AFFIDAVIT

I, Michael Craig Scott
(Full name of deponent)

of, Byron Shire, 2481, NSW, Australia
(Place of residence)

Aggrieved Party
(Occupation)

Affirm, swear and say as follows:

RE: BANK OF NEW ZEALAND (BNZ) BANKING FRAUD IN NEW ZEALAND

BACKGROUND

1. In late 2011 the BNZ fraudulently sold our family trust owned *Kakahu Estate.* The property was appraised at, and on the market for NZ$1 million at the time.

2. Despite the *Kakahu Trust* having tabled an historical cache of 2004, 2005 and 2006 registered property valuations with the BNZ (NZ$500,000, NZ$560,000 and NZ$600,000 respectively), the BNZ proceeded to deceptively sell the entire *Kakahu Estate* for a small fraction of its realisable and anticipated market value, at NZ$173,000.

3. This fraudulent sale represented a gross disparity in value and directly resulted in the *Trust* suffering a significant loss in land banked equity. In doing so the BNZ breached its legal fiducial obligation to sell the property at a fair market value.

4. The BNZ then proceeded to unlawfully seize and convert NZ$500,000+ worth of unrelated *Trust* owned chattel's. Evident of this fraud is annexed to this affidavit.

5. Over the previous eight (8) years I have been working closely with the ASIC, and the office of the *Australian Royal Commission* into banking fraud, to help initiate an urgent *New Zealand Royal Commission* enquiry into banking fraud in New Zealand.

6. To date I have written to the Attorney General, the Minister of Finance, the Prime Minister, the Banking Ombudsman, the SFO, and others seeking support for this urgent enquiry to be executed. All of my efforts have been completely ignored.

7. The *Bank of New Zealand's* (BNZ) parent bank is the *National Bank of Australia* (NAB)

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8. Both the BNZ and NAB banks have been prosecuted for criminal banking practices.

9. Based on evidence contained within both ASIC and Australian Royal Commission banking fraud reports, it is clear that the BNZ and the NAB's modus operandi (m.o) is to routinely practice criminal fraud via targeted ***predatory lending***, ***falsifying legal documents***, document destruction, employee embezzlement, bribery of officials and other professionals to procure advantageous commercial position(s), ***mortgage fraud, foreclosure fraud***, large scale tax evasion, conspiracy to defraud customers, dishonestly, ***misleading customers causing financial loss***, reckless deception with intention to gain financial advantage, concealment of criminal assets, ***deceiving officials***, breaching anti money laundering laws, ***knowingly providing covert financial services to established criminal, drug and terrorism related gangs, businesses, entities and persons.***

   In summary the BNZ and NAB banks are entrenched criminal entities.

10. A summary of criminal prosecutions filed against the BNZ/ NAB banks can be verified within *ASIC* and *Australian Royal Commission* banking fraud reports.

    A cache of relevant banking fraud articles are attached as: **ANNEX A**

11. The *Australian Royal Commission* into banking fraud culture resulted in many NAB bankers being criminally prosecuted and jailed, the NAB bank being fined hundreds of millions of dollars, and the NAB being publicly exposed as a criminal entity.

    The *Australian Royal Commission*, and *ASIC* reports are available on request.

UNLAWFUL BANKRUPTCY

12. In 2007 the *Kakahu Estate* was targeted by the BNZ in a calculated land grab, and in 2007 the *Kakahu Trust* became a victim of BNZ's ***predatory lending practices***.

13. At the time of engaging with the BNZ the *Kakahu Estate* was 100% freehold, and the *Kakahu Trust* held NZ$500 000+ on term deposit with the BNZ. The Trust also held zero debt and held no outstanding accounts ie: freehold with working capital.

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14. In mid 2007 the BNZ extended the *Kakahu Trust* a $415 000 *Line of Credit* facility. The *Line of Credit* contractual document was created by the BNZ, but not signed by myself or any member of the *Kakahu Trust*, and is therefore not enforceable in law.

15. The Trust did not request of require a line of credit facility with the BNZ and was targeted by a mobile door to door BNZ banker selling debt on commission.

16. This *Line of Credit* document was unlawfully and deceptively signed by a BNZ staff member on behalf of the *Kakahu Trust*, without the *Kakahu Trust's* legal authority or permission. We were not made aware of this unlawful *Line of Credit* document, until it was disclosed by the BNZ to *Aspiring Law Ltd*, in late 2012.

    This is clear evidence of the BNZ ***falsifying legal documents.***

    A copy of this deceptive *Line of Credit* document is attached as: **ANNEX B**

16. Shortly after in late 2011, the *Kakahu Trust* became a victim of BNZ ***foreclosure fraud***, when the BNZ fraudulently under sold the *Kakahu Estate* for NZ$173,000.

17. At the time of this unlawful sale, the BNZ was fully aware that the *Kakahu Estate* property was on the market for NZ$1 million, and was cooperating with a controlled sale via the Trusts appointed agent. The BNZ held on file historical registered property valuations at NZ$500,000, NZ$560,000 and NZ$600,000 (Dated 2004, 2005 and 2006 respectively).

18. As a direct result of the BNZ's unlawful actions, the *Kakahu Trust* suffered a hard earned land bank equity loss exceeding NZ$500,000+.

    An *Affidavit* containing evidence of this ***Valuation Fraud*** is attached as: **ANNEX C**

19. Further, agents acting for the BNZ ***unlawfully seized and unlawfully converted*** unrelated assets, lawfully owned by the *Kahu Trust,* and valued at NZ$500 000+.

20. Had agents for the BNZ not ***stolen*** circa NZ$500 000+ worth of unrelated *Kahu Trust* owned assets, these assets could have potentially been sold to repay the *Line of Credit* monies owning to the BNZ, by the *Kakahu Trust.*

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An *Affidavit* containing evidence of the BNZ ***Asset Theft*** is available on request.

21. If the BNZ had acted honourably, and fulfilled its legal fiduciary obligation(s) to obtain the best possible price for the *Kakahu Estate* property, and even if this luxury turn key home and 5500 mt property (on three (3) seperate titles) had been sold for fifty percent (50%) of its late 2010 market appraisal at NZ$1 million ie: NZ$500 000, then this would have released adequate monies to pay off the *Line of Credit* monies owing to the BNZ in full.

