

# Government Senators' Minority Report

## OVERVIEW

1.1 The government senators commend this report as a good overview of the current environment of Australian banking and banking competition. However we note that many of the recommendations of the report have been acted upon by the government already or are already under review. This minority report will focus on key findings that will benefit customers and increase competition within the banking sector. The government senators believe that the majority report recommendations focus on assisting smaller banking institutions. This will increase competition and provide benefits to customers in the long term. However the majority report overlooks the interests of bank customers and taxpayers in its views on exit fees and acceptance of lower rated financial instruments.

1.2 The majority report is a large document of over 300 pages, and in the time the Government senators have had to consider the report, and form this minority report, not every aspect of the report could be addressed.

### Exit Fees

1.3 The government senators were surprised by the back down on exit fees in the majority report. Banning exit fees was previously recommended by the Senate Economics References Committee and was endorsed and supported by Coalition Senators, but this changed upon the announcement of the Governments reform package.

1.4 A major factor in the initiation of this hearing was the call for consumers to get better outcomes in a competitive banking sector. During the committee hearings it was established that exit fees are a major barrier for consumers in switching to more competitive deals.

1.5 The government senators cannot support the Coalition's majority report recommendation to keep exit fees in place. Exit fees for new customers only reinforce the barrier to switching, and weaken the power of customers.

**Recommendation 1: Government senators recommends the banning of exit fees is essential in demolishing the significant barrier to switching, and supports the Government's measure to ban exit fees to increase competition and allow new customers to switch.**

### Price Signalling

1.6 The majority report recognises the problem of anticompetitive price signalling by banks but restricts its recommendation to actions that would "substantially lessen competition." Government senators with the view expressed by the ACCC that this form of words would limit their ability to act.

**Recommendation 2: The Government senators reject the Coalition's amendments to price signalling. However Government senators support the**

**Government's amendments to the Competition and Consumer Act as the only rational measure in tackling price signalling, which will ban anti-competitive price signalling, while ensuring that banks can continue with all legitimate business activities.**

### **Funding Sources**

1.7 The government Senators recognise the important role of the Government's \$16 billion investment in the RMBS market during the GFC, and the additional \$4 billion announced in December, totalling \$20 billion in investments. This is a significant measure of support for smaller lenders to access funding, allowing them to put competitive pressure on the major banks.

**Recommendation 3: Government senators endorse the additional \$4 billion investment in the RMBS markets, providing funding for smaller lenders, and consider that it is in the taxpayer's interest that the government should continue to only invest in high quality AAA rated RMBS, so taxpayers are not exposed to significant credit risk.**

1.8 The government Senators have also recognised the importance for smaller lenders of access to cheaper funding and a diverse range of funding to allow those smaller lenders greater capacity to compete with the major banks. One key finding from the hearings was the support for the Government's development of bullet bonds, which is recognised as a desirable market for investors.

**Recommendation 4: The government senators recommend the Government continues to work in developing the market for bullet RMBS as an alternative to traditional RMBS. This will help smaller lenders diversify and broaden their funding and access cheaper funding to compete more effectively.**

1.9 Another measure which will benefit the banking sector in accessing cheaper funding is the development of the covered bond market. Covered bonds will help secure the long term safety and sustainability of the financial system, providing reasonably priced credit to households and small business.

**Recommendation 5: The government Senators recommend that the Government's commitment to allow banks and mutuals to issue covered bonds should remain a priority of the Government.**

### **Customer Information**

1.10 The ability for customers to obtain a fact sheet comparing one home loan to another was a measure commended during the hearings. This measure gives customers greater power in assessing the offer of the bank, and comparing it to the banks competitors.

**Recommendation 6: The government senators support the boost for greater customer information through the Government's announcement of a simple bank fee fact sheet, allowing customers to have a document detailing the fees involved, and comparing it to other home loans.**

## Financial System Inquiry

1.11 The majority report calls for a major inquiry into the financial system, however the ALP Senators did not find that evidence during the hearings clearly supported this. Key figures stated that the current issues are not systemic problems, but are structural issues that can be addressed. These very issues were addressed in the Government's banking reform package, without the need of a major inquiry.

