

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE FOUR MAJOR BANKS

NAB

NAB10QW: A copy of the bank's model litigant standards applied to legal proceedings.

Answer:

Appendix C is a copy of NAB's Model Litigation Policy.

NAB'S MODEL LITIGANT POLICY

NAB's Commitment

- 1 Consistent with NAB's vision to be Australia's leading bank trusted by customers for exceptional service, NAB recognises its responsibility to act honestly and fairly in the conduct of litigation and behave as a model litigant.

Nature of the Commitment

- 2 As a model litigant, NAB recognises the need to act honestly and fairly when handling claims and litigation brought by or against NAB by:
 - (a) dealing with claims promptly and not causing unnecessary delay in the handling of claims and litigation;
 - (b) making an early assessment of:
 - (i) NAB's prospects of success in legal proceedings that may be brought against NAB; and
 - (ii) NAB's potential liability in claims against NAB,
 - (c) paying legitimate claims without litigation, including making partial settlements of claims or interim payments, where it is clear that liability is at least as much as the amount to be paid;
 - (d) acting consistently in the handling of claims and litigation;
 - (e) endeavouring to avoid, prevent and limit the scope of legal proceedings wherever possible, including considering the appropriateness of alternative dispute resolution before initiating legal proceedings and by participating in alternative dispute resolution processes where appropriate;
 - (f) where it is not possible to avoid litigation, facilitating the just resolution of the litigation according to the law and as quickly, inexpensively and efficiently as possible including by:
 - (g) not requiring the other party to prove a matter which NAB knows to be true;
 - (h) not contesting liability if NAB only disputes the quantum;
 - (i) monitoring the progress of the litigation and using methods that NAB considers appropriate to resolve the litigation, including settlement offers, payments into court or alternative dispute resolution, and
 - (j) ensuring that arrangements are made so that wherever possible a person participating in any settlement negotiations on behalf of NAB can enter into a settlement of the claim or legal proceedings in the course of the negotiations
 - (k) not taking advantage of a claimant who lacks the resources to litigate a legitimate claim;
 - (l) not relying on technical defences unless NAB's interests would be prejudiced by the failure to comply with a particular requirement; and
 - (m) not undertaking and pursuing appeals unless NAB believes that it has reasonable prospects for success or the appeal is otherwise justified, for example, because it is in the public interest to establish the existence or otherwise of liability and/or a significant point of law requires clarification; and
 - (n) apologising where NAB is aware that it or its lawyers have acted wrongfully or improperly.

Scope of Commitment

- 3 NAB's commitment to act as a model litigant applies to litigation (including before courts, tribunals, inquiries and in arbitration and other alternative dispute resolution processes) to which NAB is a party.
- 4 NAB's Commitment does not prevent it from:
 - (a) acting firmly and properly to protect its interests. It does not, therefore, preclude all legitimate steps being taken to pursue claims by NAB and testing or defending claims against it. It does not preclude pursuing litigation in order to clarify a significant point of law even if the other party wishes to settle the dispute; and
 - (b) enforcing costs orders or seeking to recover its costs.

Definitions

- 5 The following definitions apply to this Commitment: "**Commitment**" means the principle set out in clause 1 of this guideline as further enumerated by clauses 2 and 3.