness issues arising from foreign banks could be addressed by:

...ensuring the levy applies consistently to all Australian-based activities, regardless of whether they are carried out by domestic or foreign major banks, while leaving offshore activities to be taxed according to foreign laws only.⁴³

2.41 NAB noted that including foreign banks in the proposed levy would be consistent with the operation of the bank levy in the UK.⁴⁴ NAB also proposed a two stage approach to determining whether the levy should be applied to foreign banks:

You could start on eligibility by looking at their global balance sheets, so you would generally pick up those large global players, and then supplement that by having some lower threshold for their Australian operations. In that sense, you could make sure you are picking up the global players, but you would also exclude those that are really small operators in Australia. If you get that combination of the two, I think that would be a way to effectively pick up the global players that are competing with us in these wholesale markets.⁴⁵

Other concerns about the operation of the levy

Applicable liabilities

2.42 A number of affected banks raised concerns about the potential unintended consequences for certain liabilities.

2.43 Macquarie Bank advocated for consistency in the treatment of 'non-funding' liabilities; some of which have been excluded from the bills, whereas a number of others have not—such as client segregate funds; derivative margin related balances;

41 ANZ, *Submission 4*, p. 2.

42 ANZ, *Submission 4*, p. 2.

43 ANZ, *Submission 4*, p. 3.

44 NAB, *Submission 5*, p. 2.

45 Mr Gary Lennon, NAB, *Committee Hansard*, 16 June 2017, p. 44.

trade timing differences; employee, maintenance and other provisions; and, intercompany funding arrangements and other accounting gross-ups.⁴⁶

2.44 ANZ and NAB were concerned that there may be a risk of double taxation where the same liabilities are taxed twice as a result of corporate structures.⁴⁷ For example, NAB explained that:

As the levy is in the legislation, there are certain elements that pick up accounting-type balances as liabilities rather than true funding. That is one example [internal residential mortgage-backed securities], and intercompany balances are another example—or just standard provisions for a tax. You actually have the situation where we are paying a tax on our provision for tax, which seems somewhat odd.⁴⁸

Ministerial discretion

2.45 The degree of ministerial discretion in the application of the levy was a concern for some stakeholders, particularly in relation to:

- *Section 5: Amount of the Levy*—provides the Minister with the power to add additional liability items to the list of exclusions;
- *Section 6: Working out amounts for a quarter*—provides the Minister with the power to determine which liabilities are to be calculated as daily averages; and
- *Section 8: Minister may determine methods of working out amounts*—provides the Minister with scope to alter the operation of the levy via an 'instrument' (new regulation).⁴⁹

2.46 The ABA noted that:

The drafting of the legislation provides the Treasurer with significant scope to alter the coverage of the bank levy in the future.⁵⁰

2.47 Macquarie Bank considered that ministerial discretion 'creates uncertainty as to the future application of the levy and should be removed'.⁵¹

2.48 NAB was concerned that the discretionary powers could:

...allow the executive to make considerable changes to the incidence of the levy without further consultation with the impacted ADIs. NAB recommends that there should be sufficient consultation with the industry and the Council of Financial Regulators, on any future ministerial

46 Macquarie Bank, *Submission 8*, p. 5.

47 ANZ, *Submission 4*, p. 5; NAB, *Submission 5*, p. 2.

48 Mr Gary Lennon, NAB, *Committee Hansard*, 16 June 2017, p. 41.

49 ABA, *Submission 6*, p. 2.

50 ABA, *Submission 6*, p. 2.

51 Macquarie Bank, *Submission 8*, p. 5.

determinations. This consultation is required to ensure there are no further unintended consequences from changes to the levy mechanism.⁵²

2.49 When questioned about the ministerial discretion provisions, Treasury indicated that:

The reason for the legislative instrument making power, essentially, is to deal with issues that go to a level of detail that is preferable not to have in the law itself. It also gives flexibility to react quickly if a change is needed quickly.⁵³

Discontinuing the levy once the budget reaches surplus

2.50 Given that the main stated objective of the levy is to repair the budget, some stakeholders advocated for its discontinuation when the budget is in surplus.⁵⁴

2.51 For example, the ABA commented that:

One of the major justifications put forward by the Government is budget repair. If this is the case, the levy should be abolished once the Budget returns to surplus. This could be embodied in the legislation by including an appropriate sunset clause. This would ensure that the levy does not serve as an ongoing revenue raising measure.⁵⁵

