

## Chapter 5

### The role of property valuers

#### Introduction

5.1 This chapter discusses the evidence received by the committee about valuers and their role in relation to loans including issues raised by submitters, views of banks, the roles and actions of peak bodies for valuers, prudential requirements for valuation of securities by banks and access to valuation and instructions for borrowers.

5.2 The valuation process is generally used at three different points in time in relation to bank loans:

- the initial funding approval process;
- during the course of a review of existing facilities as required under loan contracts; and
- during the course of the sale of assets.

#### *Market value*

5.3 The International Valuation Standards Council (IVSC) provides the following definition of market value that is used by valuers of real property in Australia:

...the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion.<sup>1</sup>

5.4 Business valuers in Australia use a slightly different definition of market value:

...the price that would be negotiated in an open and unrestricted market between a knowledgeable, willing but not anxious buyer and a knowledgeable, willing but not anxious seller acting at arm's length.<sup>2</sup>

5.5 In 1907 the High Court of Australia in *Spencer v. The Commonwealth*, recognised the following four principles for market value:

- the willing but not anxious vendor and purchaser;
- a hypothetical market;

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1 Australian Taxation Office, *What 'market value' means*, 1 July 2015, <https://www.ato.gov.au/General/Employee-share-schemes/In-detail/Market-value/Market-valuation-for-tax-purposes/?page=3>, (accessed on 16 December 2015).

2 Australian Taxation Office, *What 'market value' means*, 1 July 2015, <https://www.ato.gov.au/General/Employee-share-schemes/In-detail/Market-value/Market-valuation-for-tax-purposes/?page=3>, (accessed on 16 December 2015).

- the parties being fully informed of the advantages and disadvantages associated with the asset being valued (in the specific case, land); and
- both parties being aware of current market conditions.<sup>3</sup>

5.6 In discussing the concept of market value in *Spencer v. The Commonwealth*,<sup>4</sup> Isaacs J indicated that:

... to arrive at the value of the land at that date, we have ... to suppose it sold then, not by means of a forced sale, but by voluntary bargaining between the plaintiff and a purchaser willing to trade, but neither of them so anxious to do so that he would overlook any ordinary business consideration. We must further suppose both to be perfectly acquainted with the land and cognisant of all circumstances which might affect its value, either advantageously or prejudicially, including its situation, character, quality, proximity to conveniences or inconveniences, its surrounding features, the then present demand for land, and the likelihood as then appearing to persons best capable of forming an opinion, of a rise or fall for what reasons so ever in the amount which one would otherwise be willing to fix as to the value of the property.<sup>5</sup>

### Issues raised by submitters

5.7 Submitters and witnesses to the inquiry raised a number of issues and allegations relating to valuers and the accuracy of valuations including:

- significant reductions in valuations between loan establishment and foreclosure or the appointment of receivers;<sup>6</sup>
- whether valuers are sufficiently independent from banks and free from inappropriate influences, such as reduced work, if valuers do not agree with bank requirements;<sup>7</sup>
- the instructions given by banks to valuers and whether those instructions appropriately request market value and are made available to borrowers;<sup>8</sup>

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3 1907 5 CLR 418.

4 1907 5 CLR 418.

5 Australian Taxation Office, *What 'market value' means*, 1 July 2015, <https://www.ato.gov.au/General/Employee-share-schemes/In-detail/Market-value/Market-valuation-for-tax-purposes/?page=3>, (accessed on 16 December 2015).

6 Name withheld, *Submission 5*, p. 10; Mr & Mrs Randles, *Submission 8*, pp 9, 14; Mr Colin Power, *Submission 12*, p. 5; Mr Barry Alcock, *Submission 19*, p. 3; Mr Frank Galea, *Submission 20*, pp 1, 2; Name withheld, *Submission 21*, p. 2, Aurora Lifestyle Holdings Pty Ltd; *Submission 22*, p. 2; Kelgon Development Corporation Pty Ltd, *Submission 24*, p. 4; Mr Michael Sanderson, *Submission 28*, p. 2; Name withheld, *Submission 31*, p. 2; Mr Lynton Freeman, *Submission 64*, pp 30–31; Mr Yves El Khoury, *Submission 71*, p. 3; The Provincial Financial Group (Provic), *Submission 88*, p. 3; Danielle & Peter Schaumburg, *Submission 95*, p. 3; Consumer Credit Legal Service (WA) Inc., *Submission 56*, pp 9–10;

7 Ms Catherine Kearney, *Submission 33*, p. 2; Mr Lynton Freeman, *Submission 64*, pp 17, 30.

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- the methods used by valuers, including:
    - changes in the valuation method (such as multi-purpose or all-in-one line);<sup>9</sup> or
    - the level of rigour involved with drive-by and desk-top valuations,<sup>10</sup>
  - the practice of requiring borrowers to pay for valuations requested by banks;<sup>11</sup>
  - borrowers not being given access to valuation reports;<sup>12</sup>
  - whether valuations appropriately reflected the value of business as a going concern, rather than just the assets;<sup>13</sup> and
  - the inadequacy of accountability and dispute resolution in relation to valuers.<sup>14</sup>

### *Some examples of the concerns raised by submitters*

5.8 An accountant from Queensland, indicated that many of his clients had encountered similar issues to those listed above:

The issues that this raises does show that banks reviewed their exposure to a particular area or client type, engaged valuers to look at this exposure and