22. In addition, and importantly this would have left a surplus of monies in the *Kakahu Trust's* account ie: *Mr Scott* would never have been unlawfully bankrupted, as any/ all monies owned to the BNZ by the *Kakahu Trust* would have been repaid in full.

23. *Mr Scott* has now been unlawfully bankrupted for a period exceeding ten (10) years.

24. The *Kakahu Trust*, and *Mr Scott* were never in dishonour, and always intended to repay the *Line of Credit* monies owing to the BNZ off in full. The intention was to do this from either the managed sale of the *Kakahu Estate* property, or via the sale of one (1) or two (2) of the back sections held within the *Kakahu Estate's* holdings (each worth NZ$225,000 - NZ$250,000) and/ or through the sale of fine artworks owned by the *Kahu Trust,* and subsequently stolen by agents working for the BNZ.

25. The BNZ acted unlawfully and fraudulently when it grossly under valued and sold the *Kakahu Estate* property for a fraction of its historically appraised value, and used unethical and criminal processes, not limited to ***predatory lending***, ***valuation fraud, asset theft, dishonesty*** and ***falsifying legal documents*** to do so.

AUSTRALIAN BANKING FRAUD PRECEDENTS:

Source Note: The *Australian Royal Commission into Banking Fraud Report 2019*, the *Australian Securities and Investment Commission* (ASIC) & the *Australian Financial intelligence Agency* (AUSTRAC).

26. 2019 - ASIC prosecutes Sydney *NAB* manager for making fraudulent, false and misleading statements. Sentenced to 12 months jail.

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27. 2019 - ASIC sues *NAB* for fraudulently generating and issuing $24 billion in home loans, with the *"intention to defraud by false or misleading statements and/ or documents"* and is seeking A$530 million in fines.

28. 2018 - ASIC, Australia's federal prosecutor secures a A$51 million war chest to pursue bankers for misconduct, mortgage and foreclosure fraud.

29. 2019 - ASIC pursues *NAB* for predatory lending practices and criminally charging customers A$72 million in fees for no service to customers. NAB Bankers facing 10+ years in jail.

30. 2020 - ASIC sues *NAB/ Westpac/ ANZ & Commonwealth Bank* for charging fees for no service. Fines anticipated to exceed A$1 billion.

31. 2018 - ASIC/ AUSTRAC sue *Commonwealth Bank of Australia (CBA) for* $702 million for anti money laundering beaches and providing financial services for criminal, drug and terrorism related activities.

32. 2019 - *NAB* admits 255 breaches in credit law and 84 breaches in superannuation law. Criminal charges pending.

33. 2020 - *NAB* manager jailed for 3 years for obtaining financial advantage by deception.

34. 2020 - Lawyers for the banking royal commission recommended both *NAB* and *CBA* face criminal charges for deceptive conduct, defrauding superannuation customers citing more than 13 000 criminal breaches of the superannuation law. NAB ordered to repay A$90 million in unlawfully obtained banking fees.

35. 2019 - *NAB* executive charged with 58 criminal counts of fraud, deception and bribery.

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36. 2018 - *NAB* faces A$700 million AUSTRAC penalty for multiple breaches in laws governing bribery, corruption, counter terrorism, anti money laundering and financial crime laws.

37. 2019 - ASIC investigates *NAB* regarding catastrophic A$40 million banking fraud involving over the counter cash bribes for facilitating and approving loans based on fake documents and for dishonestly using customers signatures.

38. 2019 - ASIC sues *NAB* for 297 fraudulent loans valued at A$24 billion, all made in breach of the *National Credit Act. E*ach breach is subject to a civil fine of A$1.8 million. Sixteen NAB managers facing jail for pre meditated financial fraud.

AMERICAN BANKING FRAUD PRECEDENTS:

39. *Bank of America* agrees to pay US$17 billion in fines settlement for mortgage and foreclosure fraud, in addition to $864 million in damages.

40. *JPMorgan Chase & Co.* agrees to pay US$13 billion in fines settlement for mortgage and foreclosure fraud.

41. *Citigroup* agrees to pay US$47 billion in fines settlement for mortgage fraud.

42. Hundreds of Wall Street banking executives jailed in fraud fuelled banking crisis.

43. *Credit Suisse* pleads guilty to federal criminal fraud charges. Fined US$2.6 billion.

NEW ZEALAND BANKING FRAUD PRECEDENTS:

44. *BNZ* manager sentenced to 9 months home detention for stealing $135, 000.

45. 2011 - Lee Farkas, John Keys ex New York business partner jailed for 14 counts of financial fraud and conspiracy relating to a US$2.9 billion mortgage fraud scheme.

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46. SFO prosecutes BNZ banker Ms Kumar for her part in $3.9 million mortgage fraud scheme.

47. 22 000 New Zealanders file class action against New Zealand banks (including the BNZ) for fabricating and charging fraudulent bank fees.

48. Westpac bank manager jailed for 7 1/2 years on 25 charges of banking fraud.

49. Three (3) BNZ bank managers prosecuted by SFO for banking fraud involving $52 million mortgage fraud scheme.

50. BNZ bank staffer faces 25 SFO charges of *obtaining by deception*.

51. BNZ bank manager hailed for 4 years 7 months for obtaining by deception and dishonest use of a fraudulent documents, using false ID's, bank statements etc.

52. BNZ staffer jailed fro 4 years 9 months for $54 Million mortgage fraud scheme.

ENGLISH BANKING FRAUD PRECEDENTS:

53. *HSBC* fined £1.9 billion for drug and terrorism money laundering.

54. *Barclays* fined £640 million for laundering drug gangs money.

55. Seven (7) Royal Bank of Scotland investment bankers facing criminal charges for £2.5 million tax fraud.

56. The English SFO files criminal fraud charges against three (3) Barclays bankers.

ICELAND BANKING FRAUD PRECEDENTS

57. Over eight hundred (800) bankers arrested and jailed for widespread corruption, criminal banking fraud. Lawyers endorsing the frauds also arrested and jailed.

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SUMMARY

58. It is in the publics best interest that the BNZ is held fully accountable for its white collar criminal activities, and that the bankers involved are prosecuted, and jailed.