2.52 Similarly, the Business Council of Australia noted that:

If the object of the levy is to assist with budget repair, it should be introduced with a sunset clause, rather than become an ongoing revenue raising measure.⁵⁶

2.53 The NAB argued that:

A sunset clause would also have the effect of requiring a review of the tax's design features, impact on financial markets and suitability of retention. The haste with which this legislation is being enacted means the risks of unintended consequences are significant and larger than usual.⁵⁷

2.54 Some smaller banks did not agree that a sunset clause should be included if the objective of the legislation was to improve competition. The Customer Owned Banking Association considered that:

Certainly if you remove this [levy] then that lessens that competitive benefit so...why would you do that? To pre-empt all that and to put a sunset clause saying five years or whatever the time frame is just does not make much

52 NAB, *Submission 5*, p. 3.

53 Mr Anthony Regan, *Treasury Committee Hansard*, 16 June 2017, p. 73.

54 See, for example, ANZ, *Submission 4*; Westpac, *Submission 1*; NAB, *Submission 5*.

55 ABA, *Submission 6*, p. 2.

56 Business Council of Australia, *Submission 19*, p. 3.

57 NAB, *Submission 5*, p. 2.

sense when so much more work needs to be done in the competitive arena.⁵⁸

Review of legislation

2.55 A review of the design and effectiveness of the levy was proposed by various stakeholders. The Business Council of Australia was concerned that the levy could undermine other regulatory objectives and policies. As such, it advocated for a fully independent and transparent post-implementation review of the levy after three years to assess what impact the policy has had, including against its state objectives.⁵⁹

2.56 The NAB commented that:

The haste with which this legislation is being enacted means the risks of unintended consequences are significant and larger than usual...NAB also believes a post implementation review should be conducted into the levy within 18 months of it being effective to fully assess its impact.⁶⁰

2.57 The CBA considered that a review of the levy should be undertaken within two years of its legislation, and this should include an analysis of the efficiency of the levy in terms of its stated objectives and the distortions it creates.⁶¹

Suspension of the levy in times of stress

2.58 A number of stakeholders advocated for the suspension of the levy in circumstances where an authorised deposit-taking institution was in stress. For example, Westpac argued that:

The Levy is imposed on the liabilities of an ADI, and its design appears to assume that banks are at all times profitable...

The Government should have the ability to suspend payment if paying the Levy would place undue stress on the ADI. This will assist with the financial viability of the affected ADI and the stability of the banking sector in times of economic downturn.⁶²

2.59 Similarly, NAB believed that the legislation should explicitly include a provision for the levy to be waived or suspended in circumstances of financial stress.⁶³

Committee view

2.60 The committee considers the design of the levy adequately reflects an appropriate transfer to the broader community, of some of the financial benefits gained by the affected banks due to their more favourable credit ratings.

58 Mr Mark Degotardi, Customer Owned Banking Association, *Committee Hansard*, 16 June 2017, p. 59.

59 Business Council of Australia, *Submission 19*, p. 3.

60 NAB, *Submission 5*, p. 2.

61 CBA, *Submission 7*, p. 3.

62 Westpac, *Submission 1*, p. 4.

63 NAB, *Submission 5*, p. 3.

2.61 The committee acknowledges the issues highlighted by the five affected banks. Whether these issues materialise and have their suggested impact only time will tell. Nonetheless it's worth noting that the majority of European bank levies including the United Kingdom example have now been in operation for more than half a decade without any significant market issues or calamity.

2.62 On the basis of the evidence provided, the committee considers that the proposed levy will contribute to the budget repair process, assist in making retail banking services more competitive, and will not undermine the stability of the financial system.

2.63 Noting that the process for policy development and legislative passage has been somewhat truncated, the committee considers that it would be appropriate to undertake a review of the legislation in a minimum of two years to examine the efficacy of the levy, the effect on competition and the need for the levy to continue in perpetuity.

2.64 The committee notes the extensive work Treasury has undertaken in developing this legislation however, the committee considers that Treasury needs to undertake closer examination of the technical issues raised through the inquiry to determine if legislative changes are required to avoid unintended consequences such as double taxation and/or narrow the liability base.

2.65 In addition, the committee requests that Treasury clarify why Australian banks should be at a competitive disadvantage to their foreign peers, both domestically and internationally. Further, the committee would appreciate Treasury supplying an explanation as to why Macquarie Bank is subject to the levy while foreign based competitors are not.

