

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE FOUR MAJOR BANKS (SECOND REPORT)

Commonwealth Bank of Australia

CBA13QON: 34

Mr THISTLETHWAITE: Mr Narev, on 2 March, I wrote to you indicating that I would be asking a series of questions relating to certain issues, so I might go through those. What is the number of confidentiality agreements that CBA and associated entities have executed with customers over the last five years?

[...]

Mr THISTLETHWAITE: We would like you to do it. Related to that is the value of the compensation payments made over the last five years—I suspect that it is the same answer for that?

Mr Narev: We are putting that together. You will be aware that the two biggest ones we have talked about today are the fee refunds, which are about \$105 million plus interest. We will know finally when they are all done. You are aware of the amounts we paid so far under the open advice review program, which is approximate assessments of \$23 million in addition to \$52 million that we have paid, going back over the last decade. Those are two major ones, but we will put together a list of all the things that have gone on in those businesses as an aggregate number. But you are aware of the big ones.

Answer:

Commonwealth Bank does not keep aggregated records of the number of settlement agreements containing confidentiality clauses that it enters with customers.

Confidentiality clauses may be included in settlement agreements in circumstances where, for example, we have reached a settlement with a customer which involves a reduction in a customer's financial obligations to the Commonwealth Bank (for example, writing off debt); where the customer requests that a confidentiality clause be included in the agreement, or where a third party, such as an insurer, requests that a confidentiality clause be included.

Confidentiality clauses included in settlement agreements are typically binding on both parties and include exceptions whereby the customer can disclose the contents of the agreement to a third party such as a professional advisor; to another third party with the other party's written consent, if required to do so by law or in order to enforce the agreement.

Since approximately June 2015 it has not been the standard practice to include confidentiality clauses in settlement agreements entered into with customers through the Open Advice Review Program.

In the last five years, under the largest remediation projects that Commonwealth Bank has undertaken, Commonwealth Bank has made offers to customers totaling the sum of approximately \$161.7 million.