Sincerely

Michael Craig Scott BCOM (BNZ banking fraud victim)

Sworn at Mullumbimby NSW on this 05 day of MAY 20 23

Before me ..... Patricia Joan Cosgrove NSW JP #142391 .....

(Name of JP)

..... Signature of deponent

..... (Signature of JP)

Justice if the Peace for Australia

PLEASE NOTE - MAKING A FALSE STATEMENT IN AN AFFIDAVIT IS A PROSECUTABLE OFFENCE

ANNEX A

5/5/23

ASIC
Australian Securities & Investments Commission

ASIC media releases are point-in-time statements. Please note the date of issue and use the internal search function on the site to check for other media releases on the same or related matters.

Friday 23 August 2019

19-222MR ASIC sues NAB for dealing with unlicensed home loan introducers: Royal Commission case study

ASIC has commenced proceedings in the Federal Court against National Australia Bank (**NAB**) for breaches of the law arising from failures with its Introducer Program.

ASIC alleges that between 3 September 2013 and 29 July 2016, NAB accepted information and documents in support of consumer loan applications from third party introducers who were not licensed to engage in credit activity.

As a result, ASIC alleges NAB breached s31(1) of the *National Consumer Credit Protection Act 2009* (**National Credit Act**) which prohibits credit licensees from conducting business with parties engaging in credit activity without an Australian credit licence (**ACL**). ASIC also alleges that NAB breached its obligations under s47 of the National Credit Act requiring it to engage in credit activities efficiently, honestly and fairly and to comply with the Act.

The proceedings relate to the conduct of 16 bankers accepting loan information and documentation from 25 unlicensed introducers in relation to 297 loans.

One of the key objectives of the National Credit Act's licensing regime is consumer protection. The imposition of a licensing regime was intended to address concerns that third-party referrers (including brokers and introducers) may misrepresent consumers' financial details to ensure loans are approved, and their commissions are paid, in circumstances where the consumers' true financial position means that the loan should not be made.

ASIC is asking the Court to find that NAB breached the National Credit Act and to impose a civil penalty on NAB for doing so. The maximum penalty for one breach of s31(1) of the National Credit Act, during the time of contravention, was 10,000 penalty units, or $1.7 to $1.8 million.

The proceeding will be listed for directions on a date to be determined by the Court.

Background

Since at least 2000, NAB operated the credit industry's largest referral program, known as the 'Introducer Program', whereby a third-party introducer could 'spot and refer' a potential customer to NAB in exchange for commission if the customer entered into a loan with NAB. Between 2013 to 2016, NAB's Introducer Program generated $24 billion dollars' worth of loans.

Introducers referring customers through the Introducer Program were only to provide NAB with the potential customer's name and

5/5/23

The Guardian

This article is more than **4 months old**

Asic sues NAB over $24bn home loan 'introducer' scheme

The corporate regulator says National Australia Bank broke credit law, exposing customers and itself to potential fraud

Ben Butler

Fri 23 Aug 2019 06.00 BST

Following revelations at the banking royal commission Asic sues NAB over its program paying 'introducers' to bring in home loan customers. Photograph: Saeed Khan/AFP/Getty Images

The corporate regulator has launched legal action against National Australia Bank seeking fines of up to $530m over a program the bank ran where it paid "introducers" including gym instructors and hairdressers to bring in home loan customers.

NAB's introducer program was closely examined during last year's banking royal commission, which heard evidence that the program helped contribute to fraud by bankers in western Sydney who were accepting cash kickbacks to write home loans.

The lawsuit, filed with the federal court on Friday, is the second lodged by the Australian Securities and Investments Commission relating to the banking royal commission.

Last month, it sued ANZ over an alleged transfer fee rip-off in a case that could cost that

5/5/23

SERIOUS FRAUD OFFICE
Te Tari Hara Taware

Sentence handed down in SFO mortgage fraud prosecution

Print this page
02 April 2014

Sentence handed down in SFO mortgage fraud prosecution

Ramni Kumar (46) was sentenced in the Auckland District Court today to 12 months' Home Detention and 250 hours of Community Work for the role she played in a $3.9 million mortgage fraud scheme.

In January this year, Ms Kumar pleaded guilty to 10 charges of dishonestly using a document. The charges related to 10 property transactions undertaken during the second half of 2010. The charges were brought by the Serious Fraud Office (SFO).

Ms Kumar used false documentation to obtain mortgage finance for low income families who would not otherwise have been able to obtain finance. Ms Kumar benefited by arranging for her (and allegedly, her associate's) contacts to make the initial purchase of the properties and then on-sell them to the mortgage recipients, thus generating a profit.

SFO Director, Julie Read said, "The SFO is pleased to have brought this prosecution to a successful conclusion. The manipulation of mortgage lending systems is a serious form of fraud. Banks need to be able to rely on documents submitted in support of mortgage applications to ensure that costs are contained for all borrowers."

Ms Kumar's associate Vicki Ravana Letele (33) still faces 11 charges of dishonestly using a document and will go to trial on 18 August.

ENDS

For further information

Andrea Linton
Serious Fraud Office
027 705 4550

Note to editors

Background to investigation

Crimes Act offences

Section 228 Dishonestly taking or using document
Every one is liable to imprisonment for a term not exceeding 7 years who, with intent to obtain any property, service, pecuniary advantage, or valuable consideration,-

(a) dishonestly and without claim of right, takes or obtains any document; or
(b) dishonestly and without claim of right, uses or attempts to use any document.

About the SFO

The Serious Fraud Office (SFO) was established in 1990 under the Serious Fraud Office Act in response to the collapse of financial markets in New Zealand at that time.

The SFO's role is the detection, investigation and prosecution of serious or complex financial crime. The SFO's focus is on investigating and prosecuting criminal cases that will have a real effect on:

- business and investor confidence in our financial markets and economy
- public confidence in our justice system and public service
- New Zealand's international business reputation.

5/5/23

MONEY & MARKETS (HTTPS://WWW.BUSINESSINSIDER.COM.AU/MONEY-MAR

Australia's federal prosecutor is getting a million war chest to pursue bankers for misconduct

CHRIS PASH (HTTPS://WWW.BUSINESSINSIDER.COM.AU/AUTHOR/CHRIS-PASH) (HTTPS://WWW.TWITTER.COM/THELASTWHALE)

NOV 16, 2018, 12:24 PM

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As 2020 begins...