2.66 Finally, the committee considers that, as the levy is based on liabilities, not profits, application of the levy should be suspended by the Treasurer, on the advice of APRA, in extreme financial or economic circumstances.

Recommendation 1

2.67 The committee recommends a review be conducted by the Senate Economics Legislation Committee in a minimum of two years to examine:

- **the efficacy of the policy in fulfilling its stated objectives;**
- **the effect on competition in the Australian banking market; and**
- **whether the levy is required in perpetuity, including the need for a further review at the time the stated objective of the levy is achieved; that is when the budget has been 'repaired'.**

Recommendation 2

2.68 The committee recommends that Treasury closely examine issues relating to the technical aspects of the bills to determine if changes are required to avoid double taxation and/or to narrow the liability base.

Recommendation 3

2.69 The committee recommends that Treasury provide greater explanation as to the rationale for the method of liability calculation which presently excludes foreign banks, and specifically provide an explanation as to why Macquarie Bank is subject to the levy while foreign based competitors are not.

Recommendation 4

2.70 The committee recommends that the legislation be amended so that the Treasurer may, on the advice of APRA, suspend the application of the levy to any or all Authorised Deposit-taking Institutions in extreme financial or economic circumstances.

Recommendation 5

2.71 Subject to consideration of the other recommendations, the committee recommends that the bills be passed.

Senator Jane Hume
Chair

Additional Comments from Labor Senators

Major Bank Levy Bill 2017

1.1 Labor Senators support this bill. This state of the budget and the need for this measure in relation to budget repair means that Labor will not stand in the Government's way.

1.2 Thanks to this Government's budgetary mismanagement, gross debt smashed through the half a trillion mark last week – for the first time in the nation's history. With debt and the deficit blowing out under this Government's watch, it would be irresponsible of Labor to have an alternative position.

1.3 While Labor Senators support the bill, it is not a blank cheque. Labor Senators will not be excusing the incompetence of the Treasurer or the Government.

1.4 Labor Senators support the recommendations set out in the main body of this report. However, the need for their inclusion demonstrates how the Treasurer has botched the policy process.

1.5 Labor Senators have used the Senate inquiry, brief as it is, to expose this incompetence. Several points will be briefly mentioned:

- the leak on budget day;
- the impact on consumers;
- the revenue black hole;
- potential responses by Macquarie Bank;
- lack of policy clarity;
- lacklustre ACCC powers; and
- foreign banks.

1.6 It is a very serious matter that this policy measure was leaked ahead of budget night. Labor Senators believe the Treasury Secretary when he says that only a small number of people knew about the measure. Labor Senators believe it is important that ASIC gets to the bottom of what happened.

The impact on consumers

1.7 The Regulatory Impact Statement released with the legislation stated what the Treasurer could not—that consumers, non-equity funding sources, shareholders and employees could bear the brunt of this levy.

1.8 This was further underlined in the testimonies given by the banks at the hearing, where they all said that the bank tax won't simply be 'absorbed'.

1.9 Treasury further underscored this point through their answers to questions on notice that were put to them prior to the hearing. The costing, Treasury says, takes into account 'some pass-through of the levy to customers, as evidenced by previous behaviour by the banks'.

1.10 It took Treasury officials to admit something that the Treasurer could not bring himself to do. The numbers in the budget assume that the bank levy will be passed on to consumers.

1.11 Labor Senators are disappointed that the Government has chosen to hide this information from the public. Even at this late stage, the calculations and assumptions underlying the revenue costing still have not been made available.

The revenue black hole

1.12 The total figures that each bank is expecting to pay as a result of the bank levy is now known. The banks are required by law under the Corporations Act and ASX Guidelines to inform shareholders about the impact of the bank levy.

1.13 These figures total \$1.45 billion pre-tax, and \$1.015 billion post-tax—a shortfall when compared to the budget's expectation of \$1.6 billion, or any other bank levy figure you find in the budget papers.

1.14 Treasury explained that the reasons for the shortfall might be due to credit growth figures and interactions with other taxes.

1.15 Regarding credit growth, the assumption of 5.9 per cent liability growth year on year seems high when banks such as Westpac have indicated that their estimates are in the order of 4 to 5 per cent.

