

BFCSA (INC) SUBMISSION TO SENATE ECONOMICS INQUIRY

Post GFC Banking Sector

Submission from: -

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I am responding to the Senate Economics Reference Committee 2012.

I refer specifically to the Terms of Reference: d), e) and f).

Results of my research 2003 – 2012 into Sub Prime Lending have revealed a disturbing trend that clearly shows a potential for high volume Loan Application Fraud and Maladministration in Lending.

IN BRIEF:

In 2005, a number of key ADI Lenders boasted of an Asset Rich and Income Poor (“ARIP”) market. Using information seminars, our banks flagged the ARIP Model to a large number of Financial Planners, Mortgage Managers, Mortgage Originators, Introducers and Brokers. Commissions flowed down from various Banking Institutions to all players. The ARIP’s were in fact Pensioners, Centrelink recipients, disability pensioners and Low income families who were unwittingly being heralded as a “new market.”

Since 2001, emails from lenders direct to the Broker Channel databases clearly urged brokers to seek out potential clients from those with **equity in their homes**.

The strategy provided to Brokers by the banks was clear: “you will be assisting people to climb out from poverty circles and become self sufficient. We can teach you how to gain equity loans to help people invest in property. We will provide you with calculators which permit serviceability levels to be reached.” Later these calculators were abandoned to some extent in favour of No Doc products. From 2005 onwards all home owners became the suggested target and the grand prize became the largest number of TITLE DEEDS held by the banks as “assets”.

A few alarming key factors have emerged from our research:-

1. Low Doc Loans in 2000, and No Doc Loans in 2005, were being promoted directly to Brokers by over 36 lenders: Banks (ADI’s) and Non Banks alike.
2. No verification of income occurred, either via mail or telephone. Clients were unaware that income figures were being grossly exaggerated by persons unknown.
3. Clients never received a copy of the Original Loan Application Form.
4. Clients who are affected are mostly low income families and Centrelink recipients.
5. The financial products used as the major vehicle were designed for self-employed persons.
6. Lending Policy Guidelines were breached as a matter of routine.
7. All lenders used Business Development Managers (“BDMs”) as bank officers to teach Brokers certain strategies to lead to successful volume of loans and thereby maintain quotas of sales.
8. Certain Lenders have recently instructed their brokers to “Shred the original Loan Applications” which contain the signatures of the clients.

All Loan Applications to date that I have reviewed during the past eight years of research, have shown at least two and three people’s hand writing in place and grossly exaggerated information

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placed on the document by persons unknown and, after the document was signed and without the borrower's knowledge or consent. All Application Forms reveal fraud. In eight years of research, I have yet to discover a 'clean' one. New Zealand people are also affected.

Lenders urged Brokers to apply online for an ABN number for those people targeted in this campaign. The "ABN need only be valid for one day" and "no GST registration required."

Whilst the Lenders publicly suggested the borrowers were checked for excellent credit references, identification documents did reveal the borrowers were in fact pensioners. These activities are in fact asset lending according to members of our judiciary and, maladministration in lending according to the Commonwealth Banking Ombudsman.

Due to the impecunious position of the borrowers, the only court cases that have been heard to date, are those funded by consumer protection groups and state government agencies. These are now six in number affecting 8 families, heard in four states and decisions written by 12 Judges (including the appeal Judges in two cases).

One lender boasted in 2005, "The ARIP's are a \$50 billion market. " The average size of a Low/No Doc loan has climbed to \$600,000 per family according to our research. Lenders ensured that "Jumbo Loans" were made available and indeed encouraged: No income, No financials, No LMI, No GST registration of ABN and 90% LVR.

Brokers were encouraged to offer "the plan" to their own family members and maximise these loans. Brokers were taught not to leave "dead equity" in the home.

The escalation in the amount of the loans ensured the actual lending activity fell outside the Banking Ombudsman's \$500,000 limit in terms of investigations. The split of duties between the two EDRs COSL and FOS ensured that three links in the bank engineered chain, could never be properly investigated, as both COSL and FOS were limited to one link in the chain and would not investigate the all important BDM, or bank officer. Nor would they permit a double investigation. I complained to authorities in 2002 that the EDR limit of \$100,000 was grossly inadequate. Today the \$280,000 limit is woefully inadequate. The EDR system is therefore dysfunctional as they both had the powers (and budget) to discover the same revelations that we have, during this past 8 years.

We have found multi cases of pensioners being given \$1 million loans on the strength of their asset and no regard for their modest incomes. The payments were made by a series of **refinancing of buffer loans, effectively ensuring loan payments were being met by the banks' own funds.** The buffers ensured secrecy of otherwise defaulting loans.