### Action Taken

1.12 There are a whole host of recommendations that have been already implemented by the Government or have been already dealt with. In fact 14 recommendations out of 39 have been covered. These recommendations that are endorsing the government's actions are:

**Recommendation 8** relating to Lenders Mortgage insurance, the Government had announced in December that there will be a review taking place, looking at the options for making Lenders Mortgage Insurance more transferable, thus avoiding consumers losing value of the insurance when switching.

**Recommendation 14.** There is a review currently taking place addressing this recommendation with the former RBA Governor Bernie Fraser, who is conducting a comprehensive feasibility study options on account portability.

**Recommendation 10** in the majority report is simply supporting the Government's reform package in regards to a single page, simple to use fact sheet, allowing consumers to easily compare deals side by side in a language simple for potential home buyers to read.

**Recommendation 12** fails to account that for the fact that ASIC has already conducted a review, and will continue to supervise the actions of the banks.

**Recommendation 18** in the majority report had already been announced by the Government in December.

**Recommendation 37** in the majority report does not account for the fact that a mutual has no shareholders receiving dividends, so there is no shareholder that needs to be protected from double taxation.

**Recommendation 34** relates to interest withholding tax and the Government has already announced plans to cut the IWT rate to 5% in 2014-2015 for local subsidiaries of overseas parents. Additionally, the IWT rate applying to borrowings by any bank branch from its overseas head office will be reduced from 5% to zero by 2014-2015.

**Recommendation 33** in the majority report has already been recently addressed by government in asking the Council of Financial Regulators to establish a working group to consider the issues surrounding Australia's clearing and settlement systems.

**Recommendation 22** should have recognised that Bendigo and Adelaide Bank were facilitated to complete such a deal. The Government announced that it would continue to support the development of the bullet RMBS for smaller lenders.

**Recommendation 23** in the majority reports has also been addressed with APRA already having published guidance to issuers on levels of capital required to be held in

relation to issuance of RMBS, and which has been reduced since APRA's previous guidance.

**Recommendation 24** is a matter for the RBA to address.

**Recommendation 30.** The government senators would like to reiterate that Government has already announced reforms to help develop a deep and liquid corporate bond market, including trading Commonwealth Government Securities on a securities exchange and reviewing disclosure and prospectus liability requirements.

**Recommendation 21** again the government senators would like to restate that the Government has already made this commitment in December that the Financial Claims Scheme will be a permanent element of the Australian system.

**Recommendation 32** in the majority report is also being dealt with through a joint treasury/RBA taskforce that was due on February 2011. Government senators would commend this initiative.

### Exit fees

1.13 The ALP senators are surprised that the majority of the Committee oppose the banning of exit fees. Only last year the Committee's view was that:

Exit fees are not the only factor reducing switching between banks, but this is no justification for maintaining this impediment to competition. While there are valid arguments for some exit fees on fixed-rate loans, no convincing justification has been put forward for exit fees on variable-rate loans. It is not a sufficient response to say that excessive exit fees may be challenged in the courts.<sup>1</sup>

1.14 The Committee accordingly then recommended that:

... banks abolish exit fees on variable-rate loans. If banks do not do so by the end of 2010, then guidelines or regulations, or if necessary new legislation, should be used to compel them to do so.<sup>2</sup>

1.15 Even major bank CEOs concede that impediments to switching between credit providers – such as exit fees – are a barrier to competition:

The two key drivers of competition are search cost, so how long does it take in terms of time and what is the cost to find a deal—this applies to any industry—and, secondly, what is a switching in time and cost? They are the key drivers.<sup>3</sup>

1.16 Indeed, rather than viewing a ban on exit fees as an unfair impost, the major banks have been removing them ahead of any legislation. This appears to be already increasing competition in the mortgage market:

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<sup>1</sup> Senate Economics References Committee, *Access of Small Business to Finance*, June 2010, p 44.