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- 8 Mr Bill Ringrose, *Submission 31*, p. 2; Legal Aid Queensland, *Submission 55*, p. 5; Mr John Dahlsen, *Submission 87*, p. 21; The Provincial Financial Group (Provic), *Submission 88*, p. 1; Danielle & Peter Schaumburg, *Submission 95*, p. 3; Mr Trevor Eriksson, *Submission 101*, p. 1.
- 9 Mr Eric Fraunfelter, *Submission 68*, p. 1; Mr John Dahlsen, *Submission 87*, p. 21; Mr Romesh Wijeyeratne, *Committee Hansard*, 13 November 2015, p. 20; Mr Trevor Eriksson, *Submission 101*, p. 4.
- 10 Name withheld, *Submission 5*, p. 10; Mr & Mrs Lock, *Submission 14*, p. 3; Name withheld, *Submission 59*, p. 1; Ms Robyn Toohey, *Submission 62*, p. 2; Mrs Kathryn Johnson, *Submission 90*, p. 1; Legal Aid Queensland, *Submission 55*, p. 5; Mr Paul Waterhouse, Chairman, Australian Valuers Institute, *Committee Hansard*, 16 February 2016, p. 11.
- 11 Kelgon Development Corporation Pty Ltd, *Submission 24*, p. 1; Mr & Mrs Kreutzer, *Submission 39*, p. 9; Tasmanian Small Business Council, *Submission 61*, p. 19; Mr Lynton Freeman, *Submission 64*, p. 22; Mr Robert Barr, *Submission 78*, p. 1; Danielle & Peter Schaumburg, *Submission 95*, p. 7.
- 12 Mr Barry Alcock, *Submission 19*, p. 3; Mr Bill Ringrose, *Submission 31*, p. 2; Name withheld, *Submission 31*, p. 2; Ms Catherine Kearney, *Submission 33*, p. 2; Legal Aid Queensland, *Submission 55*, p. 5; Tasmanian Small Business Council, *Submission 61*, p. 3; Mr & Mrs Christian, *Submission 74*, p. 1; Mr Robert Barr, *Submission 78*, p. 1; Mr & Mrs Bennette, *Submission 85*, p. 2. Mr Trevor Eriksson, *Submission 101*, p. 1.
- 13 Mr Barry Alcock, *Submission 19*, p. 3; Mr Bill Ringrose, *Submission 31*, p. 2; Mr Lynton Freeman, *Submission 64*, pp 22, 30; Mr Roy Lavis, *Committee Hansard*, 19 November 2015, pp 7–8.
- 14 Tasmanian Small Business Council, *Submission 61*, p. 3; Mr Ken Winton, *Submission 67*, p. 3; Mr & Mrs Sterndale, *Submission 82*, p. 1; Mr John Dahlsen, *Submission 87*, p. 21; The Provincial Financial Group (Provic), *Submission 88*, p. 1; Ms Charalambia Evripidou, *Submission 93*, p. 1.

then used those valuers opinions to orchestrate reasons to cease lending. The concerns this raises are:

- Banks are relying on valuers to justify their actions;
- The clients have to pay for these valuations;
- Banks often advise valuers as to how they want a property valued – eg. Fire sale, normal market conditions etc.
- There is significant resistance to valuers providing these valuations to the clients as banks insist it is their valuation – despite the client paying for them;
- The valuer then has all the power, and therefore the risk, as it is their opinion that is making and breaking deals.
- These valuers are only using the property value for sale, and no valuations are being undertaken on the “value of the enterprise”. The entire focus is the recoverability by banks and as such, the valuations being used to make these decisions are understated.<sup>15</sup>

5.9 The Tasmanian Small Business Council (TSBC) drew attention to clauses in standard form loan contracts which seek to deny access to valuation reports and seek to prevent borrowers from raising disputes against the banks or valuer.<sup>16</sup>

5.10 A submitter questioned the independence of property valuations, informing the committee that in his view:

Financiers access valuations either internally or externally. However any valuation has to be acceptable to the institution and secondly external valuers are subject to legal process. In this situation professional indemnity insurance premiums are prohibitive to valuation competition, so by financial pressure and the threat of legal process, financiers’ can control all valuation functions.<sup>17</sup>

5.11 The committee was advised that different valuation methods may produce different results. A witness put his views to the committee on the different valuation methods that valuers may use in some cases, as an 'as is' development property, as a direct land comparison, as strata title, or as an in-line property.<sup>18</sup> Another witness provide an example of strata versus in-one-line valuations:

There was another case...It was a strata development of storage units. On an individual sale it was worth about \$3.9 million...But the bank instructed the valuer to value it on one-line and to ignore the strata. So that valuation came in at \$1.7 million.<sup>19</sup>

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15 Mr Bill Ringrose, *Submission 31*, p. 2.

16 Tasmanian Small Business Council *Submission 61*, p. 3.

17 Mr Lynton Freeman, *Submission 64*, p. 17.

18 Mr Romesh Wijeyeratne, *Committee Hansard*, 13 November 2015, p. 20.

19 Mr Trevor Eriksson, *Committee Hansard*, 13 November 2015, p. 61.

5.12 A witness informed the committee that:

...my suggestion is that, given that we have lots of recent valuations by banks—generally every six months they will revalue your projects—they are not stale valuations. Copies of valuations are never given to the borrower even though the borrower pays for them. I think that, if we had the copy of the valuation, we would know the instructions that were given to the valuer in the case of all these Bankwest constructive defaults.<sup>20</sup>

5.13 A submitter made the following suggestions in relation to valuation processes, based on its experience:

- there should be more recognition of the intrinsic uncertainty of valuations when they are used to make decisions with significant consequences for borrowers;
- an independent dispute resolution process should be available;
- instructions to valuers should reflect market value with reasonable sale periods; and
- standards for the qualification and independence of valuers should be applied.<sup>21</sup>

5.14 ASIC informed the committee that in the five years from 1 July 2010 ASIC received 61 reports of alleged misconduct from people raising concerns about banks' treatment of commercial loans that relate to the issues raised in the inquiry's terms of reference. ASIC indicated that some of those matters related to changes in valuation of assets held as security. ASIC ultimately determined not to pursue further regulatory action or enforcement proceedings against a lender in relation to these matters. Generally, this was because ASIC's inquiries did not reveal sufficient evidence of misconduct on which to base an enforcement action. Some matters included allegations that property valuers were conflicted, though further inquiry by ASIC did not indicate any corresponding misconduct by the receiver with respect to this allegation.<sup>22</sup>

#### ***How valuations are used by banks***

5.15 TSBC argued that the clauses in loan contracts mean that Australian banks are legally allowed to re-value a secured property at the customer's expense. The TSBC alleged that if the valuation shows that the secured property has fallen in value since the loan was agreed, then the bank has the right to default the customer and demand full payment of all amounts owing.<sup>23</sup>

5.16 The committee was informed about a case where a bank was alleged to have made inappropriate use of multiple valuations:

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20 Mr Trevor Eriksson, *Committee Hansard*, 13 November 2015, p. 61.

