

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE FOUR MAJOR BANKS (SECOND REPORT)

Westpac

Westpac25QW: At the Public Inquiry you stated that your bank was considering removing non-monetary default clauses for loans of up to a total of \$3M to an individual customer. Please advise your position on this.

Answer: Westpac supports the intent of Recommendation 3 of the Carnell Inquiry to increase certainty for customers about events of default. It should be clear to customers what may cause them to be in default – including non-monetary events of default. We think there is an opportunity to enhance transparency through our loan contracts.

The Westpac Group has commenced a fully-funded review to redraft our small business loan documentation by the end of 2018. We will remove non-monetary covenants and simplify contracts for small business loans under \$1 million by January 2018. We will also make relevant changes and simplify contracts for small business loans under \$3 million by September 2018.

Further details on this review project are provided below.

Small business Customer Group Borrowings up to \$1M

Remove all non-monetary covenants (financial and non-financial) for small business lending products, except the following specialist lending products:

1. Lending subject to lease (operating or finance)
2. Rental agreements
3. Discounting (such as Margin Lending and Invoice Finance)

Small business Customer Group Borrowings between \$1M and \$3M

Remove all non-monetary covenants where loan is subject to principal and interest and secured by real property security. This will cover approximately 88 per cent of small business lending book and addresses the key concern raised in the Carnell Inquiry i.e. a Loan-to-Value Ratio (LVR) non-monetary default being used to trigger enforcement and recovery action.

All Small Business Group Customer Borrowings (including less than \$1m and less than \$3m)

In principle we support the intent of reducing the number of possible events of default. However, default events cannot be restricted to 'monetary events of default'. Other non-monetary events of default will need to be retained e.g. loss of a licence by the trading

business. These are broader than the 'illegal activities' carve out suggested by the Carnell Inquiry. For example, voluntary administration by directors of a business is not an unlawful act.

Non-monetary events of default for all small business lending will be retained in the loan facility agreement. These events will be clearly defined in our loan facility agreements. For example, the following circumstances will be included:

1. Fraud material misrepresentation (including maintaining appropriate Books & Records)
2. Bankruptcy, insolvency and/or administration events e.g. external administration by another third party of borrower or guarantor.
3. Loss of license/permit to operate the business
4. Requirement to maintain appropriate insurance cover over real property assets.
5. Illegal activity (e.g. non-compliance with law, AML/CTF, taxation reporting requirements, environmental offences)

NB: Customer Group is defined as the borrowings of the entities in the group being repaid by the cashflow of the Business being funded.