<sup>2</sup> Senate Economics References Committee, *Access of Small Business to Finance*, June 2010, p 44.

<sup>3</sup> Mr Cameron Clyne, Chief Executive Officer, National Australia Bank, *Committee Hansard*, 13 December 2010, p 63.

...one of the major banks [has] told us that they had a significant loss of business since they removed exit fees...it has had a competitive impact.<sup>4</sup>

1.17 The majority report cites the Finance Brokers Association of Australia as claiming that banning exit fees would push up establishment fees. This was put to ANZ Bank:

Senator PRATT—Will the ANZ be charging other fees to make up for the removal of exit fees in any way?

Mr Smith—No.<sup>5</sup>

1.18 Similarly, a major bank was asked about the interrelation between exit fees and interest rates and replied:

Our exit fees are not something we consider when we are looking at setting our standard variable rate,..<sup>6</sup>

As the Government has pointed out:

If any bank seeks to simply re-badge their current exit fees as upfront entry fees – or recover exit fees through any other type of fee – ASIC has the power to pursue the bank if it appears that the fee is 'unconscionable' under the Government's new National Credit Code...<sup>7</sup>

1.19 If there is a degree of competition in the banking industry, and especially if there is good comparative information, banks will not be able to replace exit fees with an equivalent increase in establishment fees. As banks are likely to be setting other charges at their profit-maximising levels, there is no reason to think these would change if the exit fees were banned.

### ***Differential treatment for non-ADIs?***

1.20 The majority report recommends that any ban on exit fees 'should only apply to authorised deposit-taking institutions'. It is not clear why it is more acceptable for non-ADIs to behave in an anti-competitive way than for banks. Furthermore, it would likely cause confusion if customers think that exit fees have been banned for all lenders and then they are charged a fee by a non-ADI lender. It is not obvious that this would even help non-ADIs if this is the intention:

The government has given an indication that exit fees would be prohibited. If you tried to differentiate the market, I think you would find that

<sup>4</sup> Mr Jim Murphy, Executive Director, Markets Group, Department of the Treasury, *Proof Committee Hansard*, 9 March 2011, p 5.

<sup>5</sup> Mr Michael Smith, Chief Executive Officer, ANZ Banking Group, *Proof Committee Hansard*, 15 December 2010, p 137.

<sup>6</sup> Mr Philip Coffey, Chief Financial Officer, Westpac, *Proof Committee Hansard*, 21 January 2011, p 96.

<sup>7</sup> *Competitive and Sustainable Banking System*, Australian Government, 2011, p 7.

consumers would discriminate against nonbank lenders if they had exit fees. So I think you have to have one rule for everyone.<sup>8</sup>

I do not think you can have a hybrid half and half. If I [FirstMac, a non-ADI] have suddenly got exit fees and the banks do not, that is all the banks are just going to advertise all day long.<sup>9</sup>

### ***Lack of price competition on exit fees***

1.21 When comparing potential lenders, a borrower is unlikely to pay much attention to differences in exit fees as they are unlikely to be contemplating their house purchase after next.

1.22 Behavioural economics provides some insights. Consumers suffer from 'positive illusion'; just as the vast majority of people consider themselves to be above-average drivers and the majority of people consider themselves above-average in many other ways (including ironically in their assessment of their own self-awareness), they are likely to understate the likelihood of life changes that may trigger an early repayment of a home loan such as a relationship break-up or loss of a job.<sup>10</sup> Customers are also unlikely to contemplate that they will regret their choice of lender and wish to switch:

...we know about the cognitive bias that humans have: they tend to be a bit overoptimistic about these things and to assume that contingent events will not apply to them and that they will not have to refinance within the first three years of the loan.<sup>11</sup>

Nobody that signs up a home loan with us on day one expects to leave in the first five years.<sup>12</sup>

1.23 These factors all mean that customers will not pay adequate attention to exit fees when comparing loan offers. There is therefore not much competitive pressure on lenders to keep exit fees low:

...the problem with those fees is that they are not part of the consumer's competitive assessment, if we can put it that way, in choosing a product in the first place...Therefore that competitive discipline that would otherwise keep them at a cost-reflective level is simply not there.<sup>13</sup>

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<sup>8</sup> Mr Jim Murphy, Executive Director, Markets Group, Department of the Treasury, *Proof Committee Hansard*, 9 March 2011, p 18.

