

I wish to bring to your attention my case of low-doc loan fraud against Commonwealth Bank of Australia, and hope that ASIC (and APRA) acknowledges and improves its regulatory inadequacies for the benefit of the Australian public as my case is not an isolated issue; in fact, there are many resources which can substantiate that my allegations reflect a systemic issue and there is strong support by the public for a Royal Commission into the banking sector.

Some of the resources which demonstrate that this issue is systemic include:

- <http://www.smh.com.au/business/lenders-accused-of-systemic-fraud-20130602-2nk23.html>
  - <http://archive.sclqld.org.au/qjudgment/2011/QSC11-025.pdf>
  - <https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=156f19ba-d29b-4f17-94aa-b86e4bff031c>
  - <http://www.bfcsa.com.au/index.php/entry/the-uccc-did-not-apply-to-consumer-loans-for-investment-in-residential-property-says-asic>
  - [http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2009/902.html?stem=0&synonyms=0&query=title\(O'Donnell%20\)](http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2009/902.html?stem=0&synonyms=0&query=title(O'Donnell%20))
  - <http://bfcsa.com.au>
  - <http://www.bfcsa.com.au/index.php/entry/anthony-klan-in-australian>
  - <http://bfcsa.com.au/index.php/entry/aussie-did-destroy-loan-documents>
  - <http://www.bfcsa.com.au/index.php/entry/anthony-klan-the-australian-low-doc-loans-were-widely-abused>
  - <http://thehumanracefilm.com/archives/2338>
  - <http://www.theaustralian.com.au/news/investigations/low-doc-clients-denied-access-to-forms/story-fn8p9s2m-1226452176271>
  - <http://www.theaustralian.com.au/news/investigations/asic-says-no-to-low-doc-loan-inquiry/story-fn6tcs23-1226452913888>
  - <http://www.theaustralian.com.au/business/financial-services/banks-ignored-their-own-rules-in-race-to-fuel-housing-boom/story-fn91wd6x-1226393522802>
  - <http://www.theaustralian.com.au/news/investigations/hope-for-mortgage-victims-as-homeowners-winning-battle-against-banks/story-fn6tcs23-1226382076020>
  - <http://www.theaustralian.com.au/business/big-banks-forgive-aussie-sub-prime-debts/story-e6frg8zx-1226326198757>
- [http://www.fos.org.au/centric/home\\_page/publications.jsp](http://www.fos.org.au/centric/home_page/publications.jsp) (FOS Bulletins and Circular publications, of which "maladministration" - imprudent lending, unconscionable conduct, fraud, etc - has been a common topic)

I applied for a low-doc investment loan through a CBA mobile lender in 2008. The mobile lender requested my tax returns and financials to support the application, which were provided to the mobile lender and proof of this is available in email correspondence. With the financial difficulties I have been experiencing in maintaining the loan, and having recently read several articles regarding low-doc lending, I began looking at how the bank made the decision to approve my loan. I also joined BFCSA for emotional support and to contribute what I have uncovered.

In December 2012, I started requesting from the mobile lender copies of all documentation relating to the application as copies were never provided to me during the application process. About 6 weeks later, I received correspondence from the bank advising they've lost the file. The mobile lender however, did provide some documents (mostly internal), including the Loan Application Form (**included**). This document was completed by the bank and a copy was never provided to me as it's a document that doesn't get signed by the consumer. What I found on the Loan Application Form (and an internal document, **included**) was astonishing. Some examples of maladministration (some of which I'd argue is fraud) include:

- Existing mortgages have been used as security rather than take out Lender's Mortgage Insurance;
- Existing mortgages have been omitted from the liabilities;
- Credit cards (one of which is CBA) have been omitted from the liabilities;
- "Other commitments" such as insurances, Rates notices, etc have been omitted from the liabilities;
- Dependents has been listed as zero (I have been with the bank for 6 years and has been receiving government payments into her CBA bank account for her dependent child for the same length of time);
- Income has been grossly manipulated; and
- "Other income" has been fabricated.

A complete list of the errors, omissions and concerns are **included**.

Despite these serious issues on the Loan Application Form, my tax returns and financials clearly revealed I could not afford the loan that was approved. It raises the question of why the mobile lender requested my financials if the mobile lender was not going to use them. I have email correspondence confirming the mobile lender requested, and confirmed access to, the financials. It also raises the question of why a low-doc loan was approved after financials were provided, as a low-doc loan is for those who are unable to provide financial documentation. Based on these questions, it would appear that the financials weren't used - despite them being requested - so that the loan could be approved as a low-doc.

After repeated requests for information over the course of at least 6 weeks (beginning in December 2012), I then went to their Internal Dispute Resolution team, and eventually to FOS in February 2013. When my complaint was made to FOS, the bank made several offers, including reducing the loan amount, then extinguishing the loan and making an ex-gratia payment. Surely, they would not make any offer if they believed they had had done nothing wrong. I rejected their offer and the bank had then requested financial documentation to support my claim, which I provided on 4 May 2013. No further offers were made by CBA after they received my financials.

The extension which FOS granted CBA without my knowledge lapsed in May 2013, and I am still waiting for correspondence from FOS.

I have reported my case to APRA and ASIC but neither have been willing to investigate.

APRA's letter of response dated 3 April 2013 (**included**) states:

"APRA deals with systemic matters at an entity level rather than pursuing individual complaints";  
and

"Because of its role in protecting consumers against misleading or deceptive and unconscionable conduct, I have referred the circumstances set out in your letter to the Australian Securities and Investments Commission (ASIC)".

ASIC's letter of response dates 2 May 2013 (**included**) states they've advised they will not be taking further action into the issues I had raised because:

"...the alleged conduct occurred before ASIC took over as national credit regulator in July 2010";  
and

"...the loan does not appear to fall within the provisions of the NCCP Act and NCC, as it is an investment loan and was entered into prior to 1 July 2010".

ASIC's response dated 14 February 2013 (**included**) states that "Before 1 July 2010..ASIC had a

limited role in relation to the regulation of credit through the prohibitions on unconscionable conduct and misleading and deceptive conduct contained in the Australian Securities and Investments Commission Act 2001 (ASIC Act)".

It's extremely concerning that, according to ASIC, I, like so many, have no protection under ASIC despite the provisions in the ASIC Act (for example, unconscionable conduct in s 12DA(1), s 12CB(1) and s 12CC(1) of the Act which were successfully argued in relevant case law: <http://archive.sclqld.org.au/qjudgment/2011/QSC11-025.pdf>).

It is equally concerning that APRA deny our complaint is a systemic matter.

I am very interested to determine why neither APRA nor ASIC are not pursuing this systemic matter, and why it appears I, like many, have no protection by these regulators.

The Youtube video posted in this article paints a very clear but shocking picture of the serious conflicts of interest that exist between the banks (CBA, BOQ, etc), the bank's receivers (Gadens Lawyers), and the government departments (FOS, COSL, ASIC) that have been established to protect consumers:  
<http://www.bfcsa.com.au/index.php/entry/whistleblower001> (direct Youtube link: <http://www.youtube.com/watch?v=twuTszAHrvY>). This highlights the importance of the support from the inquiry, as, without your support, the Australian public will not get a "fair go", which Australia prides itself on.

I am hoping, with the support of the inquiry, we may be able to bring this systemic issue to the public domain through a Royal Commission, not only for my case, but to improve the banking practices and, ultimately and most-importantly, the protection for consumers.

I am happy to provide any additional documentation you require.

Jean Andersen