

Commonwealth Bank Group

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24 December 2015

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: Questions on Notice from Commonwealth Bank Appearance before Inquiry on 2 December 2015 in Canberra

On 2 December when David Craig and I appeared before the Committee we agreed to take a number of Questions on Notice. Please find attached a copy of our responses to these questions. Where a response is marked as "in progress" we will provide further information as soon as practicable.

If you or members of the Committee would like to discuss our response do not hesitate to contact me on _____ or Euan Robertson on _____.

Yours sincerely,

David Cohen
Group Executive Group Corporate Affairs
Commonwealth Bank of Australia

QoN 1

Senator O'Neill: *For the matters raised in submissions and the evidence that we received from Mr Bowman, Mr Cavasinni, Mr Eriksson, Mr Evanian, Mr Lavis, Mr O'Brien, Mr Power and Mr and Mrs Schaumburg, could I ask the Commonwealth Bank to provide for us these items: a time line and evidence documenting the bank's attempt to assist these customers from the time that it first became apparent that they had financial difficulties.*

(NB: Other matters raised by Senator O'Neill at this time are addressed by the Committee's correspondence of 1 December 2015)

In progress

QoN 2:

Mr RUDDOCK: That is page 3 of your letter of 1 December, and I was reading your observations that there was no specific communication with your bank, because you were not a party; however, there is extensive dialogue evident. I do not know what 'dialogue' means. I do not know what demands were made. I do not know whether dialogue was ringing up to say, 'What's the weather like?' Can you give us the diary entries that evidence the discussions and the dates that you allege in relation to officers of, presumably, Bankwest and BoSI?

Mr Cohen: We can certainly provide that to you; yes. I do not have it right here now.

Senator O'NEILL: Are there any file notes?

Mr RUDDOCK: It says that there is an extensive dialogue between Bankwest and—

Mr Cohen: Yes, there is. We can certainly provide that. It might be of interest to you to know that in the court proceedings between Bankwest and Mr O'Brien, Mr O'Brien swore an affidavit which set out at length his various phone calls and correspondence with Bankwest. We can certainly provide you with our records—

In progress

QoN3:

Senator O'NEILL: *Was there any transfer then of those people from outside the bank's receivers into the bank to help your credit assessment team? Did any of those people become investigative accountants and receivers—did they complete the circle? They go in and then go out.*

Mr Cohen: *The individual person travelling through that loop? I do not know that, to be honest. We could look into it for you—I do not know it. I would say that it is quite feasible that one of the external firms who might have provided a secondee might also have been appointed as a receiver at some stage. That is highly feasible, given that we were taking secondees from some of the large firms.*

From a review of our records, we have identified approximately 40 secondees from investigative accountants and receivers who worked in Commonwealth Bank or Bankwest in the period between February 2010 to November 2015.

These secondees are not engaged as receivers, nor do they have the authority to make the decision to appoint either receivers or investigative accountants in their work for CBA.

We do not believe that any secondee returned to their firm and was subsequently appointed as an investigative accountant or receiver to a customer case they had dealt with during a secondment.

QoN4:

CHAIR: *If this is an accounting exercise and does not impact on the businesses concerned and is, purely, for your provisioning can you clarify whether you had a number of reasonably senior managers, in the Sydney area, resign, around that period, in protest?*

Mr Cohen: *In Bankwest?*

CHAIR: *Yes.*

Mr Cohen: *I do not know the answer to that question. We can look into it for you, though.*

In progress

QoN5:

Senator O'NEILL: *How many investigative accountants did you employ during this period?*

Mr Cohen: *I do not know the answer to that. We can take that on notice and give you the answer.*

Senator O'NEILL: *A rough number: thousands or hundreds?*

Mr Cohen: *Do you mean the number of appointments, the number of times an investigative accountant—I would imagine it is in the hundreds, at a guess.*

In progress

QoN6:

Senator O'NEILL: *In what percentage of cases did it end well for the customer?*

Mr Cohen: *I could not tell you, off the top of my head. We would have to go and review the files to do that.*

In progress

QoN7:

Mr RUDDOCK: *Perhaps if you would take it on notice, because I suspect the way in which you have dealt with it encourages me to look at what more robust approach we should take.*

The Committee's deliberations around the circumstances of Bankwest customers who have appeared before the inquiry concentrate on three core questions:

1. *Is there any evidence of a conspiracy around the purchase of Bankwest? Did Commonwealth Bank have an incentive to impair loans to reduce the purchase price or gain some other benefit?*

Clearly, as the evidence shows, the answer is no.

