
The Parliament of the Commonwealth of Australia

Review of the Four Major Banks (Second Report)

House of Representatives
Standing Committee on Economics

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Canberra

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Chair's foreword

This Second Report into Australia's four major banks follows the publication of the Committee's First Report on 24 November 2016. It draws on the March 2017 public hearings held by the Committee with the Chief Executives of each of the four major banks. The March public hearings provided the Committee with an opportunity to scrutinise the banks over their response to the Recommendations of the Committee's November Report. The Committee also scrutinised the banks on the Carnell Report's Recommendation into the use of non-monetary default clauses in small business loans.

The Committee's second round of hearings has confirmed that the Recommendations of the First Report should be implemented now in order to improve the Australian banking sector for the benefit of customers. The Committee reaffirms each Recommendation from the First Report. While the Committee is open to some modest variations to the Recommendations, it affirms the substance of each of them.

Recommendation 1 of the First Report proposed the establishment of a one-stop-shop where consumers can access redress when they are wronged by a bank. The Committee retains its view that one dispute resolution body should be established to provide straightforward redress for consumers. It is highly preferable to have one body dealing with these matters rather than two or more. The Committee believes that the Ramsay review should determine the precise administrative structure of this body – the key point is that it should be a one-stop-shop.

Recommendation 2 of the First Report calls for a new public reporting regime to be put in place to hold senior bank executives much more accountable. This Recommendation is essential to achieving a change in bank culture. It will place relentless pressure on CEO-reporting executives to focus on the treatment of

customers. While all of the banks except ANZ oppose this Recommendation, in the Committee's view it will have a very substantial impact on the behaviour of banks, to the benefit of consumers. It should be implemented.

Recommendation 3 of the First Report proposed that a regulatory team be established to make recommendations on improving competition in the banking sector to the Treasurer every six months. The ANZ agreed with Recommendation 3 noting that 'analysis from a government agency would help demonstrate the nature and level of competition.' The other banks oppose this Recommendation, for reasons that the Committee does not find persuasive. This team should be put in place to fill a substantial gap in Australia's regulatory framework today: we do not currently have a permanent team focused on systemic competition issues in banking, and we should.

Recommendations 4 and 5 of the First Report seek to empower consumers. In particular, Recommendation 4 proposes that Deposit Product Providers be forced to provide open access to customer and small business data by July 2018. All four banks noted general support for data sharing. However, the banks are conflicted on this issue, as the process of opening up data means that an asset which is currently proprietary to the banks will be non-proprietary in the future. For this reason, it is critical that the banks are not allowed to control the process or set the rules by which consumer data is opened up. An independent body must lead the change and be responsible for implementation.

Recommendation 7 of the First Report proposes that there be an independent review of risk management frameworks aimed at improving how the banks identify and respond to misconduct. Each of the banks has responded claiming that APRA Prudential Standard CPS 220 performs this function. The Committee is not convinced that the CPS 220 risk management review process is sufficient in relation to misconduct. CPS 220 has a broad focus on the material risks to a bank. While these objectives are important for prudential reasons the Committee's focus in this Recommendation is the ongoing and serious nature of misconduct by the banks towards their customers. The Committee's Recommendation will ensure that the banks give top priority to developing a risk management framework that truly puts customers first. This risk management review should work in parallel to CPS 220.

As part of the hearings in March 2017, the Committee scrutinised the banks over their use of non-monetary default clauses in small business loans. This matter was examined by the Australian Small Business and Family Enterprise Ombudsman, Ms Kate Carnell, as part of her inquiry into small business loans. Ms Carnell

recommended that for all loans below \$5 million, where a small business has complied with loan payment requirements and has acted lawfully, the bank must not default a loan for any reason. The Committee commends Ms Carnell on her important work on this issue and has recommended that non-monetary default clauses be abolished for loans to small business.