21 The Provincial Financial Group (Provic), *Submission 88*, pp 4–5.

22 ASIC, *Submission 45*, pp 10–15.

23 Tasmanian Small Business Council *Submission 61*, p. 20.

After obtaining a home loan for \$80,000 seven years prior, Mr and Mrs X began experiencing financial difficulty which led to Bank Y taking possession of their property. As mortgagee in possession, Bank Y sold the property for \$50,000. This resulted in Mr and Mrs X owing a shortfall debt of \$50,000. During the mortgagee sale process, Bank Y obtained two separate property valuation reports from independent property valuers. The earlier report stated the market value of the property was \$60,000, while the later report valued the property at \$150,000. Bank Y disregarded the second valuation report, and proceeded to sell the property at auction. Bank Y set a reserve price of \$60,000, and sold the property at the fall back price of \$50,000. One week later, a third party offered Mr and Mrs X's real estate agent \$160,000 for the property. The real estate agent was unaware that the property had been sold at auction one week prior.

Note: A FOS determination concluded that the FSP did not meet its obligations to take reasonable steps to determine the value of the property before selling it.<sup>24</sup>

5.17 One submitter informed the committee that their properties were valued at approximately \$5 million, and valued again by the same valuer 12 months later for \$1.2 million less. The bank then advised that the client was outside the terms of their agreement and they should seek an alternate financier.<sup>25</sup>

5.18 The Consumer Credit Legal Service (WA) Inc suggested that financial service providers should be required to obtain two separate and independent property valuations and if a significant difference exists between the valuations, financial service providers should be required to undertake further inquiries to ascertain the current market value of the property.<sup>26</sup>

5.19 Legal Aid Queensland provided an example where an agribusiness banker engaged a particular valuation firm to conduct valuations in both 2011 and 2012 when it approved increases in loan facilities. These valuations resulted in a value of around \$7.5 million which included improvements valued at \$1.9 million. After the borrower experienced cash flow difficulties, the asset management team within the bank engaged a different firm of valuers in 2013. This valuer valued the assets at \$3.4 million including improvements at \$340,000.00. Although there were other matters affecting decision making between the borrower and bank, the reduced valuation provided the bank with justification to encourage the borrower to sell the property at the greatly reduced price to 'meet the market'.<sup>27</sup>

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24 Consumer Credit Legal Service (WA) Inc., *Submission 56*, pp 9–10.

25 Mr Bill Ringrose, *Submission 31*, p. 2.

26 Consumer Credit Legal Service (WA) Inc., *Submission 56*, p. 10.

27 Legal Aid Queensland, *Submission 55*, p. 5.

### ***Rural land prices***

5.20 The Department of Agriculture indicated that a notable portion of the correspondence received by the Minister for Agriculture regarding debt matters raised issues including:

- banks refusing to provide property valuation documents to farmers;
- use of unreasonable charges or fees for compulsory property valuations;
- re-evaluating properties to ‘engineer’ defaults, despite farmers not missing required principal and/or interest payments; and
- use of single organisations for valuation and receivership processes, including allegations of using organisations that are known to undervalue property.<sup>28</sup>

5.21 An accountant noted that in some parts of Australia significant price reductions of real property followed extraordinary price increases in the decade prior to the GFC:

During the 2000s, property prices in Western Queensland increased by over 300%. By way of example, an average price for open downs country in the Longreach region was around \$35 per acre around the year 2000. Towards the start of the GFC in 2007/08, prices were being paid around \$140 per acre.<sup>29</sup>

5.22 The Department of Agriculture informed the committee that the largest land value declines occurred in northern Australia (Queensland, the Northern Territory, and the Kimberley and Pilbara regions in Western Australia). Land values reported in 2013–14 for some regions in Queensland were as much as 30 per cent below those in 2007–08, in nominal terms. Much smaller reductions in land values occurred in the high rainfall and crop growing regions of northern Australia, and in southern Australia more generally.<sup>30</sup>

### ***Valuing the whole business***

5.23 Some submitters raised concerns about whether valuers appropriately considered the value of the whole business as a going concern, rather than the value of the individual assets. A witness shared his view on how valuations had affected him:

These valuers are only using the property value for sale, and no valuations are being undertaken on the 'value of the enterprise'. The entire focus is the recoverability by banks and as such, the valuations being used to make these decisions are understated.<sup>31</sup>

The company was made up, as I said, of 50 different companies. We were spread across the whole of the North: we were in Cooktown, Cairns, Mount Isa, Townsville and Mackay, and we had different entities running in

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28 Department of Agriculture, *Submission 44*, p. 7.

29 Mr Bill Ringrose, *Submission 31*, p. 2.

30 Department of Agriculture, *Submission 44*, p. 5.

31 Mr Bill Ringrose, *Submission 31*, p. 2.

different places. What they would do was sell the equipment. For instance, we had a bitumen business out at Mount Isa that was spraying something like 10 million litres of bitumen a year, which is very sizeable. The refinery in Townsville only produces 40 million litres, so we were doing a quarter of the North's bitumen. What they did was sell all the assets.<sup>32</sup>

### **Prudential requirements in relation to property valuations**

5.24 Prudential Standard APS 220 on Credit Quality sets out requirements for how property to be held as security against loans should be valued. An authorised deposit taking institution (ADI) must ensure that assets to be taken as security are accurately and completely identified and documented in facility documentation. The ADI's credit administration function must ensure that the relevant legal requirements are met to maintain the ADI's security position and to provide for its enforcement. Valuation of security must be undertaken prior to drawdown on any facilities.<sup>33</sup>

5.25 An ADI's policies and procedures must provide for regular assessment of security values so as to ensure that the fair value of security underpinning provisioning, and any security coverage measures applied to facilities, is timely and reliably reflects values which an ADI might realise if needed. This is especially important where facilities are secured by assets that are susceptible to significant changes in value (for example, commercial property) or where the margin for diminution of value of security is small (for example, high loan-to-valuation loans).<sup>34</sup>

5.26 In determining the fair value of security, an ADI may utilise the valuations of suitably qualified internal appraisers or external valuers. Policies and procedures covering the fair value of security must address the circumstances in which such valuations would be sought.<sup>35</sup>

5.27 In many instances, property is a prime source of security held by an ADI against facilities it has provided to an entity. As a result, the processes used to value property in determining the fair value of security are significant for the measure of an ADI's impaired assets, provisions and, ultimately, its capital.<sup>36</sup>

5.28 For security held in the form of property, the timing as to when property will be accessed, and ultimately disposed of, is a crucial issue. Of particular importance in valuations is the time allocated to market a property. For purposes of determining the fair value of security involving property, an ADI must assume:

- (a) a property would be accessed in the near future;
- (b) the period for marketing a property would be up to 12 months, although a longer period (up to a maximum of 24 months) may be adopted for specialised

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32 Mr Roy Lavis, *Committee Hansard*, 19 November 2015, pp 7–8.