<sup>9</sup> Mr Kim Cannon, Managing Director, FirstMac, *Proof Committee Hansard*, 4 March 2011, p 25.

<sup>10</sup> Heath and Heath (2010, p 114).

<sup>11</sup> Ms Nicole Rich, Director, Policy and Campaigns, Consumer Action Law Centre, *Proof Committee Hansard*, 25 January 2011, p 18.

<sup>12</sup> Mr Kim Cannon, Managing Director, FirstMac Group, *Proof Committee Hansard*, 4 March 2011, p 24.

<sup>13</sup> Ms Nicole Rich, Director, Policy and Campaigns and Ms Catriona Lowe, Co-Chief Executive Officer, Consumer Action Law Centre, *Proof Committee Hansard*, 25 January 2011, p 16.

**Recommendation 1: Government senators recommends the banning of exit fees is essential in demolishing the significant barrier to switching, and supports the Government's measure to ban exit fees to increase competition and allow new customers to switch.**

## Price Signalling

1.24 The ACCC are clear that, in their view, a prohibition on price signalling is required:

CHAIR—...The first point I take out of all of that is that the ACCC does consider that there is a mischief that needs to be addressed in terms of price signalling and that that has potential anticompetitive outcomes for consumers in Australia. For the purposes of Hansard, I see you are nodding, Mr Cassidy. Secondly, you do not believe that the current legislative powers granted to the ACCC in view of the Federal and the High Court decisions gives you sufficient power to adequately address that mischief.

Mr Samuel—That is correct.<sup>14</sup>

Senator HURLEY—There was an article in the Australian in 2009 which reported comments by the ANZ CEO, Mike Smith. He said that, while reluctant to increase home loan rates over and above the Reserve Bank's rates, if other banks moved their rates outside moves by the RBA he would not be 'stuck on his own'. That is precisely the kind of comment you are talking about.

Mr Samuel—Yes, and we could not deal with that sort of comment under the law as it currently stands.

Mr Cassidy—The problem with that sort of comment—the evil of it, if you like—is that it says to the competitors, 'If you increase your interest rates I will follow,' which means you are signalling to the competitor that if they increased their interest rates they would not need to worry about being stuck out there on their own and losing market share.<sup>15</sup>

1.25 While the majority report calls for a law to deal with price signalling to be introduced, it recommends that it be limited to conduct that has the purpose, or has or is likely to have the effect, of substantially lessening competition. The ACCC, who would have to enforce such a law, have been critical of proposals for all price signalling conduct to be subject to a substantial lessening of competition test. When questioned about the price signalling bill introduced by the Opposition, which would subject all price signalling conduct to a substantially lessening of competition test, the ACCC stated:

When you think about the range of behaviour which the bill potentially covers, you would wonder whether some of that behaviour is so offensive and so unredeeming in its character as to whether it should not simply be a

<sup>14</sup> Mr Graeme Samuel, Chairman, Australian Competition and Consumer Commission, *Proof Committee Hansard*, 25 January 2011, p. 29.