The Committee's First Report makes several Recommendations that will materially improve the banking system for Australian consumers. The March hearings have confirmed the Committee's initial view that these Recommendations should be acted on. The Committee looks forward to the Government's response.

David Coleman MP
Chair



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Membership of the Committee

Chair	Mr David Coleman MP
Deputy Chair	The Hon Matt Thistlethwaite MP
Members	Mr Adam Bandt MP Ms Julia Banks MP Mr Scott Buchholz MP Mr Trevor Evans MP Mr Kevin Hogan MP Mr Craig Kelly MP Mr Matt Keogh MP Ms Madeleine King MP

Committee Secretariat

Secretary	Mr Stephen Boyd
Inquiry Secretary	Dr John White (from 20 March 2017) Ms Samantha Mannette (until 17 March 2017)
Technical Advisor	Ms Joanna Chang
Research Officer	Ms Marina Katic
Administrative Officer	Ms Jazmine Rakic



Terms of reference

On 15 September 2016, the Treasurer requested that the House of Representative's Standing Committee on Economics undertake – as a permanent part of the committee's business – an inquiry into:

- the performance and strength of Australia's banking and financial system;
- how broader economic, financial, and regulatory developments are affecting that system; and
- how the major banks balance the needs of borrowers, savers, shareholders, and the wider community.

In undertaking its inquiry, the committee was asked to hold at least annual public hearings with the four major banks, with a particular focus on the banks' perspectives on:

- domestic and international financial market developments as they relate to the Australian banking sector and how these are affecting Australia;
- developments in the prudential regulation, including capital requirements, and how these are affecting the policies of Australian banks;
- the costs of funds, impacts on margins and the basis for bank pricing decisions; and
- how individual banks and the banking industry as a whole are responding to issues previously raised in Parliamentary and other inquiries, including through the Australian Bankers' Association's April 2016 six point plan to enhance consumer protections and in response to Government reforms and actions by regulators.

The committee was also asked to, as appropriate, engage with Australia's key economic regulators and give due consideration to the Government's Financial System Program and other relevant financial sector reforms and reviews.



Abbreviations

ABA	Australian Bankers' Association
ACCC	Australian Competition and Consumer Commission
ACCP	Australian Council for Competition Policy (proposed)
ADI	Authorised Deposit-taking Institution
AFSL	Australian Financial Services License
ANZ	Australian and New Zealand Banking Group
API	Application Programming Interface
APRA	Australian Prudential Regulation Authority
BSB number	Bank-State-Branch number
CBA	Commonwealth Bank of Australia
CEO	Chief Executive Officer
CMA	Competition and Markets Authority (UK)
CIO	Credit and Investments Ombudsman
EDR	External Dispute Resolution
FCA	Financial Conduct Authority (UK)
FOFA	Future of Financial Advice
FOS	Financial Ombudsman Service

FSI	Financial System Inquiry
FSSA	<i>Financial Sector (Shareholdings) Act 1998</i>
GDP	Gross Domestic Product
GFC	Global Financial Crisis
IDR	Internal Dispute Resolution
IRB model	Internal Ratings Based model
NAB	National Australia Bank
NPP	New Payments Platform
ODI	Open Data Institute
PRA	Prudential Regulation Authority (UK)
RBA	Reserve Bank of Australia
SCT	Superannuation Complaints Tribunal
SMR	Senior Managers Regime (UK)
SVR	Standard Variable Rate
TBTF	Too-big-to-fail
UK	United Kingdom



Recommendations

Recommendation 1

The second round of hearings with the banks focused on the Recommendations of the first report which was presented in November 2016. The committee affirms its support for all ten Recommendations of the first report.

In the committee's view each of these Recommendations should be implemented. The committee is open to some modest variations to the first report Recommendations but affirms the substance of each of them.

Recommendation 2

The committee recommends that non-monetary default clauses be abolished for loans to small business.

If the banks do not voluntarily make this change by 1 July 2017 then the government should act to give effect to this Recommendation.