33 APRA, *Prudential Standard APS 220 Credit Quality*, January 2015, p. 27.

34 APRA, *Prudential Standard APS 220 Credit Quality*, January 2015, p. 28.

35 APRA, *Prudential Standard APS 220 Credit Quality*, January 2015, p. 27.

36 APRA, *Prudential Standard APS 220 Credit Quality*, January 2015, p. 28.

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or unusual properties when professional valuers advise that this is appropriate; and

(c) for the purposes of valuation, market conditions and thus asset values are assumed to remain static over the marketing period. To reinforce this point, marketing periods are to be assumed to have lapsed at the date of valuation (that is, they should be retrospective), thereby eliminating any possibility for improved market conditions to be factored into the valuations.<sup>37</sup>

5.29 In determining fair values of security, property assets must, unless otherwise agreed with APRA, be valued on the basis of existing use. Any higher value related to an alternative use or 'element-of-hope' value arising from prospects of redevelopment, and any possible increase in value consequent upon special investment or finance transactions, must be disregarded. In determining values based on 'existing use', care must be exercised in imputing future income streams (for example, lease payments) which are not already contracted.<sup>38</sup>

5.30 A submitter also noted that, in his view, the prudential standards in relation to valuations would not prevent a financial institution from accepting a top of the range valuation when selling the facility (money) and reducing the value to a lower level by instruction at a further time.<sup>39</sup>

5.31 It was argued by a submitter that APRA did not investigate borrower complaints in relation to valuations.<sup>40</sup> The committee questioned APRA on whether APRA has a role in protecting borrower's interests. APRA informed the committee that its primary statutory obligation is to depositors and to financial stability and that it focussed on systemic issues, rather than individual facilities.<sup>41</sup> APRA also noted that:

...it is not in our statute right now to look at the bank's relationship with borrowers. APRA is, right now, not statutorily mandated to protect borrowers. We are a prudential regulator and, as Neil said, we are interested mainly in protecting depositors and financial stability. If parliament were of the mind to have APRA have the responsibility of also protecting borrowers, that would present us with somewhat of a dilemma in that we would have a conflict in whose interests are paramount. As you said, there are other regulatory bodies who have that mandate. If you deposited that responsibility to a prudential regulator, we would be in a position of conflict which would be very difficult to maintain.<sup>42</sup>

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37 APRA, *Prudential Standard APS 220 Credit Quality*, January 2015, pp 28–29.

38 APRA, *Prudential Standard APS 220 Credit Quality*, January 2015, p. 29.

39 Mr Lynton Freeman, *Submission 64*, p. 19.

40 Mr Lynton Freeman, *Submission 64*, p. 19.

41 Mr Neil Grummitt, Credit and Operational Risk Services, *APRA, Committee Hansard*, 16 February 2016, pp 39, 41.

42 Mr Warren Scott, General Counsel, APRA, *Committee Hansard*, 16 February 2016, p. 39.

## Views of banks and other bodies

5.32 Australian Restructuring Insolvency and Turnaround Association (ARITA) informed the committee that in its view, valuations are based on point-in-time assessments, and noted that any revaluation may be based on prevailing depressed market conditions that may be temporary or later improve.<sup>43</sup> ARITA also informed the committee that:

...we're not aware of any improper role of property valuers in "constructive default" as the terms of reference describe. Of course, there is often legitimate dispute as to valuation evidence. Valuations are often the subject of rigorous assessment in court proceedings.<sup>44</sup>

ARITA notes that disputes sometimes arise when borrowers have an inflated opinion of the value of their asset compared to a realistic current market valuation. It is important to note that a current market valuation is based on what an independent, informed purchaser would pay; it is not based on past value or what amount may have been invested in the asset. Also, the value of an asset may have been reduced by the activity that led to the asset becoming distressed.<sup>45</sup>

5.33 FOS informed the committee that a financial services provider in possession of a borrower's property must take reasonable care to sell the property for either its market value or the best possible price. If FOS believes the financial services provider in a dispute did not take reasonable care, FOS may award the borrower compensation for any difference between the sale price and the market value of the property.<sup>46</sup>

5.34 The Australian Bankers' Association (ABA) advised the committee that it is standard industry practice for banks to use preferred lists or expert panels of independent external valuers to undertake mortgage valuations under strict industry standards. The ABA added that:

Valuations are based on a point-in-time assessment of property values and will change with prevailing market conditions.

This process ensures that valuations are provided by skilled and independent valuers with no coercive influence by the bank. In rare circumstances, for instance a property located in an isolated area where there are very few suitably qualified valuers available, a bank may rely on an internal valuation. The valuer's role is to provide a valuation based on what is happening in the marketplace and not look to devalue properties. In

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43 ARITA, *Submission 38*, p. 5.

44 ARITA, *Submission 38*, p. 5.

45 ARITA, *Submission 38*, p. 6.

46 FOS, *Submission 46*, p. 4.

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many cases, valuers will not know the customer's debt or reason for the valuation.<sup>47</sup>

5.35 The Commonwealth Bank informed the committee that they usually obtain valuations in the initial funding approval process, review of existing facilities/term extensions and realisation of assets via sale. In addition, revaluations during the course of a review of existing facilities arise from time to time under the terms and conditions of contractual arrangements. The Commonwealth Bank indicated that valuers used by the bank must:

- be registered or licensed (in states where required);
- comply with the regulatory requirements governing licensing or registration;
- be a member of the Australian Property Institute (API), as a Certified Practising Valuer (CPV);
- comply with annual compulsory training requirements;
- comply with the Code of Ethics and Rules of Conduct of the API;
- be suitably experienced to undertake required valuations (generally a minimum of five years experience in their field of expertise); and
- have suitable and current professional indemnity insurance cover.<sup>48</sup>

5.36 The Commonwealth Bank further advised that processes and standards for valuations include:

- detailed formal written instructions are issued to preferred valuers to undertake valuation reports;
- valuations are to be based on current unencumbered market value (International Valuation Standards);
- valuations must be completed in accordance with API Mortgage Security Professional Practice Standards and reporting requirements;
- valuers must not undertake any valuations where a conflict of interest may occur;
- a director or head of valuations of the valuation firm must complete (or countersign) valuations; and
- valuers must maintain strict confidentiality in respect of customer details.<sup>49</sup>

5.37 The Commonwealth Bank also noted that in a small proportion of cases, especially in remote areas where expert valuers are unavailable, the Commonwealth Bank has relied on internal bank valuations completed by accredited staff. In these cases, the valuation officer must comply with Commonwealth Bank policy and

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47 Australian Bankers Association, *Submission 47*, p. 10.

