

# Commonwealth Bank Group

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Reply  
GPO Box 2719  
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Ms Toni Matulick  
Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
Parliament House  
Canberra  
ACT 2600

Dear Ms Matulick,

## **Re: inquiry into the impairment of customer loans Question on Notice 3**

I refer to my response to the Committee of 23 November in relation to Question on Notice 3, received from the Committee on 12 November. This question asked for an aggregate list of the reasons that Bankwest loans were in default.

As I explained, data relating to “reason for default” is not stored electronically on our systems so the request requires a manual retrieval of files going back up to seven years.

To assist the Committee we proposed to perform this exercise for:

- Customers who have lodged a submission relating to Bankwest with the Committee or who have appeared before the Committee (around 40 customer cases)
- Customers who were considered as part of the Ernst & Young Expert Determination Report dated 7 July 2009 (67 customer cases)

We have now completed this exercise and attach the results to this letter. As you will see, and as we and other banks have given evidence, the existence of loan to value ratios alone in a customer default situation is rare. In 86 out of 95 cases, the customer’s loan was overdue for repayment, or was in interest arrears, or both. In the remaining cases, either no receiver was appointed, or significant other defaults were evident.

If you have any questions about our response to this question do not hesitate to contact me on [redacted] or Euan Robertson on [redacted].

Yours sincerely,

**David Cohen**  
Group Executive Group Corporate Affairs  
Commonwealth Bank of Australia

**ATTACHMENT A: Response to Question on Notice 3**

**1. The Exercise Performed – Customers with Submissions to PJC**

We have reviewed data for 36 Bankwest customers who have provided a submission or appeared before the Parliamentary Joint Committee in relation to this inquiry. A list of these customers appears in section 1.3 below.

Five of the 36 customers withheld their names from their submissions to the Committee but were able to be identified through details in their submissions.

In addition to these 36 customers, three other submissions mentioned Bankwest where the names were withheld or we were unable to identify the relevant customers. We would be pleased to provide information in relation to these three cases if the Committee can provide information on a confidential basis which would help us to identify these customers.

To undertake this process, staff conducted searches of various core banking systems, email accounts, hard copy files recalled from storage, and (if applicable) contact with the relevant legal and accounting firms involved at the time.

Given the scale and timeframe of the review, obtaining all of the primary documents relating to defaults was not possible. However, sighting internal ‘secondary documents’ (e.g. emails) gives us confidence that data is representative of the circumstances of these 36 customers. Our understanding after completing the review is set out below.

**1.1. Reason for Default – Customers with Submissions to PJC**

Of the 36 customers reviewed, 33 were in monetary default.

Of the remaining three customers:

- a) in one case, no enforcement action was taken;
- b) in the second case, the customer appointed a voluntary administrator and as a result of this significant default a receiver was appointed, and
- c) in the third case, Bankwest appointed a receiver after the customer invited Bankwest to do so.

We provide the table below to assist the Committee to understand the variety of defaults that were evident in these cases. Categories are not mutually exclusive (i.e. if a customer was in interest arrears they might also have breached other financial covenants and their loan to value ratio obligations).

<b>Reason for Default</b>	<b>Customers</b>
Interest arrears	27
Failure to repay expired facilities	22
Loan to value ratio breach	14
Financial covenant breach	12
Failure to supply financial information	5
Other (e.g. administrator appointed)	21

The average number of defaults for these customers was greater than three.

We are aware that the Committee is particularly interested in breaches relating to loan to value ratios. Of the 14 customers with loan to value ratio breaches, 13 were also in monetary default. In the one case where there was no monetary breach, Bankwest did not take any enforcement action.

## **1.2. Receivership Appointments – Customers with Submissions to PJC**

Receivers were appointed to 28 out of the 36 customer cases which have been presented to the Committee. In no case was a receiver appointed on the basis of a loan to value breach only. Significant other defaults were evident in all circumstances.

The average number of days between the first default evident and the appointment of receivers was 539; the median number of days was 397 days.