<sup>15</sup> Mr Graeme Samuel, Chairman; Mr Brian Cassidy, Chief Executive Officer, Australian Competition and Consumer Commission, *Proof Committee Hansard*, 25 January 2011, p. 40.

per se offence. You can have a debate about how you would define, and there are different criteria that you can use when you are talking about signalling behaviour. As we have already said, there are criteria about whether it is price or other information. There are criteria about whether the information passes between competitors in secret or whether it passes between competitors in a more public sort of way. There are also criteria about whether the information is about future conduct, future prices and future strategy or whether it is about current prices and strategy. But if you go to what we might call the very worst end of the spectrum and you were to consider something like competitors passing between themselves their future pricing intentions and doing it in secret—using those criteria, that is about the worst end of the spectrum—you would wonder whether that sort of conduct perhaps should not be simply a per se offence because it of its unredeeming character rather than being subject to a substantial lessening-of-competition test.<sup>16</sup>

1.26 The ACCC also considered that such a proposal would be out of step with other key jurisdictions that have laws dealing with anti-competitive price signalling, such as the United Kingdom and the European Union:

In the UK, as in the EC—because the UK law, the Competition Act, mirrors Article 101 of the European treaty—it is basically per se, in the sense that they refer to object and/or effect rather than purpose and/or effect. And if you look at the guidance material from the EC it basically says that, in relation to what they call concerted practices—the signalling behaviour—they are to be taken as having the object of substantially impairing competition. So, in other words, there is, if you like, an ex ante assumption that that sort of behaviour has the object of impairing competition and therefore runs foul of the European and UK law.<sup>17</sup>

**Recommendation 2: The Government senators reject the Coalition’s amendments to price signalling. However Government senators support the Government’s amendments to the Competition and Consumer Act as the only rational measure in tackling price signalling, which will ban anti-competitive price signalling, while ensuring that banks can continue with all legitimate business activities.**

## RMBS

1.27 The ALP senators recognise the historic importance of this market, but due to the GFC smaller financial institutions suffered from a drop in confidence in this

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<sup>16</sup> Mr Brian Cassidy, Chief Executive Officer, Australian Competition and Consumer Commission, *House of Representatives Standing Committee on Economics Hansard*, 18 February 2011, pp. 11-12.

<sup>17</sup> Mr Brian Cassidy, Chief Executive Officer, Australian Competition and Consumer Commission, *House of Representatives Standing Committee on Economics Hansard*, 18 February 2011, p. 13.

market. This highlighted the importance of the Government's intervention investing \$16 billion into the market. The Australian Bankers Association explains the situation:

The competitive dynamics in the housing finance market was changed materially in mid-2007 with the commencement of the GFC. Housing finance was particularly impacted early on as the GFC trigger was high default rates on securitised US housing loans and, specifically, sub-prime loans similar in nature to 'non-conforming' loans in Australia. The crisis badly damaged investor confidence in all securitised housing assets and, indeed, other asset-backed securities, even though Australian RMBS continued to perform well. It became obvious by late 2007 that mortgage originators were having trouble finding investors to fund securitised loans and that this would impede mortgage originators' and other institutions reliant on securitisation to compete.

Without adequate funding, mortgage originators and other lenders were forced to find new and stable sources of funding. Some managed to secure lines from Australian banks. Some closed their doors and sold their assets to banks and credit unions. Others merged with banks.

The funding difficulties of mortgage originators and smaller lenders led the Australian Government to commit to invest \$16 billion in RMBS. The investment is based on the stated policy rationale of improving competition.<sup>18</sup>

1.28 ME Bank described the effect of the GFC on the RMBS market and the Government's response as follows:

...due to poor underwriting standards for home loans in many countries, the securitisation markets around the globe stopped functioning as investors became nervous about the quality of the assets they were investing in. The market did not discriminate between countries in the respective quality of the securitisation issues but simply threw the baby out with the bathwater. In Australia, the closing of the securitisation markets made it difficult for many of the smaller players to remain competitive. If this market failure had been due to poor lending practices within the Australian banking system then I believe there should be no cause for complaint, as the industry would have brought it upon itself and should have to deal with the consequences. It was not the case that it was simply a failure of the overall system. Consequently, I strongly believe that government intervention in working towards ensuring the RMBS market was able to operate somewhat effectively again was entirely appropriate.<sup>19</sup>

1.29 In December the Government announced that a further \$4 billion was to be invested in the RMBS market providing greater support to the smaller lenders. This further investment was widely supported:

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<sup>18</sup> Australian Bankers' Association, *Submission 76*, pp 26-7.