48 Commonwealth Bank of Australia, *Submission 48*, pp 9–10.

49 Commonwealth Bank of Australia, *Submission 48*, pp 9–10.

measures are in place to manage risk. Where a loan is determined to be troublesome or impaired, Commonwealth Bank policy does not permit the use of internal valuations.<sup>50</sup>

5.38 ANZ informed the committee that it engages property valuers to assess value of the security underpinning the loan. This can occur at the initial approval of the loan, when reviewing existing facilities and when the security is to be sold. The ANZ framework for the use of valuations in determining fair market value is underpinned by the prudential requirements for the use of valuations and international standards and practices on property valuations. The ANZ stated that its valuation process is independent of sales and lending decisions, and they use a panel of approved commercial property valuers to provide independent expert advice to determine the acceptability and value of property held as security.<sup>51</sup>

5.39 ANZ indicated that when it instructs a valuer to determine the current market value of a property for a security, the valuer must apply the following definition of market value from the IVSC:

The estimated amount for which an asset or liability should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion.<sup>52</sup>

5.40 ANZ noted that the above definition places the equivalent emphasis on the interests of the purchaser and the vendor to obtain a fair market value. The valuer's role is to make a prediction of the most likely price a property would receive if offered to the market on the day of inspection, taking into account all material factors which may impact on the determination of that price.<sup>53</sup>

5.41 ANZ responded to claims that banks are in a position to engineer defaults by 'deliberately reducing, through valuation, the value of securities held by the bank':

ANZ is required under its prudential obligations to ensure the value of the security of a loan is accurate and the risk associated with the facility is adequately capitalised. One way to achieve this is through conducting regular reviews of facilities and valuations of underlying security. ANZ's policies ensure that approval of valuations are held at arm's length from lending decisions and managed by Risk functions so that the valuation received is a true estimate of market value on a given day. Of course, once a valuation is established, other criteria contribute to an overall assessment of achieving a customer turnaround plan.<sup>54</sup>

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50 Commonwealth Bank of Australia, *Submission 48*, pp 9–10.

51 ANZ, *Submission 49*, pp 10–11.

52 ANZ, *Submission 49*, pp 10–11.

53 ANZ, *Submission 49*, pp 10–11.

54 ANZ, *Submission 49*, pp 10–11.

5.42 NAB also responded to similar concerns, informing the committee that:

To the extent this is suggesting financiers inappropriately participate in the valuation process, misuse valuations, or otherwise that such valuations are contrived, this is not a practice that NAB engages in. In our view, there is no commercial or economic justification for this practice.<sup>55</sup>

5.43 Westpac explained that it only uses valuers from a panel of external valuers that provide an independent view of the value of properties, in accordance with the bank's valuation instructions and valuation standards. This includes compliance with the API Valuation Practice Standard and the API Mortgage Security Valuation Practice Standard. In appointing a valuer for a particular property Westpac would take into consideration location, type and value and seek to match with a valuer who has experience in that type of property and is accredited for that location and value. Westpac also noted that it requires valuers to provide a sensitivity analysis on the major variable affecting the valuation.<sup>56</sup>

5.44 Westpac also informed the committee that:

The Westpac Group does not engage in practices to artificially engineer a business default, including revaluation of security. It would be rare for the Westpac Group to use a decreased loan to value ratio (LVR) as a sole default trigger to commence enforcement action i.e. when the Westpac Group accelerates the loan and enforces security, which could include the appointment of a Receiver and Manager. Enforcement on the sole basis of an LVR default has not taken place since our merger with St. George in December 2008.<sup>57</sup>

### **Peak bodies for valuers**

5.45 There are three peak bodies representing valuers in Australia: the Australian Valuers Institute; the API, which is the largest, and the Royal Institute of Chartered Surveyors. Most of the valuations done for banks in Australia are performed by the Australian Property Institute.<sup>58</sup> This section summarises evidence from the three peak bodies in relation to their role in supervising the valuation industry.

#### ***The Australian Property Institute***

5.46 The API informed the committee that arrangements for valuers vary across state and territories. The actual revaluation of a property asset by registered valuers only occurs in New South Wales, Queensland and Western Australia. In the other

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55 NAB, *Submission 50*, p. 4.

56 Westpac, *Answers to questions on notice, taken on 18 November 2015, received on 29 February 2016*.

57 Westpac, *Submission 126*, p. 3.

58 Mr Paul Waterhouse, Chairman, Australian Valuers Institute, *Committee Hansard*, 16 February 2016, p. 11.

states and territories, it is done by certified practising valuers (CPVs),<sup>59</sup> and members from the API.<sup>60</sup>

5.47 The API, responding to questions on the methods used to conduct valuations, suggested that the way valuation of real estate occurs is a matter for the banks and financial institutions.<sup>61</sup> The API advised the committee that legislation in three states compels valuers to act independently, and in the remaining states and territories, the duty on valuers to act independently comes from the API's rules and guidance notes.<sup>62</sup>

5.48 The committee questioned the API at length about its role in the event that a valuer is inappropriately influenced or provided with inappropriate instructions. The API did not appear to place any obligations on valuers to report situations in which they are asked to breach the API code of conduct.<sup>63</sup> When asked if there was any recourse available to an individual valuer if they are inappropriately influenced in relation to their valuation the API replied that:

In the general guidance notes and what we call the technical notes in the institute, if a valuer receives instructions which he does not agree with or believes are in contravention of the ethics of the institute, he is instructed to refuse the instructions. It is as simple as that.<sup>64</sup>

### ***The Australian Valuers Institute***

5.49 The Australian Valuers Institute (AVI) informed the committee that they discourage their members from taking work from banks on the basis that it puts valuers at considerable risk :

Valuers get sued all the time. It is not unusual for the insurance companies to step to one side and leave it to the valuer to sort it out. They lose their homes at times. One particular valuer...has basically lost everything. Any valuer who is doing work for banks and cutting corners is crazy.

We instruct all our members not to work for banks or financial institutions, because in this day and age you are almost underwriting the loan.<sup>65</sup>

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59 The API offers a range of membership types and certifications, one of which is a CPV who by education, training and experience is qualified to perform a valuation of real property. API, *Certifications*, <https://www.api.org.au/certifications-0>, (accessed 26 Apr 2016).