... we're asking readers, like you, to make a new year contribution in support of the Guardian's open, independent journalism. This has been a turbulent decade across the world - protest, populism, mass migration and the escalating climate crisis. The Guardian has been in every corner of the globe, reporting with tenacity, rigour and authority on the most critical events of our lifetimes. At a time when factual information is both scarcer and more essential than ever, we believe that each of us deserves access to accurate reporting with integrity at its heart.

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bank hundreds of millions of dollars.

NAB made more than 46,000 home loans worth about $24bn as a result of the introducer program, Asic told the federal court.

The regulator accused NAB of breaking the law 297 times by accepting detailed customer documentation, including payslips and tax returns, from introducers who did not have a credit licence.

Some of this documentation was fraudulent, it said.

Asic said 16 NAB bankers were involved in the alleged misconduct.

"This conduct exposed the customers and NAB to the risk of wrongful conduct by the introducer, including possible fraud," Asic said in a concise statement filed with the court.

"It also exposed customers to a risk that loans advanced to them would be unsuitable."

The maximum penalty per breach is $1.8m.

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"Once you're dealing with unlicensed persons you're immediately imperilling the consumer and the system," Asic commissioner in charge of enforcement Daniel Crennan said. "This case is about the systems that were in place that allowed the process to be misused.

"It was very wild, unregulated activity."

The case is the third lawsuit Asic has filed relating to issues aired at the royal commission.

Crennan said a special team within Asic was hard at work on royal commission-related investigations and he hoped to file "a significant number of matters before Christmas".

"We are seeing significant progress and we hope to be issuing some further proceedings in short order, that is, within weeks or months."

NAB's chief legal counsel, Sharon Cook, said the bank would "take this legal action seriously and will now carefully assess the allegations".

"Throughout the Royal Commission we heard clearly that our actions need to change to meet the expectations of our customers and the community," she said.

The royal commission heard that just four introducers, including a gym owner, were responsible for bringing $139m in loans to NAB.

After the program blew up, 21 employees left the bank - 10 of whom were sacked - and NAB reported suspected misconduct to police.

In March, NAB announced it would be killing the program entirely, effective from 1 October.

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5/9/19

(https://edge.alluremedia.com.au/uploads/businessinsider/2016/12/wig-l

Peter Macdiarmid/Getty Images

- **Prosecutors are being given extra resources so they can look at cri charges from bank misconduct revealed in the royal commission.**
- **$51.1 million in extra funding goes to the Director of Public Prose the Federal Court to enable prosecutions of criminal misconduct ensure civil claims are dealt with quickly.**
- **Treasurer Josh Frydenberg expects a more aggressive stance from**

The Commonwealth Director of Public Prosecutions has been given extra resc pursue criminal misconduct by banks and other financial institutions.

Among them are cases highlighted by the Royal Commission into Misconduc Banking, Superannuation and Financial Services Industry.

Treasurer Josh Frydenberg today announced $51.1 million in funding to the D Public Prosecutions and the Federal Court to enable prosecutions of criminal by banks and to ensure civil claims are dealt with quickly.

The money will allow the Director of Public Prosecutions to consider more pr put forward by corporate regulator ASIC and to hire more prosecutors to deal increased caseload.

The Federal Court will also be able to appoint two new judges to support civil

Fydenberg says Royal Commissioner Kenneth Hayne has made it clear that A regulators have preferred negotiation over litigation when misconduct was ui

"I think from here on you'll see a more aggressive stance from our regulators a be welcomed and we've also seen cases of financial misconduct highlighted b Commissioner Hayne," he told ABC radio.

"And while we're punishing people for their misconduct, we're also giving ord Australians the opportunity to take on their financial institutions and have sc issues resolved by providing a free service through a new financial complaint

The government has also asked the Attorney-General's Department to condu whether the Federal Court's criminal jurisdiction should be expanded to inclu crime.

Any criminal prosecutions for misconduct by banks and other financial instit currently heard in state courts.

Discover Thomson Reuters

BUSINESS NEWS NOVEMBER 20, 2019 / 11:36 AM / 2 MONTHS AGO

Australia's Westpac slapped with 23 million money laundering breaches

Byron Kaye, Paulina Duran

6 MIN READ

SYDNEY (Reuters) - Regulators accused Australia's Westpac Banking Corp (WBC.AX) of 23 million breaches of anti-money laundering laws, saying the banking giant ignored red flags and for years enabled payments from convicted child sex offenders and "high risk" countries.

FILE PHOTO: A pedestrian looks at his phone as he walks past a logo for Australia's Westpac Banking Corp located outside a branch in central Sydney, Australia, November 5, 2018. REUTERS/David Gray/File Photo

The oversight failure at Australia's second-largest bank led to deep systemic non-compliance with anti-money laundering laws, financial crime watchdog AUSTRAC said in a civil court filing on Wednesday.

The regulator is pursuing fines of up to A$21 million ($14 million) for every transaction Westpac failed to monitor adequately or report on time in the country's

biggest ever money laundering scandal. In theory, that could add up to whopping A$483 trillion in fines.

The lawsuit dwarfs a case AUSTRAC brought against larger Commonwealth Bank of Australia (CBA.AX) which agreed last year here to pay a record A$700 million penalty after admitting to allowing 53,750 payments that violated similar protocols. It also brings fresh scrutiny to an industry still trying to rebuild community trust after a bruising Royal Commission public inquiry.

"These contraventions are the result of systemic failures in its control environment, indifference by senior management and inadequate oversight by the Board," AUSTRAC said in the court filing.

Westpac said it had self-reported the breaches to AUSTRAC and had since shut down the service at the center of the complaint which let customers and affiliate overseas banks process payments from Australia.

"Like everyone who has read the statement of claim, I am personally disgusted and appalled," Westpac CEO Brian Hartzer said on a call with reporters, adding the bank "should have done better".

RELATED COVERAGE

Factbox: The Australian financial crime regulator's accusations against Westpac

NZ cenbank 'looks closely' at Australian regulator allegations against Westpac

Hartzer said he accepted most of the regulator's assertions but "at a senior executive level, for the board, for me personally, in no way have we been indifferent on this."