<sup>19</sup> Mr James McPhee, Chief Executive Officer, Members Equity Bank, *Proof Committee Hansard*, 25 January 2011, pp 106-7.

We also welcome the government's announcement of a further tranche of AOFM's RMBS investments because the recovery of the securitisation market and better pricing for smaller banking institutions will help regional banks, us and non-bank lenders to deliver tighter pricing and put more competitive pressure on the banks.<sup>20</sup>

We certainly endorse the decision to invest further in the RMBS market. It will help to support lenders who rely on this source of finance but really the emphasis has been on consumer banking and the mortgage sector with limited support for small business lending.<sup>21</sup>

1.30 This further \$4billion investment will equate to \$20 billion in total, but there has been a significant leverage from this investment:

Senator PRATT—The government, as I understand it, put in \$8 billion initially to support that market and then a further—

Mr Murphy—Eight.

Senator PRATT—...And the recent announcement is for a further \$4 billion. That is based on the fact that what was done in the past has worked and is strengthening investment. What kind of leverage are we seeing in terms of that investment? That is \$20 billion worth of investment—

Mr Murphy—About \$26 billion of leverage off that total figure. It has been significant and, realistically, it has kept some of the smaller players in the game.<sup>22</sup>

**Recommendation 3: Government senators endorse the additional \$4 billion investment in the RMBS markets, providing funding for smaller lenders, and consider that it is in the taxpayer's interest that the government should continue to only invest in high quality AAA rated RMBS, so taxpayers are not exposed to significant credit risk.**

### **Support for bullet bond markets**

1.31 The ALP senators agree with the majority report that supporting the development of a bullet bonds market is desirable. A number of witnesses supported it:

the bullet structure is attractive to investors.<sup>23</sup>

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<sup>20</sup> Ms Louise Petschler, Chief Executive Officer, Abacus, *Proof Committee Hansard*, 13 December 2011, p 84.

<sup>21</sup> Mr Paul Orton, Director, Policy and Advocacy, New South Wales Business Chamber, *Proof Committee Hansard*, 21 January 2011, p 55.

<sup>22</sup> Mr Jim Murphy, Executive Director, Markets Group, Department of the Treasury, *Proof Committee Hansard*, 13 December 2011, p 43.

<sup>23</sup> Mr Michael Bath, Acting Chief Executive Officer, Australian Office of Financial Management, *Proof Committee Hansard*, 15 December 2010, p 96.

We think it can be one of the ways that the securitisation market can lift off a bit more.<sup>24</sup>

The reason we are doing that [issuing bullet bonds] is that we feel that it will open up those people who are prepared to invest in RMBS because they do not have the prepayment risk or the tail risk associated with traditional structures.<sup>25</sup>

What we are encouraged about is the government interest and support with respect to bullet securities because we think that could widen the investor base here in Australia...<sup>26</sup>

The ABA believes that by developing a “bullet” RMBS security which enables efficient recycling of mortgages and removes the prepayment risk inherent in pass-through RMBS instruments, this reform would not only assist in rebuilding the securitisation market in Australia, but assuming a degree of government support, it would also assist banks to meet their obligations under the pending Basel III regulations.<sup>27</sup>

...a bullet bond structure is something we do support. It is something that makes a currency swap cheaper and more efficient to be able to raise those funds.<sup>28</sup>

We therefore welcome the support for the development of bullet RMBS securities as a step toward satisfying the requirements of the broader fixed interest market...[it would] facilitate superannuation fund investment through incorporation in the fixed income index.<sup>29</sup>

**Recommendation 4: The government senators recommend the Government continues to work in developing the market for bullet RMBS as an alternative to traditional RMBS. This will help smaller lenders diversify and broaden their funding and access cheaper funding to compete more effectively.**

## Covered Bonds

1.32 The diversification of funding is an important aspect that is supported throughout the banking sector. The support of covered bonds is highlighted by witnesses:

<sup>24</sup> Mr Jim Murphy, Executive Director, Markets Group, Department of the Treasury, *Committee Hansard*, 13 December 2010, p 44.