60 Professor John Sheehan, Chair, Government Liaison, and past President, Australian Property Institute, New South Wales Division, *Committee Hansard*, 18 November 2015, p. 39.

61 Professor John Sheehan, Chair, Government Liaison, and past President, Australian Property Institute, New South Wales Division, *Committee Hansard*, 18 November 2015, p. 39.

62 Professor John Sheehan, Chair, Government Liaison, and past President, Australian Property Institute, New South Wales Division, *Committee Hansard*, 18 November 2015, p. 39.

63 *Committee Hansard*, 18 November 2015, pp 45–47.

64 Professor John Sheehan, Chair, Government Liaison, and past President, Australian Property Institute, New South Wales Division, *Committee Hansard*, 18 November 2015, p. 40.

65 Mr Paul Waterhouse, Chairman, Australian Valuers Institute, *Committee Hansard*, 16 February 2016, p. 12.

5.50 The AVI indicated that as a result of the above circumstances it is common for valuers to put a conservative value on properties in order to avoid being sued. The AVI informed the committee that:

...there is a sort of a general feeling amongst valuers that there is a 10 per cent leeway that you are allowed before you get sued. Some lawyers have told me it is 10 to 15 per cent, but 10 per cent is the general figure. So if a house is worth \$1 million and you want to put a conservative value on it, you might value it at \$910,000.<sup>66</sup>

5.51 While individual valuers are required to resist pressure, the AVI informed the committee that it is very common for valuers to be under pressure from parties involved with valuations to make the valuation favourable to one or other of the parties:

In the valuation industry 80 per cent of the time you have people trying to sway you one way or the other. In a divorce situation where the husband is buying out the wife, he wants it at a certain price and the wife wants it at another price. As a valuer you are constantly under pressure from one side or another to lean it one way or the other. If you are doing a stamp duty job you are under pressure to make that value conservative to reduce the stamp duty for the person. On a capital gains job the instructing parties want it the other way. It is up to the valuer to resist those pressures and simply value the property as it is valued.<sup>67</sup>

5.52 The committee notes that unlike the API, the AVI has a process for valuers to raise concerns about inappropriate pressure from parties to valuations however in order to resolve the matter the only remedy available to the valuer is to take the matter to court.<sup>68</sup>

5.53 The AVI also acknowledged that it had not attempted to address situations in which a valuation company or valuer was under pressure to comply with banks' instructions, because a large proportion of their work came from banks. The only option available to the AVI would be terminate the membership of a valuer who succumbed to such pressure.<sup>69</sup>

### ***The Royal Institution of Chartered Surveyors***

5.54 The Royal Institution of Chartered Surveyors (RICS) has published a professional standards guide (consistent with international standards for valuations) that is commonly known as the red book. RICS-registered valuers will be required to

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66 Mr Paul Waterhouse, Chairman, Australian Valuers Institute, *Committee Hansard*, 16 February 2016, pp 13, 15.

67 Mr Paul Waterhouse, Chairman, Australian Valuers Institute, *Committee Hansard*, 16 February 2016, p. 11.

68 Mr Paul Waterhouse, Chairman, Australian Valuers Institute, *Committee Hansard*, 16 February 2016, pp 11, 14.

69 Mr Paul Waterhouse, Chairman, Australian Valuers Institute, *Committee Hansard*, 16 February 2016, pp 16, 17.

adhere to provisions of the red book. RICS noted that the red book guidelines associated with the international standards would have much in common with the API guidelines, however country specific requirements, such as native title, may vary.<sup>70</sup>

5.55 RICS informed the committee that it has an independent complaints handling system:

RICS will consider any complaint received from a member of the profession, a concerned stakeholder or an individual. Complaints are handled at arm's length by an independent conduct and appeals committee. To demonstrate the independence of the committee, it is chaired by a nonmember of the RICS, and other members are drawn from within and without the organisation and profession. Disciplinary action can involve the suspension or termination of RICS membership. It could also involve the levying of a fine or the temporary suspension of a member or firm from conducting particular activities. This disciplinary action applies to all members of the RICS, regardless of the nature of the qualification, be they a valuer, land surveyor or a building manager.<sup>71</sup>

5.56 RICS stated that it had consulted its members and found no evidence of authorised deposit-taking institutions acting improperly in the drafting of instructions given to valuers so as to deliberately alter the value of property to the benefit of either party.<sup>72</sup>

5.57 In relation to variations in valuations, RICS noted that the level of variation depends on property type. For example, CBD office buildings have tended to show less variation than development land or residential subdivisions.<sup>73</sup>

5.58 When questioned by the committee on how to address the issue of valuers being constrained to work within the instructions and assumptions provided by the bank, RICS indicated that the only way to protect borrowers was to strengthen foreclosure laws:

Only in strengthening the law around foreclosure and the regulation around foreclosure. Generally, following most property collapses we have had over the last 30 years we have strengthened the regulation around unlisted trusts, listed trusts, property syndicates. As government strengthens the legislation and strengthens the regulation, some operators will find further ways around it.<sup>74</sup>

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70 Professor David Parker, Fellow, Royal Institution of Chartered Surveyors, *Committee Hansard*, 4 April 2016, p. 10.

71 Mr Robert Hardie, Manager, Corporate Affairs, Oceania, Royal Institute of Chartered Surveyors, *Committee Hansard*, 4 April 2016, pp 8.

72 Mr Robert Hardie, Manager, Corporate Affairs, Oceania, Royal Institute of Chartered Surveyors, *Committee Hansard*, 4 April 2016, p. 8.

73 Professor David Parker, Fellow, Royal Institution of Chartered Surveyors, *Committee Hansard*, 4 April 2016, p. 10.

74 Professor David Parker, Fellow, Royal Institution of Chartered Surveyors, *Committee Hansard*, 4 April 2016, p. 12.

5.59 RICS stated that whether or not copies of valuations were provided to borrowers was a matter for banks to decide.<sup>75</sup>

### **Access to valuations and instructions**

5.60 The committee actively sought responses from banks and industry bodies on their views in relation to imposing a requirement for banks to provide copies of valuations and instructions to customers.