The lawsuit sent Westpac shares down 3% by the close, outpacing a broader share market decline of 1.4%, as investors began counting the financial and reputational cost of the lawsuit.

Brian Johnson, an analyst at Jefferies, said he expected a "meaningful, painful but not catastrophic civil penalty" in the hundreds of millions of dollars range.

CHILD EXPLOITATION RISKS

Bank of America Merrill Lynch analysts said they saw downside risks for bank capital persisting until fines, penalties and remediation provisions subside.

"This development epitomizes the more active enforcement action stance taken by regulators generally in the post Royal Commission era," they said in a note.

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The AUSTRAC filing said Westpac knew since 2013 about "heightened child exploitation risks associated with people who made frequent low value payments to the Philippines and South East Asia" but did not set up an automated detection system until 2018.

ADVERTI

The Sydney-based bank had failed to conduct due diligence on 12 customers who had made frequent low-value transactions over several years which suggested involvement in child exploitation, it said.

One customer who had served a prison sentence for child exploitation set up several Westpac accounts. Westpac detected suspicious activity in one account but failed to review the other accounts which were used to send payments to the Philippines, AUSTRAC said.

Westpac meanwhile maintained relationships with offshore banks without assessing their business relationships, products, customers or payments, even when those banks disclosed relationships with "high risk or sanctioned countries including Iraq, Lebanon, Ukraine, Zimbabwe, and Democratic Republic of Congo".

"The risk posed to Westpac was that these high risk or sanctioned countries may have been able to access the Australian payment system," AUSTRAC said.

Hartzer, the CEO, said he first learned the specifics of the individual bank accounts on Wednesday and was "utterly horrified by what I had read and absolutely determined to get to the bottom of why this was able to persist."

AUSTRAC declined to comment when asked by Reuters if it was conducting similar investigations on the other two of Australia's so-called Big Four banks, National Australia Bank (NAB.AX) and Australia and New Zealand Banking Group (ANZ.AX).

ANZ declined to comment, while NAB referred Reuters to a Nov. 7 statement that it had reported an unspecified number of breaches to AUSTRAC and was working with the regulator.

The Reserve Bank of New Zealand, which carries out a similar function to AUSTRAC in New Zealand, said it was in close contact with the Australian agency with regards to Westpac. Westpac is one of New Zealand's biggest lenders.

"Obviously it's appalling and distressing," Australian Prime Minister Scott Morrison told reporters in Brisbane, when asked about the Westpac lawsuit.

"It is a fairly damning indictment about some of the processes and procedures they've had in place."

Reporting by Byron Kaye and Paulina Duran in Sydney; Editing by Lincoln Feast

Our Standards: *The Thomson Reuters Trust Principles.*

5/5/23

REUTERS

fastFT Banks

Australian bank chiefs could face criminal charges after report

Royal commission attacks practice of taking fees for no service and calls for industry shake-up

National Australia Bank was singled out for particular criticism in the report

Jamie Smyth in Sydney FEBRUARY 4 2019

Australian bank executives could face criminal charges following publication of a report on Monday detailing how financial institutions and their leaders have ripped off consumers for years in the pursuit of profit and personal gains.

It follows a year-long royal commission inquiry into the banking, insurance and pensions industry that detailed how banks and other financial services companies charged fees for no service — in some instances to dead customers — lied to regulators and cost customers hundreds of millions of dollars through poor advice.

The report makes 24 referrals of financial institutions and individuals to Australian regulators for consideration of further action, including potential criminal or civil prosecution. National Australia Bank is singled out for particular criticism, with the report concluding it was not confident that "the lessons of past had been learnt". Commonwealth Bank of Australia, AMP and ANZ were among the other institutions referred to the conduct regulator, the Australian Securities and

THE AUSTRALIAN

Banking royal commission: NAB, CBA, ANZ, AMP count the cost

PAMELA WILLIAMS

By PAMELA WILLIAMS, SENIOR WRITER
1:00AM AUGUST 11, 2018 • 118 COMMENTS

It was early 2014 when a gorgeous new advertisement flourished on television screens and YouTube. It depicted a handsome older couple in a vintage red sports car high above the ocean on a curving cliff road. There were intimations of Monte Carlo, and perhaps a hint of Cary Grant and Grace Kelly — seductive eyes, hair flicked back, the gold dust of memories and dreams.

It was a new ad from a wealth management company and the closing moment of the sumptuous imagery came almost too soon with the voiceover: "Call your adviser or speak to us. Let's work together to save retirement."

The ad might have been accompanied by soft music but there was another ugly chime in the background that would not be heard for years. It was the sound of trust shattering. It would be turned up to blasting point four years later when the dry-eyed Kenneth Hayne presided over a royal commission where the ethics of the superannuation and wealth management industry were exposed for all to see.

In a nutshell, the wealth management industry had been ripping off customers by charging and keeping fees to which it was not entitled. The regulator — the Australian Securities & Investments Commission — witheringly labelled it "fees for no service".

ASIC described this as a systemic failure for Australia's financial institutions. Some people called it a rort. Others called it stealing. The royal commission has flagged the question of whether crimes have been committed.

When forced by ASIC to come clean on fees for no service in 2016, the total compensation the National Australia Bank, Westpac, ANZ, the Commonwealth Bank and AMP expected to pay customers was $178 million. ASIC now expects this to exceed $850m; some estimates put it at $1 billion.

Just halfway through the royal commission, an existential question now faces the big banks and many in the wealth management industry: How did they lose their moral compass?

Hayne asked a witness a question this week that highlighted the industry's blindness to ethics. Nicole Smith, former chairwoman of NAB's superannuation trustee NULIS Nominees, was asked by the uncharacteristically exasperated looking commissioner: "Did you think yourself that taking money to which there was no entitlement raised a question for criminal law?"

"I didn't," she replied.

In 2013, then financial services minister Bill Shorten introduced new laws to provide consumer protections in wealth management and to control commissions and fees for advice that had been rolling into banks and superannuation firms. The laws were known as the Future of Financial Advice reforms.