1.16 The interactions with other taxes are complicated, but Treasury's response seems to imply that dividend cuts could be a reasonable response for a bank to take (impacting franking credits available).

1.17 It remains to be seen as to whether this will all play out in reality. However, the disclosures and statements from the banks do not bode well at all for the actual bank levy revenue raised.

1.18 Given that the operation of certain provisions allowing for the liability base for the bank levy to be adjusted by the Treasurer by legislative instrument only work to decrease the base, Labor Senators would like the Treasurer to explain what actions he will take to make up the shortfall in expected revenue.

Potential responses by Macquarie Bank

1.19 Labor Senators asked direct questions to Macquarie Bank about media reports that Macquarie Bank was considering leaving Australia. Macquarie Bank responded

by saying that no final decisions had been reached yet and that this matter was under regular review.

1.20 Labor Senators also note comments from the Shadow Treasurer who said that that:

The bank levy liability base was clearly designed to ensure Macquarie Bank was captured by the tax so Scott Morrison owns any decision by them to move operations, or to be domiciled overseas. This is quickly moving from just a terrible mishandling of the process surrounding the bank tax, to more concerns about the government's inability to manage the economy.

1.21 Labor Senators are concerned not only by the Treasurer's handling of this policy but also his ability to manage the economy. It is very concerning that foreseeable consequences of the levy were not thought through.

Lack of policy clarity

1.22 Several reasons have been given to justify this levy. Foremost is budget repair, while competition, complementing prudential reforms and the major banks contribution to systemic risk are also offered.

1.23 Labor Senators found out through the hearing that:

- competition effects are likely to be small;
- the levy does not complement prudential reforms, and, if anything, is slightly detrimental to reforms like Total Loss Absorbing Capital; and
- Treasury officials acknowledged that the levy, in part, is in response to the systemic risk of the major banks that, in the Treasurer's words 'ultimately fall on the broader Australian community'.

1.24 Labor Senators are supportive of this bill in that it contributes to budget repair. Labor Senators remain concerned that the bill has only fuelled confusion when it comes to these other policy areas.

1.25 Recommendations 1 and 3, which recommend a review of the legislation and seek an explanation for the inclusion of Macquarie Bank in the levy but the exclusion of large foreign banks are an acknowledgment by Government Senators that they too are also confused as to the policy objectives of this bill.

1.26 Recommendation 4, which seeks to give APRA powers to suspend the levy in times of financial or economic distress, is an additional concession by Government Senators that the bill does not 'complement' prudential objectives as claimed by the Treasurer.

Lacklustre ACCC powers

1.27 Labor Senators also heard that the ACCC's powers to take action will be limited to scrutiny of owner-occupied and investor mortgages and not other banking products.

1.28 Furthermore, the scope is limited to any cost impacts that occur before June 2018.

1.29 Labor Senators are concerned that the Government has not appropriately equipped the ACCC to discover and take action on cost pass-through. It is likely that the design of this measure will do little to prevent banks from passing on the majority of this levy on to consumers.

1.30 This finding, along with the secrecy behind the revenue costings, could imply that this was the Government's intention all along.

Foreign banks

1.31 Labor Senators also heard evidence from the major banks who argued that the levy should be extended to cover large foreign banks to maintain competitive neutrality in finance markets.

1.32 Major banks argued that foreign banks are strong competitors in low margin international markets such as institutional banking, trade credit and custodian services. Major banks affected by the levy could stand to lose business to foreign banks, with bank levy revenue being lost as a result.

1.33 Labor Senators also note the comments given by Treasury officials at the hearing, stating that they had considered these issues when designing the policy. However, Labor Senators believe that the Government should release this work and clearly explain why large foreign banks should be excluded from the measure. Labor Senators support Recommendation 3 and its intention to address this issue.

1.34 Labor Senators once again have shown their willingness to contribute to budget repair.

1.35 When it comes to the Government's claims of improving competition and delivering cultural change in the banking and financial services sector, Labor Senators believe that only a Royal Commission will deliver the systematic, structural and cultural change required.