5.61 In December 2015, the Commonwealth Bank suggested that across the industry, the practice could change to one whereby, if a valuation is obtained by a financial institution, then a copy of the valuation is provided to the customer because the customer is paying for that valuation.<sup>76</sup>

5.62 The ANZ suggested that there is a case to be made for development of an industry-wide guideline on the role and use of valuations to make sure that the valuation process is transparent and easily understood by customers.<sup>77</sup> ANZ indicated that it uses external valuers on most occasions, and where the customer pays for that valuation, the bank provides a copy of that valuation to the customer:<sup>78</sup>

It is our practice rather than a requirement. We do that and the valuer typically...write what the bank was asking for at the start of the valuation so it is clear under the circumstances of doing the valuation. So it is quite clear to the customer.<sup>79</sup>

We would be very happy if it were put in the Code of Banking Practice and, as you sign up to the code, you are obliged to do that and if you do not do that, then customers should complain. I think that is quite right.<sup>80</sup>

5.63 NAB indicated that it would not have an objection to providing borrowers with a copy of the valuation and the instructions to the valuer.<sup>81</sup> NAB also informed

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75 Professor David Parker, Fellow, Royal Institution of Chartered Surveyors, *Committee Hansard*, 4 April 2016, p. 14.

76 Mr David Cohen, Group Executive for Corporate Affairs and Group General Counsel, Commonwealth Bank of Australia, *Committee Hansard*, 4 April 2016, p. 44.

77 Mr Graham Hodges, Deputy Group Chief Executive Officer, ANZ, *Committee Hansard*, 13 November 2015, p. 65.

78 Mr Graham Hodges, Deputy Group Chief Executive Officer, ANZ, *Committee Hansard*, 13 November 2015, p. 67.

79 Mr Graham Hodges, Deputy Group Chief Executive Officer, ANZ, *Committee Hansard*, 13 November 2015, p. 67.

80 Mr Graham Hodges, Deputy Group Chief Executive Officer, ANZ, *Committee Hansard*, 13 November 2015, p. 68.

81 Mr Geoff Greene, Head, Strategic Business Services, NAB, *Committee Hansard*, 4 April 2016, p. 62.

the committee that it gives customers the option to obtain further valuations if they are concerned about the initial valuation by the bank.<sup>82</sup>

5.64 Westpac informed the committee that its current policy is not to provide the valuation to borrowers. However, Westpac indicated that:

- on occasions it will provide the valuation upon request for specific purposes, if there is agreement that the valuation has been provided for the Bank's purposes;
- it is common that there is a reasonable level of information exchange between the Bank and the customer in regards to valuations, and in some instances the customer gets full access to the valuation;
- if there is a dispute about the valuation an additional valuation could be sought from another panel valuer and in some cases, the bank has paid for this alternate valuation; and
- if a company is in receivership, the receiver is the agent of the company and the directors do not have any standing to require copies of the valuations of company owned property assets. For third party security e.g. provided by directors to support guarantees, the bank could provide a copy but it would need to have the agreement of the valuer and be qualified given that it has been prepared under bank instructions and for bank purposes.<sup>83</sup>

5.65 ASIC informed the committee that it is unlikely that a requirement to provide instructions and a copy of the valuation report to borrowers would have a significant impact on the cost and availability of credit to business, and is worthy of further consideration.<sup>84</sup>

### **Recommendations of the post-GFC banking inquiry**

5.66 In November 2012 the Senate Economics References Committee concluded its inquiry in to the post-GFC banking sector. In its report, the committee called on the ABA to develop a code of practice specifically related to the practice of lending to small business, recommending that in relation to valuations the code should require:

- any initial valuation reports associated with the purchase of a small business be relied on by the bank for a reasonable amount of time, such as for the first two years of the loan, unless a major defined shock or event occurs; and
- borrowers to be automatically provided with copies of valuation reports that they have paid for or which the bank intends to rely on to demonstrate that the

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82 Mr Timothy Williams, General Manager, Group Strategic Business Services, National Australia Bank, *Committee Hansard*, 18 November 2015, p. 9.

83 Westpac, *Answers to questions on notice*, taken on 18 November 2015, received on 29 February 2016.

84 ASIC, *Submission 45*, p. 22.

borrower is in default, and that all instructions given by banks to valuers be provided to the borrower on request.<sup>85</sup>

5.67 The Senate Economics References Committee added that:

Failure by the ABA and the banks to develop an appropriate code of conduct for small business lending may strengthen the case for more prescriptive government regulation in this area. Given the arguments from the sector about the cost and burden of added regulation in general, the committee is of the view that if banks genuinely have these concerns they have both the obligation and opportunity to demonstrate that the sector takes concerns about small business finance issues seriously and is willing to proactively develop a stronger self-regulated solution.<sup>86</sup>

### **Committee view on the role of valuers**

5.68 In this section the committee puts forward its view of the following matters:

- provision of valuation reports and instructions to borrowers by banks;
- how instructions for valuers are developed within banks; and
- dispute resolution for valuations associated with loans.

#### ***Provision of valuation reports to borrowers***

5.69 The committee is deeply concerned that over three years have elapsed since the conclusion of the post-GFC banking inquiry by the Senate Economics References Committee in which a number of relevant recommendations were made to improve banking practices. Since this time, the banking industry has not addressed matters as simple as providing borrowers with copies of valuation reports.

5.70 The current inquiry into impairment of customer loans has amply demonstrated that the provision of valuation reports to borrowers has not been written into the Banking Code of Practice, or become universal practice by banks.

5.71 This is a disappointing outcome given that the Economics committee foreshadowed that if the ABA and banks failed to progress such recommendations, this lack of action would strengthen the case for more prescriptive government regulation. The committee is therefore of the view that if banks and the ABA do not address this matter in their common practice and in the Banking Code of Practice by the end of 2016, the government should bring forward appropriate legislation or regulation to require banks to provide copies of valuation reports and valuation instructions to all borrowers (not just retail and small business borrowers) as soon as the reports are received by the bank from the valuer.

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85 Senate Economics References Committee, *The post-GFC banking sector*, November 2012, p. xxiii.

86 Senate Economics References Committee, *The post-GFC banking sector*, November 2012, p. xxiv.

### *Instructions to valuers*

5.72 A common theme in evidence presented to the inquiry was that valuations at the time of loan establishment were high or optimistic and that valuations at the time of review or dealing with financial difficulties were low or pessimistic. The committee acknowledges that market conditions contribute to such perceptions as there is often more enthusiastic buying in a rising market than a falling market.