They finally became law under the Abbott government. But not before a huge lobbying campaign by the wealth management industry had reached a crescendo. Finance Minister Mathias Cormann took charge of winding back some of the key protections. But after a prolonged battle with the crossbench, Cormann was forced to relinquish parts of his rollback.

The ability of the big firms to charge ongoing fees for advice was a front-and-centre issue for banks and their superannuation subsidiaries. Conflicted remuneration was banned but grandfathered trailing commissions — an annual squirt in the pocket, as one long-time agitator against these commissions phrased it — would continue.

The industry was addicted to a business model in which many advisers simply put customers into financial products distributed by the bank or wealth manager they worked for under licence.

This practice had enabled — some would say fostered — a set-and-forget mentality that became so entrenched that in the end these advisers set the fees running and then simply forgot about servicing the customers.

The new laws were a threat to the money pouring in through the doors in the form of small payments from millions of customers.

But once the clamps came down on easy commissions — money for jam — the super and banking industry persevered with industry-wide behaviour that the corporate regulator would later describe as a systemic failure.

The infamous term "fees for no service" meant exactly what it said: ongoing fees charged for - financial advisers when no financial advice was given.

Sometimes this was because no adviser was allocated, but the fees were charged anyway, often by auto-deduction from the customer's investments. Or it might be because the adviser failed to deliver advice and the licensee employing the adviser did not ensure the advice was provided.

The advice business appeared to have become a cookie jar.

Across the wealth management industry, the explanations and excuses given to ASIC were myriad: there were technical errors, systems errors, transition errors, adviser errors and client errors. There were misunderstanding errors, there were nomenclature errors. But, astonishingly, these same errors were embedded across the industry and, most particularly, they were embedded in the top players with the most muscle and the biggest public relations divisions: the four big banks and the AMP.

Fees for no service was an industry-wide coincidence of startling proportions.

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ASIC issued damning report after report on the fees for no service scandal, starting in October 2016 — with two updates last year and another this year.

The first of these — Report 499 — was 48 pages long, replete with graphs, background summaries, reviews, details of compensation required and a closing treatise on the moral code of the companies involved. The report was accompanied by a press release and then a media phone hook-up. The story never took off.

ASIC pointed out that most of the systemic failures covered in the report had occurred before the FoFA reforms, which became mandatory. The regulator made it clear that the breaches were not just breaches of law and individual ethics, but went to the moral code of the organisations.

"Of particular concern," ASIC said, "is that many of the banking and financial services institutions covered by this review publicly state that their core values include being customer focused, 'doing what is right' for customers, and acting with integrity.

"We encourage the institutions reviewed in this report to consider how their culture may have supported these systemic failures, and why their stated commitment to providing excellent service to customers is not translating into good outcomes for customers in the many instances we identified in this report."

The regulator warned that values and cultural leadership came from the top. The role of the board, senior executives and management was critical in setting the right culture. The regulator had been in regular contact with executives of the banks and financial services institutions identified in the report.

Further, the report was provided to the boards of each of the banks and financial services - institutions that were covered by the review, including the risk committees.

Each time ASIC issued a new report on fees for no service — calculating the progress of its forced remediation program — the amount of compensation payable and the number of clients affected rocketed. Today, the big banks have still not been able to find the time and

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money to finally assess how much compensation they owe and to how many people.

In the first report in 2016, ASIC revealed "approximately $23.7m of fee refunds and compensation" had been paid, or agreed to be paid, "to over 27,000 customers of ANZ, NAB, CBA, Westpac and AMP under various Australian Financial Services (AFS) licensees that are owned by these businesses."

Several enforcement actions were under way.

Ongoing reviews would determine the extent of the service fee failures. Estimates given to ASIC (however unwillingly) at the time suggested that compensation could be up to $154m to another 175,000 customers — adding up to $178m plus interest. Today that figure is $850m and climbing. One bank, Westpac, is noted in ASIC's most recent update as having not yet made available its projected future compensation.

Perhaps most alarming in the calculus of the moral compass, the fees for no service disgrace is simply one element — or one item. What else might lurk beneath the surface? How much the banks have learned so far is another existential question.

This week's royal commission hearings, using much of the evidence compiled by ASIC over recent years, has been illuminating. And where ASIC may have struggled to get its message out, the royal commission has had no such trouble, with banking executives on the stand undergoing a grilling that has been broadcast and streamed live while being forensically led by young barristers with steel-trap minds.

If anyone thought a lesson was easily learned — or a moral code would be simple to implement in an organisation led from the top — perhaps the charging of fees for no service to the dead is the best example to up-end the supposition.

Back in April, the commission heard evidence that some CBA planners had been charging advice fees to the dead — including, astonishingly, one person who had been dead for a decade, yet whose fees continued flowing to the planner. The client, who died in 2004, was from CBA's Count financial arm; the fees kept coming until 2015. The bank gave such planners

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a warning but failed to report it to ASIC for a further two years.

The story created headlines across the country. But notwithstanding all of the commotion over fees, commissions, advice, and the dangers of crossing ASIC on this issue — plus the apocalyptic prospect of being caught in the spotlight of the royal commission — another bank seemed surprised to find itself in the same boat.

Three days ago, during a highly charged investigation of the practices inside NAB's NULIS super trustee business, former chairwoman Smith admitted NAB had uncovered its own "fees for no service to the dead" scandal — but only in May, when it was prompted to look into its business after witnessing CBA get fried in Hayne's commission over the issue.

If it was possible to imagine anything so ghastly in April, when CBA was stung, it seemed even weirder in August to discover NAB only looked in its books because CBA was in trouble.

ASIC had warned in its 2016 Report 499 that it had been in regular contact with senior bank executives and had sent its report to boards and risk committees in the targeted institutions.

But after the conflicts of interest exposed and the "fees for no service to the dead" revelations this week, NAB's boss Andrew Thorburn found a few words for his (still living) customers. "This week we've been confronted at the royal commission with examples of where we have failed to serve our customers with honour. I'm sorry. And my commitment is that we will learn and get better, so we can once again be a bank you respect and trust," he tweeted.

Both key NAB witnesses this week appeared, not surprisingly, to have been well-rehearsed by their legal teams. One of them, NAB executive Paul Carter, described ASIC's first stunning fees for no service Report 499 as simply "a periodic report", giving the impression there was nothing much to it, certainly not a broadside against the industry.