## **1.3. Customers in Question – Customers with Submissions to PJC**

The above data relates to the following 36 customer cases:

<b>Submission</b>	<b>Customer Name</b>
n/a	Rory O'Brien (Whisper Bay)
n/a	Iyad Rafidi
5	Name Withheld
6	Mr John Hollioake
10	James Neale
12	Colin Power (New Royal and Imperial Hotels)
14	Mr & Mrs Max and Diane Lock (Naracoote Hotel/Lockland)
19	Mr Barry Alcock (Illawong Village)
20	Mr Frank Galea (Oak Tree Dural)
21	Name Withheld
22	Aurora Lifestyle Village
24	Kelgon Development Corporation Pty Ltd
26	Name Withheld
27	Mr Joshua Hunt (Fitzroy Island)
32	Name Withheld
33	Ms Catherine Kearney
52	Mr William David Wallader
57	Whelans Group Investments
60	Ian Colquhoun (Baker Court Developments)
67	Ken Winton (Paoli)
70	Name Withheld
71	Yves El Khoury
72 & 73	Warren Barber & Bradley McVicar (Glenreel / Mermaid Beach Tavern)
75	Santalucia Group
77	Greg Bishop (Burdekin Hotel, Ayre)
82	John & Esther Sterndale
89	Fred Binks (Allied Hospitality)
91	Nashaat Sedhom (Kirova Holdings)
95	Peter Schaumburg & David Barnard (Tree Houses of Montville)
97	Milton Wilde (Art Pacific)
101	Trevor Eriksson (Clergate)
103	Vittorio (Vic) Cavasinni
106	William Grealish
108	Andrew Gordon Lamont
113	Sean Butler
124	Chris Evanian

## **2. The Exercise Performed – Customers in Ernst & Young Report**

We reviewed data for 59 of the 67 customers specified in the Ernst & Young Expert Determination Report dated 7 July 2009.

Of the other eight customers:

- Six (Mr O'Brien, Mr Power, Mr Boman, Mr Cavasinni, Illawong Village and Fitzroy Island) lodged submissions to the PJC or appeared before the Committee and are therefore dealt with in section 1.
- One customer (Mr Dacey) was a retail customer and was excluded from the exercise given the focus on commercial lending.
- One customer (ABC Learning) had complex challenges which are publicly well documented and was excluded from the exercise.

As in section 1, to undertake this process, staff conducted searches of various core banking systems, email accounts, hard copy files recalled from storage, and contact with the relevant legal and accounting firms involved at the time.

Our understanding after completing the review is set out below.

### **2.1. Reason for Default – Customers in Ernst & Young Report**

Of the 59 customers reviewed, 53 were in monetary default.

Of the remaining six customers where no monetary default existed:

- a) in three cases, no receiver was appointed;
- b) in two cases, the customer or another secured creditor appointed a voluntary administrator; and
- c) in one case, another creditor commenced liquidation proceedings in court against the customer.

We provide the table below to assist the Committee. As in section 1, categories are not mutually exclusive (i.e. if a customer was in interest arrears they might also have breached other financial covenants and their loan to value ratio obligations).

<b>Reason for Default</b>	<b>Customers</b>
Interest arrears	38
Failure to repay expired facilities	32
Loan to value ratio breach	14
Financial covenant breach	24
Failure to supply financial information	15
Other (e.g. administrator appointed)	39

The average number of defaults for these customers was greater than 3.

Of the 14 customers with loan to value ratio breaches, 13 were in monetary default. In the one case where there was no monetary default, the customer was in material default as a result of a creditor other than Bankwest appointing an administrator.

## **2.2. Receivership Appointments – Customers in Ernst & Young Report**

Receivers were appointed in 36 out of the 59 customer cases in the Ernst & Young report. No receivers were appointed on the basis of a loan to value breach only. Significant other defaults were evident in all circumstances.

The average number of days between the first default evident and the appointment of receivers was 395; the median number of days was 261 days.

### **Summary**

In total, the exercise has been completed for 95 customers of Bankwest. Of these 95 customers:

- Receivers were appointed in 64 cases.
- In 59 of the 64 cases where Receivers were appointed monetary defaults existed, and in the other five cases significant non-monetary events of default occurred (appointment of voluntary administrator, winding up proceedings etc.).
- Where a receiver was appointed, the average number of days from the first default to the appointment of receivers was 457 days. This demonstrates that Bankwest allowed customers significant time before taking enforcement action and did not act with undue haste.
- In 31 cases Bankwest worked with the customer to resolve the customer's difficulty without the need for the appointment of a receiver. In 27 of these cases a monetary default existed.