As we said in our opening statement:

- Commonwealth Bank could not reduce the purchase price payable to HBOS by impairing customer loans and nor did it attempt to;
- We repaid all of the wholesale funding – again, there was no clawback possible;
- There were no warranty claims in relation to impaired loans;
- There was no loan guarantee from the British government; and
- There was no capital benefit from impairing loans.

2. *Putting aside the conspiracy theory and the lack of any motivation to do so, did Bankwest take action against customers who were appropriately servicing their loans?*

Clearly the answer is also, no.

As we have responded previously, we have examined 36 of the submissions provided to the Committee. Of those 36, the customer was in monetary default in 33 cases. Of the remaining three:

- in one case no enforcement action was taken against the customer;
- in one case the customer appointed a voluntary administrator to the company; and
- in the other the customer invited Bankwest to appoint a receiver.

3. *Accepting that there was no conspiracy and that customers were failing to meet obligations to Bankwest, did Bankwest act too quickly or fail to adequately work with customers?*

Again, the answer is clearly 'no'.

We have examined 28 of the submissions provided to the Committee in relation to Bankwest where a receiver was appointed. The average number of days between the first default evident and the appointment of receivers was 536; the median number of days was 397 days.

Around 40 dissatisfied Bankwest customers have provided submissions to the inquiry out of around 26,000 commercial customers. Claims about the scale of receiverships among Bankwest customers have been shown to have been fabricated.

If the parliamentary inquiry produces evidence of any customer being mistreated, as we have stated previously we are very willing to consider that: to date, despite having made our willingness clear to individual customers and a number of politicians we have seen no such evidence.

QoN8:

CHAIR: *Would you provide on notice—perhaps over the last two-year period; let's limit it—how many disputes you have had that have started out with a legal process, how many have actually gone to court and how many have been settled out of court?*

Mr Cohen: *In respect of commercial loans or generally?*

CHAIR: *Commercial loans.*

Mr Cohen: *Sure, yes.*

In progress

QoN9:

Senator WILLIAMS: Yes, I will do that. Mr Craig or Mr Cohen: 66 in 2008-09; 116 in 2009-10; can you give me the figures from the 2010-11 financial year?

Mr Cohen: Not at the moment. We are still doing the count. This chart that David Craig has just mentioned will not talk to receiverships per se but will talk to losses incurred in later years.

We have completed this exercise for financial years 2010-11 and 2011-12 and the results are presented below.

The Committee will note that at its peak in 2010-11, Bankwest appointed receivers to 189 entities. This is less than the 20 per cent of all receiverships that Mr Hall claimed Bankwest appointed in 2008-9 (alone). As we described in our response to his submission, Mr Hall has added figures together which are not mutually exclusive. This has resulted in double and triple counting of figures.

The Committee will also note that the peak receivership appointments in 2010-11 occurred well after the Ernst & Young report had settled the purchase price of Bankwest. Further the 'lag' from the peak of the financial crisis illustrates the time that Bankwest provided customers to work through their financial difficulties.

	2008-9	2009-10	2010-11	2011-12
Bankwest Receivership Appointments	66	116	189	90
Total Industry Receivership Appointments (ASIC)	1,487	1,223	1,348	1,248
Bankwest percentage of all receivership appointments	4.4%	9.5%	14.0%	7.2%
Bankwest share of business lending	5.0%	5.0%	4.3%	3.7%

QoN10:

Senator O'NEILL: *How could there be such an incredible difference from the figures that the bank provided to us this evening? You would have seen the evidence that Mr Hall was basing his estimations on. Can you explain that discrepancy for the committee?*

Mr Cohen: *It is very hard for me to know exactly how Mr Hall was counting. What we surmise is that Mr Hall was double- and triple-counting. What it appears he has done is he has gone to ASIC records of receivers and he has looked at a cumulative total for 2008, a cumulative for 2009 and a cumulative total for 2010, and it appears he has added them together. Now, that is all we can surmise. But the figures that we have given you are actual figures from going and doing a count of our files—actually going through each file manually—to determine how many receivers were appointed. So, it is 66 and 116.*

Further to our answer above, we provide the following additional information. There appear to be at least two critical errors (if not more) which lead to Mr Hall's fabricated number of 1,025. We refer to Table 9 on page 35 of his original submission.

Error 1: As we described in our response to his submission, Mr Hall has added figures together which are not mutually exclusive. This has resulted in double and triple counting of figures.

Error 2: Mr Hall has confused the concepts of impairment and receiverships. Impairment occurs when a bank believes that it will not be repaid its funds in full and will make a financial loss on the loan. It is an accounting concept entirely separate from appointing a receiver. As we have stated in evidence, many loans which are impaired are resolved without the need for a receiver.