The impression left by the end of this week was that NAB's reaction to its fees for no service scandal had included efforts to find new definitions for various fees — with the assistance of its internal lawyers — so that they could continue. It had been late with breach reports to ASIC more than 100 times, something that could come under the heading of criminal activity,

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which NAB rejects.

In the case of AMP — it seems a lifetime ago in royal commission terms, but it was only in April — the company lost its chairman, several directors and chief executive. The banks, mindful of this shocking fate, have pulled up the drawbridge, now giving as little as possible rope to the commission.

But the path ahead could still lead to sharp cliffs. A culture of entitlement that led to fees for no service, fees for dead people and insurance sold to those who could never claim can lead to disillusionment. The banks may be too big to fail. But the customer may become too angry to stay.

Even the tantalising imagery of the red sports car, the curves of Monaco and love in the air may not be enough to keep the rubber on the road.

fine and ANZ's newest criminal charges.

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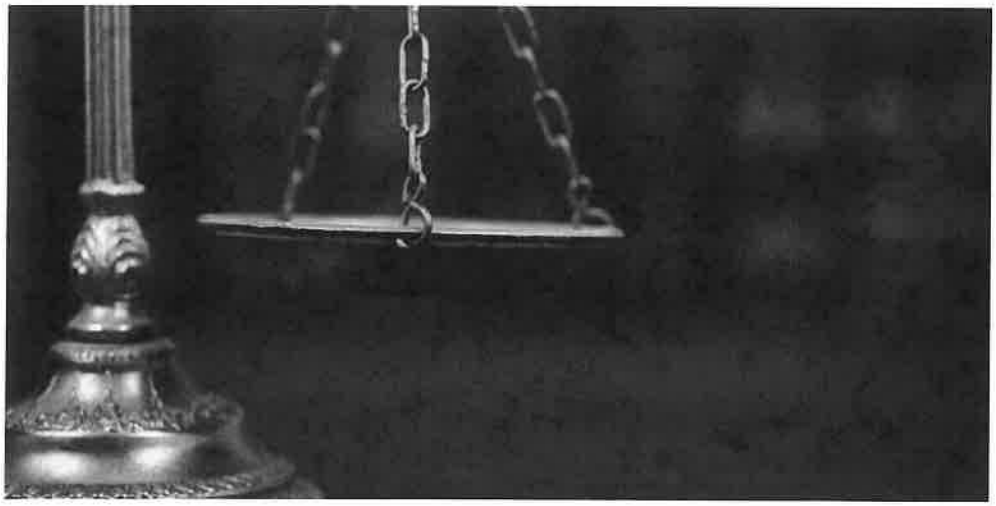

One thing that cannot be said for the Australian financial

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service industry, is that it is pedestrian and mundane. In another explosive week we have seen CBA confirm a monetary settlement with AUSTRAC for their anti-money laundering breaches, and ANZ (and others) steal the spotlight for rare, but significant, criminal cartel charges.

CBA's $700 Million Fine:

Following contraventions of the AML/CTF Act by a staggering 53,750 times between 2015-2017, a monetary settlement has finally been reached between CBA and AUSTRAC. By way of background, these breaches were facilitated by the banks failure to implement sufficient and appropriate risk-based controls to mitigate and manage any money laundering and terrorism financing activities posed by customers by allowing them to deposit vast amounts of cash without the necessary monitoring controls.

One such criminal was Yuen Hong Fung who successfully deposited $670,420 into various accounts he opened using fake identities (in just one day) using CBA's "Intelligent Deposit Machines". The money that Fung deposited came from the sale of methamphetamine which was being transferred to an account in Hong Kong – immediate international transfers being a key benefit of the IDMs.

In a move seen by shareholders as sensible (see the Sydney Morning Herald), Chief Executive of CBA Matt Comyn, negotiated a settlement figure with AUSTRAC in an attempt to draw a line in the sand,

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rather than fight a costly litigation battle. Although the fine needs to be approved by the Federal Court, coming in at $702 million, it will be the largest fine the industry has seen, dwarfing the previous chart-topper of $45 million issued against TabCorp for various AML/CTF breaches.

However, to put these fines into perspective, when you crunch the numbers CBA's fine amounts to just 7% of its net cash profit for 2017, whilst TabCorp suffered a fine which equated to 25% of its net annual profits for the year, for arguably less-serious misconduct.

Matt Comyn voiced his content at settling the outstanding claims by AUSTRAC and said "while not deliberate, we fully appreciate the seriousness of the mistakes we made...[this settlement is] a clear acknowledgment of our failings...[and] I apologise to the community for letting them down". AUSTRAC is equally as content with the outcome as they claim it sends a strong message to the industry that serious non-compliance with AML/CTF obligations will not be tolerated.

Cartel Conduct Investigated by the ACCC and ASIC:

In recent months, we have seen a steady stream of evidence of misconduct, poor compliance culture and ineffective risk management coming out of the Banking Royal Commission. However, this week saw another stain on the industry with criminal allegations made by the ACCC against ANZ, Citigroup and Deutsche Bank for alleged criminal cartel behaviour.

The charges stem back to August 2014 when David Murray (who is expected to join the AMP Board as Chairman later this year), headed an inquiry into

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Australia's financial system. The final report produced by Murray suggested that in order for Australian banks to hold their own in the global market, they needed to become "unquestionably strong". This suggestion had two aims: one was to support competition in the banking industry by reducing the big four's advantage, the other was to reduce the leverage on the housing market by changing the risk weighting on mortgages. The latter would mean the banks would need to increase their capital levels by around $20 billion. APRA responded to the final report, and agreed to give the banks plenty of time to achieve this increase in capital requirements. However, the industry was littered with an unwritten desire not to be last man to cross the finish line.

Between August 2014 and July 2015, NAB and Westpac successfully increased their capital whilst ANZ stood firm that this was not necessarily in their shareholders best interests. However, in July 2015, APRA released a statement that the banking industry would need $28 billion collectively to be among the top quartile of capitalised global banks, swiftly followed by a lift in mortgage risk weighting from 16 to 25 percent.