Brokers were encouraged to maximise loans and suggested the customer perhaps take a trip overseas. The strategies have been found to be direct and poor quality financial advice, as evidenced by the expected losses. The Brokers believed the strategies and financial products were bona fide due to the extensive promotion by our Major Banks via their BDMs.

We have found the marketing strategies in play were engineered by the banking sector and promoted to the broker channel. The loans were engineered by the banking sector as a **grab for Title Deeds** .

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I would suggest that if one purchases a washing machine and the manufacturer is found to have knowingly engaged in malpractice by producing faulty goods, we as a society do not see that such behaviour should be rewarded. We consider therefore, that it reasonable for the manufacturer to make good the loss.

It appears the Banking Industry believes that the customer should be blamed for purchasing the faulty product in the first place. This attitude is unacceptable.

With a probable saturation of \$50 billion in loans and the obvious averaging of \$600,000 in lending policy up to \$2 million per person in some cases, the true depth of losses may have affected up to 100,000 Australians.

Evidence recently gathered now reveals that the above activities in Australia commenced at least a decade prior to the GFC and, the No Doc Loans three years prior to the GFC.

In response to the terms of reference we recommend the following: -

d) the impact on borrowing and lending practices in the banking sector both during and since the global financial crisis.

I am sure it will be up to the Economic Advisers and experts to quantify the damage to Australians and Australian businesses as a result of the GFC. However, since APRA and ASIC are continually stating they have seen no evidence of asset-lending and no systemic issues, our BFCSA Team respectfully recommend a Royal Commission into our own Australian Banking Sector.

We further recommend, based upon our own investigations, that an immediate ban be sought in relation to Low Doc and No Doc lending.

Due to the evidence of the lenders' direct involvement in the engineering and control of the products and service chain, that the NCCP laws are altered to have **the onus of verification of income data and other details, rest with the manufacturer: our banks and non banks.**

To place the onus of verification on the shoulders of the Brokers is to suggest that the Government has not been fully briefed by any person on the actual Model being used in these particular lending activities. That causes the BFCSA Team to be concerned at the enormity of the regulatory failure to properly identify the cause and magnitude of such losses.

The impact of the GFC on our markets would under normal circumstances be manageable. However the banks have been coy at revealing how much of their loan books in Low/No doc Mortgages make up what % of their profit margins. One bank did admit to 62% in 2005.

e) the need for further consideration of the state of the broader finance and banking sector;

We recommend that the Senate Committee consider the urgency required in asking the Australian Federal Government for a Royal Commission into the Banking Sector. The Terms of Reference must be broad commensurate with the magnitude of the number of loans that have been tainted by malpractice during the past decade.

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f) any other relevant matters

Of considerable concern is the packaging of these tainted mortgages for sell in global markets. The suggestion that these borrowers are not a credit risk is absurd.

We recommend that the instance of mortgages sold in RMBS packages also be investigated and incorporated into a Royal Commission into the Banking Sector.

Members of our BFCSA Team suggest that responsibility of the banks to verify a consumer's financial position must be an open and accountable process. The mere fact banks abrogated their responsibility to investigate a consumer's income & assets would, according to the courts, make the lenders liable for the loss.

We also note that a Broker was acting as an agent of the Bank for the purpose of lender obligations relating to the collection of Identification Documentation required under the Anti Money Laundering and Counter Terrorism Act (2006) has also been passed on to the Brokers and Introducers.

Our submission is truly a brief description of what we have found to be occurring in the banking sector in Australia. Evidence points to an alarming regulatory failure in monitoring the banks and the express enforcement of existing laws 2003 - 2012.

Everything alluded to in our submission can be backed by evidence consistent with that presented in recent court cases as mentioned. We have uncovered further evidence to enhance those verdicts.

Please note that as a public service, I conducted the original research, which led to the very first cases being funded and placed before the courts in 2003, 2005 and 2009.

I will make myself available to the Committee, should they wish to question me on these findings and latest revelations.

On behalf of all consumers of banking products and services in Australia, the two key questions we are seeking answers to are these:-

- *Which Bank flagged a hybrid Low Doc Model to all the other lenders so that the product miraculously appeared on every lender's books at the same time?*
- *Which Bank designed the six degrees of separation between lender and borrower and ensured the plans were identical?*

If it wasn't for the Banks intended 'arms length' to claims from down the chain, why was the same arms length, otherwise necessary?

Yours sincerely

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