Senator Chris Ketter
Deputy Chair

Senator Jenny McAllister
Senator for New South Wales

Appendix 1

Submissions and additional information received

Submissions received

- 1 Westpac
- 2 ME Bank
- 3 Bendigo and Adelaide Bank
- 4 ANZ
- 5 NAB
- 6 Australian Bankers' Association (ABA)
- 7 Commonwealth Bank of Australia
- 8 Macquarie Bank
- 9 Customer Owned Banking Association
- 10 Mr Andrew Freeman
- 11 Self-managed Independent Superannuation Funds Association
- 12 The Centre for Independent Studies
- 13 Institute of Public Affairs
 - a) Attachment 1
- 14 Australian Centre for Financial Studies
 - a) Attachment 1
 - b) Attachment 2
 - c) Attachment 3
 - d) Attachment 4
- 15 Finance Sector Union of Australia
- 16 Grattan Institute
- 17 The Australia Institute
 - a) Attachment 1
- 18 Bank of Queensland
- 19 Business Council of Australia
- 20 Suncorp
- 21 ING Direct

Answers to Questions on Notice

- 1 Answers to written questions on notice, received from the Treasury on 16 June 2017

Tabled documents

- 1 Document tabled by Westpac at a public hearing held in Canberra on 16 June 2017
- 2 Document tabled by ANZ at a public hearing held in Canberra on 16 June 2017
- 3 Document tabled by NAB at a public hearing held in Canberra on 16 June 2017

Appendix 2

Public hearings

Canberra ACT, 16 June 2017

Senators in attendance: Senators Bushby, Hume, Ketter, Ian Macdonald, McAllister, McKenzie, Whish-Wilson, Xenophon.

Witnesses

BECK, Mr Anthony, Consultant, ME Bank

BEZZI, Mr Marcus, Executive General Manager, Competition Enforcement, Australian Competition and Consumer Commission

BLIGH, Ms Anna, Chief Executive Officer, Australian Bankers' Association

BRENNAN, Mr Pat, Executive General Manager, Policy and Advice Division, Australian Prudential Regulation Authority

BRINE, Mr Matthew, Division Head, Tax Analysis Division, Revenue Group, The Treasury

CHOUCAIR, Ms Molly, General Manager, Financial Services Unit, Australian Competition and Consumer Commission

DEGOTARDI, Mr Mark, Chief Executive Officer, Customer Owned Banking Association

DOOLEY, Mr Shaun, Group Treasurer, National Australia Bank Limited

HIRST, Mr Mike, Managing Director and Chief Executive Officer, Bendigo and Adelaide Bank

JABLKO, Ms Michelle, Chief Financial Officer, Australia and New Zealand Banking Group Ltd

KELLY, Miss Lynn, Chief Adviser, Corporate and International Tax Division, Revenue Group, The Treasury

KELLY, Mr James David, Principal Adviser, Financial System Division, Markets Group, The Treasury

KING, Mr Peter, Chief Financial Officer, Westpac Banking Corporation

LAWLER, Mr Luke, Head of Public Affairs, Customer Owned Banking Association

LENAHAN, Mrs Anna, Group General Counsel and Group Executive, Group Corporate Affairs, Commonwealth Bank

LENNON, Mr Gary, Chief Financial Officer, National Australia Bank Limited

LONSDALE, Mr John, Deputy Secretary, Markets Group, The Treasury

McPHEE, Mr Jamie, Chief Executive Officer, ME Bank

MOORE, Mr Nicholas, Managing Director and Chief Executive Officer, Macquarie Group Ltd

MOSCATI, Mr Rick, Group Treasurer, Australia and New Zealand Banking Group Ltd

NEMETH, Mr Jim, Group General Manager, Taxation, Australia and New Zealand Banking Group Ltd

PEARSON, Mr Anthony (Tony), Chief Economist and Executive Director, Industry Policy, Australian Bankers' Association

REEMST, Ms Mary, Managing Director and Chief Executive Officer, Macquarie Group Ltd

REGAN, Mr Anthony, Principal Adviser, Law Design Practice, Revenue Group, The Treasury

RICHARDS, Ms Heidi, General Manager, Policy Development, Policy and Advice Division, Australian Prudential Regulation Authority

TONUCCI, Mr Paolo, Group Treasurer, Commonwealth Bank

UPFOLD, Mr Patrick, Chief Financial Officer, Macquarie Bank; and Chief Financial Officer, Macquarie Group Ltd

ZUBER, Mr Curt, Group Treasurer, Westpac Banking Corporation

BLIGH, Ms Anna, Chief Executive Officer, Australian Bankers' Association

PEARSON, Mr Anthony (Tony), Chief Economist and Executive Director, Industry Policy, Australian Bankers' Association