5.73 However, the committee considers that evidence presented to it identifies that there is also the potential for lending departments in banks to be more optimistic about valuations than credit management departments. While the committee is not necessarily alleging deliberate behaviour on the part of banks, it notes that an optimistic outlook on prices—whether driven by a relationship manager just wanting to see a local family business succeed or due to remuneration schemes that provide incentive for employees to write new business—could lead to insufficient critical assessment of valuation instructions and valuations. Similarly, a pessimistic outlook could lead to an overly critical assessment of valuation instructions and valuations.

5.74 The committee questioned banks on whether incentive arrangements could contribute to lending more than necessary and foreclosing more than necessary. The Commonwealth Bank and ANZ argued that they did not.<sup>87</sup> However, ASIC informed the committee that:

The kinds of rules that exist in the financial advice space, however, which restrict commissions and other forms of conflicted remuneration do not extend to consumer credit. So the restrictions on commissions do not apply if someone is getting a mortgage, a credit card or a personal loan; institutions are able to remunerate their staff and their distribution channels in the way they want to. Those arrangements do need to be disclosed to consumers, generally speaking, but the institutions themselves have the ability to structure those arrangements in whatever way they wish to.<sup>88</sup>

5.75 The committee therefore considers that it is vitally important for banks to ensure alignment between their lending and credit management departments, particularly in relation to the preparation to instructions to valuers and the use of valuations in decision making about the viability of loans.

5.76 The committee is therefore recommending in chapter 2 that appropriate legislation and regulations be put in place to:

- require officers from lending and credit management departments to provide consistent information to borrowers, including:
  - copies of valuation reports and instructions to valuers; and

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87 Commonwealth Bank of Australia, *Answers to questions on notice*, taken on 1 December 2015, received on 18 February 2016; ANZ, *Answers to questions on notice*, taken on 1 December 2015, received on 22 December 2015.

88 Mr Michael Saadat, Senior Executive Leader, Deposit Takers & Insurers & credit Services, AISC, *Committee Hansard*, 16 March 2016, p. 4.

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- copies of investigative accountants' reports and instructions to investigative accountants and receivers;
  - ensure that there are industry standards for nationally consistent valuation instructions and valuation reports; and
  - require lending officers and credit management officers to negotiate a single set of instructions to be provided to a valuer both at initial lending and in the case that the loan is presenting risk to the bank.

#### *Dispute resolution for valuations associated with loans*

5.77 From the evidence presented to this inquiry, the committee is concerned about dispute resolution arrangements for valuations in relation to loans from two perspectives:

- the availability of appropriate dispute resolution for valuations produced by valuers; and
- the availability of appropriate dispute resolution for valuation instructions issued by banks and the compliance of banks with prudential requirements for valuations.

#### *Dispute resolution for valuations produced by valuers*

5.78 The committee questioned the three peak bodies for valuers about their arrangements for ensuring compliance and hearing complaints or disputes in relation to valuations. RICS described what appeared to be a well-defined compliance and complaints handling system, however, RICS presently only covers a small part of the market for valuations related to loans. The committee noted that AVI has a more informal complaints system, and that AVI indicated it was actively discouraging its members from working with banks. API, which has the greatest market share, indicated that it used the dispute handling system under the relevant state based registration schemes. The committee notes however, that state based registration schemes only exist in three states and one of those states is considering removing the registration scheme.<sup>89</sup> The committee is concerned that there are gaps in the availability of dispute resolution processes in relation to valuers, and in fact, some of the peak bodies acknowledged that they did not have processes to require valuers to report instructions from banks that breach the relevant codes of conduct for their valuers.

5.79 In addition, there appears to be little prospect that the existing limited dispute resolution arrangements are publicised well enough for borrowers to be aware that their disputes can be heard in some cases. Combined with the lack of access to valuation reports and instructions, as discussed above, this leaves borrowers in a very difficult situation.

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89 Professor John Sheehan, Chair, Government Liaison and Past President, Australia Property Institute, *Committee Hansard*, 18 November 2015, p. 48.

5.80 As a result the committee can only conclude that the valuation industry does not have appropriate compliance and dispute resolution arrangements in place for valuations associated with loans. In chapter 2 the committee makes recommendations to provide for dispute resolution to apply to valuers where appropriate.

*Dispute resolution for prudential requirements relating to valuations*

5.81 As noted earlier in this chapter, Prudential Standard 220 sets out substantial requirements for how ADIs must value property held as security for loans including:

- the role of the ADI credit administration function;
- regular assessment to ensure fair value, especially for commercial property or loans with high loan-to-value ratios;
- a requirement for policy and procedures relating to circumstances in which valuations are sought; and
- in determining fair value the ADIs must take account of:
  - timing of property disposal if required; and
  - marketing periods up to 12 months or longer periods for specialised properties or based on advice from valuers.

5.82 Evidence put to this inquiry suggests that cases may exist where the above requirements are not met. However, many borrowers would not be aware that such requirements exist. APRA's position is that it only considers systemic issues; it is not mandated to consider the relationship between banks and borrowers; and it may have a conflict of interest if it did consider the relationship between banks and borrowers.

5.83 The committee has therefore formed the view that effective arrangements for oversight or dispute resolution of prudential requirements in relation to valuations for loans are not in place. There is what seems to be an appropriate standard in place, but there is no way of ensuring that the standard is applied, or that borrowers are able to raise concerns about its implementation. While APRA argues that other agencies have responsibility for protecting borrowers<sup>90</sup> it would be unusual for another agency to be responsible for providing oversight and dispute resolution for prudential standards under APRA's jurisdiction. The committee does not wish to make specific recommendations on which agency should provide oversight and dispute resolution for borrowers in relation to Prudential Standard 220. However the committee does suggest that the government should ensure that appropriate oversight and dispute resolution is in place.

5.84 The committee notes recent media reports which allege that banks are bullying valuers into accepting below cost fees, strengthening the need for greater oversight of the relationships between banks and valuers. The report indicates that the Australian Property Institute has raised their concerns with ASIC and the ACCC.<sup>91</sup>

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90 Mr Warren Scott, General Counsel, APRA, *Committee Hansard*, 16 February 2016, p. 39.

91 Duncan Hughes, 'Bullying banks to force valuers out of business', *Australian Financial Review*, 27 April 2016.

**Recommendation 8**

**5.85** The committee recommends that the Parliamentary Joint Committee on Corporations and Financial Services conducts an inquiry to examine the regulatory environment for valuers with a view to:

- a.** reforming the industry to improve ethical and professional standards for valuers;
- b.** improving transparency and independence within the industry; and
- c.** preventing them from being captured by banks.

