Banking & Finance Consumers Support Association (Inc)

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The Secretariat

Senate Standing Committees on Economics
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Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Bill 2017 [Provisions] to the Economics Legislation Committee for inquiry

BFCSA SUBMISSION – Denise L Brailey

1. APRA is a terrible regulator and cannot be trusted. The experiences of bank victims confirm that far from enforcing strong prudential standards, APRA has allowed the banks to operate with virtually no standards. BFCSA has often criticised APRA's statistical information with good reason. Regulatory neglect of duty has destroyed the financial well-being of countless Australians, and put the banking and financial system at extreme risk. BFCSA's research in speaking with the sellers (Bank Managers and Brokers) leads me to suspect that currently, 80% of mortgages written by the Major Banks are sub-prime loans.

This specific measure is drawn from the fact that sellers across the nation inform me as to what products they have been asked to promote and sell by way of Bank Quota's. In perspective: we know that 55% of all mortgages are sold by Bank Managers, 45% are sold by the Broker Channel. The courts have ruled several times that the Broker is the Agent of the Bank, yet the EDR's state the opposite, to protect the banks. The Sellers do not approve loans. Yet despite the evidence, APRA has failed to bring the Banks into line.

Lenders approve loans. We also know that 80% of all brokers submit mortgage loans for approval to the Major Banks. This is specifically APRA's domain and evidence of its downfall and appalling track record. APRA is not just protecting Banks at the expense and total detriment of consumers, it is providing Treasury with a cover-up style of misinformation.

Parliamentarians are therefore being asked to look and see whether APRA ought to be given more powers. Definitely not, according to consumers.

APRA's suggestion that 40% of all mortgages are sub-prime and that figure has recently dropped to 30% is abhorrent, misleading and inconsistent with current industry marketing activities. Other experts are suggesting the figure is closer to 60 -70%.

I wish to point out that almost all of the two to three thousand cases I have examined, demonstrate as *'standard industry practice'* (most recent 2016), that 92% of borrowers do not know until contact with BFCSA, that their loans are Interest Only 30-year sub-prime mortgages. When confronted with the IO factor for the first time, they are all suitably horrified.

Consumers receive no copies of financial details which are submitted to the banks. The service calculator programs engineered by the major banks are still calculating projected incomes (fudged incomes) unbeknown to the borrower. APRA is failing the Government by not detailing the issues confronting consumers of mortgage products: the largest single purchase of their entire lives. In discussions with APRA, senior staff have little knowledge of the existence of the compulsory calculator programs that sellers are forced to use on every mortgage sold yet customers are forbidden to see copies of those documents. **How can that be that APRA is not informed?**

Borrowers are vulnerable to regulatory neglect and failings. They are refused copies of the statement of financial position sheets that are being submitted without their knowledge or consent. Despite all of these Governmental Inquiries, appreciating the efforts being put in by the MPs, APRA has been misleading the Parliament to such an extent, that alarm bells ought to be ringing in all Chambers.

As one seller suggested: if we stopped selling IO's there would be no job, nothing to sell. The "ARIP" target market is still the preferred target: *those over 50 who own their own homes and have no debt and yet are on low incomes* – hence the vital need of the "compulsory" bank programmed income calculators. I may also point out that, the first required statistics sent to BIS by APRA, had an announced $50 billion "error," after BFCSA pointed out that the sub-prime loans sold for that year were closer to $200 billion. APRA had to admit the "error" and adjust its own books and apologise to BIS.

We have yet to receive notification of which audit firms conduct the annual external statutory audits on the analysis of lending. If the IO Loans are toxic for consumers, risking loss of homes for older persons, then how can we simply reduce the level of toxic products sold? Why are they not banned?

I am asking the committee to consider the grave faults we are discovering in an obvious fractured system of lending, which are consistently being under-reported by APRA. Only BFCSA it seems, as a peak consumer group, is actively examining the "mechanics" of the selling and approval of mortgage products. In terms of manufacturing, if the product was a motor vehicle, it would be unfitting for use by consumers, and labelled as dangerous. If the manufactured product was a food product the statutory obligation of labelling would be "unfit for human consumption."

These particular 30-year bridging loans are hideous products which cause loss of existing homes within 5 years (where there was no prior debt) and ought to be banned by a competent authority.

APRA has proven time and again it is incapable of being that authority in the collective opinion of our Members. **When evidence exists of borrowers being placed in financial danger of risk laden products, grievous marketing strategies, tricky financial advice, coupled with poor regulatory oversight, then retirees would be in even greater danger with a system of "convert and write off."**

2. Mr Greg Medcraft said on his way out of the Australian Securities and Investment Commission ("ASIC"), APRA protects the banks, not their customers, and that is the likely experience of possibly two million customers. APRA's extreme secrecy is a constant obstacle to bank victims achieving justice. This bleak situation is compounded by the "ASIC/APRA Doom Loop", as we named the situation of Banks dictating to FOS as to what legal arguments are met with bank approvals. Disadvantaged customers are being ignored by APRA on a daily basis. Consumer complaints to APRA in their hundreds over time, as users of the system, are consistently being ignored. APRA "flicks" such complaints about lending and bank products over to ASIC.

The "flick" method is proven by the consistent and louder cries to Parliament and Government to abolish the Twin Peaks Model and for Government to set up a proper Federal Bureau of Consumer Protection. I personally have lobbied for this solution for nearly two decades, in order to have consumer interests placed above those of the greedy banks and connected operatives. When comparing budgets between APRA and BFCSA, the paucity of information is a national disgrace.

If APRA was doing its job of reporting these issues to Parliament, and providing reliable statistics as to the truth in lending, and other standards, then BFCSA would not by necessity, be required to exist.

3. With this appalling record, APRA should not be given more powers, let alone powers to manage a financial crisis that are designed to protect the banks even more. These include powers to **"convert or write-off"**, aka "BAIL IN," the banks' obligations to their unsuspecting retail (mum and dad) investors, and maybe even depositors. Years ago, I was lobbying for changes to enhance protection for RETIREES who were being spruiked into MIS Scams where billions of dollars were lost through unacceptably bad regulatory control over corporations and institutions, including banks. APRA ignored those issues relating and connected directly to the banking system. I wrote to the Prime Minister in 1999, asking why we would think the "creating wealth" looting taking place against the older community, assists Australia in its quest for prosperity? These policies appeared to me at that time to be an oxy-moron.

In fact, and by experience, such decisions by APRA in its lack of surveillance presents a clear and present danger to the economy on so many levels.

In other words, the stealing from customers that banks have been given the green light on for so many years, but which nevertheless has been illegal, could now become official and APRA will then present as an unacceptable and dangerous legitimacy. The terms of this bill that allow it are elaborated here:

http://cecaust.com.au/releases/2017_11_08_Questions_MP_need_ask.html

For the past 15 years, BFCSA and its predecessor have spoken up for, victims. Our collective Group has therefore established a unique perspective on APRA that MPs certainly don't have. This is what an MP wrote to one of our supporters recently:

"The Reserve Bank of Australia and APRA have responsibility for ensuring the stability and strength of the Australian financial system. We have confidence in the ability of these regulators and are therefore not considering Glass-Steagall style legislative measures. APRA is an Australian Government authority that is accountable to the Government of Australia and the Parliament of Australia."

Aggrieved consumers in all states of Australia are collectively saying: "we have no confidence in the ability of these regulators and in particular, the Banking Regulator to view issues from the eyes of consumers."

BFCSA Members are asking all MPs to seriously consider this position and understand why we know that APRA cannot be trusted and why Glass-Steagall style legislative measures are imperative for those consumers who would be disadvantaged.

Regards
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