<sup>25</sup> Mr Michael Hirst, Managing Director, Bendigo and Adelaide Bank, *Committee Hansard*, 15 December 2010, p 84.

<sup>26</sup> Mr Chris Dalton, Chief Executive Officer, Australian Securitisation Forum, *Committee Hansard*, 14 December 2010, p 19.

<sup>27</sup> Australian Bankers' Association, *Submission 76*, p 58.

<sup>28</sup> Mr James Austin, Chief Financial Officer, FirstMac Group, *Proof Committee Hansard*, 4 March 2011, p 20.

<sup>29</sup> Mortgage House of Australia, *Submission 115*, p 2.

If we have covered bonds and institutions can tap into international markets or, alternatively, domestic investors such as superannuation funds find covered bonds more attractive, it is another way of getting more funding into the financial system.<sup>30</sup>

Yes, we will be [interested in using covered bonds]. I think that is a positive development. They are used in many other markets. We have issued them ourselves out of our New Zealand bank. We have done two covered bond issues out of Bank of New Zealand. We are planning at some point in the future to do one out of our UK bank. We have seen other offshore banks issue into this market in recent times, at lower cost. It is not the be-all and end-all but it is another important step in diversifying funding and we would like to take advantage of it.<sup>31</sup>

It will be cheaper because our wholesale funding is AA rated and covered bonds are typically AAA rated. So we would be borrowing almost at the sovereign rate.<sup>32</sup>

The proposals from the government have addressed that by stating that they will seek to amend the Banking Act to allow for the introduction of covered bonds. That opens that possibility up. We look forward to working with the government on a legislative framework that will allow covered bonds to be introduced into Australia while at the same time balancing the interests of depositors. We look forward to working with the government on that.<sup>33</sup>

**Recommendation 5: The government Senators recommend that the Government's commitment to allow banks and mutuals to issue covered bonds should remain a priority of the Government.**

### **Bank fees fact sheet**

1.33 The majority report acknowledges that one component of the Government's December 2010 package is a uniform mandatory key fact sheet for new home loan customers, which will show consumers how much they will pay every month and over the life of their loan.<sup>34</sup> The ALP senators agree with the enthusiasm shown by witnesses for this advance:

We are big fans of simplified disclosure in a one-pager...<sup>35</sup>

If you wish to go and shop around, this will enable you in terms of what deal you can get. This is a simple document which would give you the terms and conditions for that loan. To me that is a huge advance.<sup>36</sup>

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<sup>30</sup> Jim Murphy, Treasury, *Proof Committee Hansard*, 13 December 2010. p. 26.

<sup>31</sup> Cameron Clyne, CEO National Australia Bank, *Proof Committee Hansard*, 13 December 2010, p. 64

<sup>32</sup> Mr Joiner, NAB, *Proof Committee Hansard*, 13 December 2010, p. 64

<sup>33</sup> Dr John Laker, Chairman, APRA, *Proof Committee Hansard*, 14 December 2010, p. 3

<sup>34</sup> Australian Government, *Competitive and Sustainable Banking System*, December 2010, p 10.

<sup>35</sup> Ms Nicole Rich, Director, Policy and Campaigns, Consumer Action Law Centre, *Proof Committee Hansard*, 25 January 2011, p 18.

**Recommendation 6: The government senators support the boost for greater customer information through the Government's announcement of a simple bank fee fact sheet, allowing customers to have a document detailing the fees involved, and comparing it to other home loans.**

### **Other Bank Competition Issues**

1.34 The majority report called for a review of payment, clearing and settlement systems in the wider financial system by the ACCC. The government senators were also alert to the allegations of barriers to competition in these systems that provide for EFTPOS, credit and debit card transfers and general payment transfers. Government senators are concerned about the implications of these relatively low fees but high volume transactions not being subject to sufficient competition.

1.35 Government senators acknowledge that the Reserve Bank of Australia has been monitoring this system closely and has made recent significant amendments that have improved competition. The government has recently asked the Council of Financial Regulators to establish a working group to consider the issues surrounding Australia's clearing and settlement systems. Government senators commend this work and look forward to the outcome.

1.36 The majority report also addressed ATM fees and the government senators concur with many of the comments but note that in December 2010 the government commissioned a joint Treasury/RBA taskforce to review issues affecting indigenous and other remote communities and the government is currently considering the report.

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<sup>36</sup> Mr Jim Murphy, Executive Director, Department of the Treasury, *Proof Committee Hansard*, 13 December 2010, p 33.

## Financial System Inquiry

1.37 As stated in the Summary the government senators did not gain from the witnesses a pressing need or enthusiasm for a Financial System Inquiry, and feel this is more a desire of the Coalition rather than an indication of widespread support.

1.38 The current issues that are arising are not systemic problems, but structural issues that can be addressed, without the need of a major inquiry:

The difficulty with a broader Wallis style inquiry is simply that they tend to take an enormous amount of time because the scope of those inquiries covers so much ground. What we are trying to do here is to identify the fact that there are certain specific matters that do warrant some further consideration.<sup>37</sup>

## Other Recommendations

1.39 The majority report makes a number of other recommendations that relate to providing more market information (eg recommendation 2 on RBA and 9 on RBA and APRA). The government senators in most cases are not confident that the information suggested is warranted or feasible, and rely on these independent entities to provide timely and useful market information as required.

1.40 In other cases, government senators do not believe we heard sufficient evidence during the hearings to comment on recommendations, for example recommendation 38 on the abolition of the LIBOR cap, or the feasibility of a real time notification of a penalty rate warning in recommendation 31.

## Conclusion

1.41 The Global Financial Crisis clearly had a major impact on world financial systems and a consequent impact on the Australian financial system. It is widely acknowledged that the Australian economy was sound at the time of the crisis, and its financial markets well monitored by the relevant regulators and the Reserve Bank of Australia.

1.42 Nevertheless, Australia was not immune from the GFC, it resulted in a shake up of the Australian financial markets. There was a bank merger, as well as a loss of smaller lenders and several foreign banks. This led to concern about competition in the financial sector.

1.43 One of the factors at play was a limited availability of wholesale funding and that has been a significant hurdle for the complete recovery of Australia's banking system. It was pointed out many times during this enquiry that it would not be desirable to fully return to the easy availability of finance experienced during the 1990s. Although it enabled new financing and brokerage sources and put downward

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<sup>37</sup> Mr Anderson, Chief Executive, Australian Chamber of Commerce and Industry, *Proof Committee Hansard*, 15 December 2010, p. 112

pressure on interest rates, the ultimate supply of finance came from the ready international flow of money deriving from asset growth and the questionable structuring of financial instruments that contributed to the GFC.

1.44 A stable, sustainable and equitable market is the objective.

1.45 The government senators commend the government's response in these circumstances. We believe the government acted swiftly and followed up appropriately.

1.46 The financial markets, like any other, are dynamic. The government, the Reserve Bank and the regulatory bodies will have to continually adjust to changing domestic and global situations to assist the functioning of our financial organisations.

1.47 Government senators also emphasise the critical importance of banking customers in this scenario. Some important changes have been made to consumer protection legislation generally, but we believe the government must continue to focus on the rights and needs of consumers in the financial markets. In taking out home mortgages in particular, borrowers are making major financial decisions. Of course it is important to ensure that smaller banking institutions are supported and the major banks are stable, but government senators believe that the interests of consumers should be equally important, and that also that taxpayers should never be exposed to unnecessary risk.

**Senator Annette Hurley**

**Deputy Chair**

**Senator Louise Pratt**