This was the push ANZ needed and its finance boss, Shayne Elliott, confirmed a $3 billion capital raise via an institutional placement and share purchase plan would be actioned (offered at 5% discount), underwritten by Citigroup, Deutsche Bank and JPMorgan.

In August 2015, ANZ informed the market it had successfully disposed of all 80.8 million shares. But the method in which they disposed of those shares was not disclosed. The reality was that 25.5 million

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shares worth $789.2 million were an overhang from the placement which were subsequently taken up by the underwriters.

There are no detailed charges yet, but the case appears to hinge on how the underwriters disposed of the 25.5 million shares. The ACCC is understood to be relying on the criminal cartel provisions which relate to "controlling the output or limiting the amount of goods and services" available to consumers. The charges have been laid against ANZ, Citigroup and Deutsche Bank with JPMorgan being granted immunity for apparent whistleblowing.

On Monday, the Australian Financial Review suggested that a video conference between ANZ and the underwriters appears to show the parties negotiating how the shares will be sold off in order to minimise any downside risk to ANZ's share price. Notably, after the placement, ANZ Bank shares dropped 7.5 percent which was the biggest fall in almost seven years.

In addition to the alleged Competition and Consumer Act breaches, ASX Listing Rule 3 requires all publicly listed companies to immediately disclose to ASX, any information concerning it that a reasonable person would expect to have a material effect on the price or value of their securities. Unfortunately for ANZ, it is not just the ACCC which is taking a close look at their conduct, ASIC are also concerned it has not met its obligations under the Listing Rules and is investigating a potential breach of the applicable disclosure laws.

The financial services industry is struggling to appear connected with the regulators' concerns over poor corporate culture and compliance. On

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Corrupt former BNZ banker forfeits $850k after taking bribes in $54m mortgage fraud scheme

10 Jul, 2019 6:05pm 4 minutes to read

Lawyer Gang Chen and former banker Zongliang Jiang pictured at the start of their trial. Photo / Michael Craig

By: **Sam Hurley**
New Zealand Herald court reporter.
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A corrupt banker has forfeited $850,000 and will now be eligible for parole sooner after being jailed for taking bribes to facilitate a $54 million mortgage fraud scheme.

Former BNZ staffer Zongliang (Charly) Jiang was sentenced to four years and nine months' imprisonment last year after being found guilty at a lengthy judge-alone trial.

Justice Sarah Katz also imposed a minimum period of imprisonment (MPI) of 50 per cent for the banker, who she said was motivated by greed.

Jiang was one of four people convicted after being charged by the Serious Fraud Office (SFO) over 76 Auckland and Hamilton properties and suspicious mortgages, involving 57 loan applications and 110 transactions.

Auckland property developer Kang Huang, described as the "mastermind and instigator of the scheme", his wife, Kang Xu, and lawyer Gang (Richard) Chen were also convicted of the crimes.

Jiang was one of two bankers taking bribes of $7000 per transaction to approve the loans, the other being former ANZ banker Peter Cheng.

The SFO also wanted to charge Cheng but he fled to China.

Jiang, however, appealed his sentence along with Chen at the Court of Appeal in February.

Today, the appeal court judges, Justice Denis Clifford, Justice Jillian Mallon and Justice Christian Whata, released their decision.

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"Mr Jiang engaged in multiple acts of deception as a trusted bank employee involving $18 million in loans. He also netted $240,000 in secret payments," the ruling reads.

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"We are however satisfied that an MPI was not necessary for Mr Jiang. While the starting point was justified, he was less culpable than either Mr Huang or Mr Chen. He was an otherwise law-abiding citizen."

At the Court of Appeal hearing, the judges heard Jiang had left BNZ midway through the scheme after the bank began to think something was amiss and recalled the loans.

Jiang's farewell from BNZ "wasn't on the best terms" and a non-disclosure agreement was signed, his lawyer Julie-Anne Kincade said.

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Kang Huang, the mastermind of the scheme, was labelled by his wife's lawyer as a "megalomaniac". Photo / Michael Craig

After being targeted by a proceeds of crime forfeiture he also "effectively lost everything", including his performance bonuses for the quantity of transactions he was processing, Kincade added.

The Court of Appeal judges said in today's ruling that the forfeiture had recouped $850,000.

"Mr Jiang also submitted that it was of significance that he has subsequently consented to a forfeiture order made after sentencing which recouped $850,000.50.

"We agree with [Kincade's] submission that Mr Jiang's consent to the forfeiture orders is an important acknowledgement of wrongdoing. We also agree that the forfeiture order is an additional form of denunciation and deterrence. It does not appear [Justice Katz] took these factors into account and in our view, taken together, they justify the removal of the MPI."

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The Court of Appeal judges also quashed Chen's 50 per cent MPI for his six-year prison term but dismissed his appeal of his convictions.

"We agree that Mr Chen occupied a special position of responsibility, as a solicitor, to the banks. His offending involved calculated premeditation over a lengthy period (about two years) involving bank employees at three banks.

"Balanced against this, Mr Chen's previous good character needs to be acknowledged, and the fact that unlike Mr Huang or Mr Jiang, he did not obtain any monetary benefit from the offending. In imposing the MPI on Mr Chen the Judge appears not to have had sufficient regard for those mitigating factors. In our view those factors obviate the need for an MPI. We therefore quash Mr Chen's MPI."

Both Jiang and Chen will now be eligible for parole after serving a third of their prison terms.

Kang Xu was sentenced to 12 months' home detention. Photo / Michael Craig

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Huang's scheme had used his property construction company LV Park to facilitate what Justice Katz called a "premeditated and prolonged" fraud.

The group used false information and documents, or withheld information from banks to obtain property loans of more than $54m between December 2011 and October 2015.

In the summary of her verdicts, Justice Katz found Chen acted as the "middleman" between Huang and Xu while also bribing his "inside contacts" at BNZ and ANZ.

A third overseas bank was used but its name remains suppressed.

Xu, also known as Yan (Jenny) Zhang, was sentenced to 12 months' home detention, while her husband, who pleaded guilty, was sentenced to four years and seven months' jail.

During the trial, Xu's lawyer Adam Simperingham labelled Huang as a "megalomaniac" hiding his true fraudulent nature.

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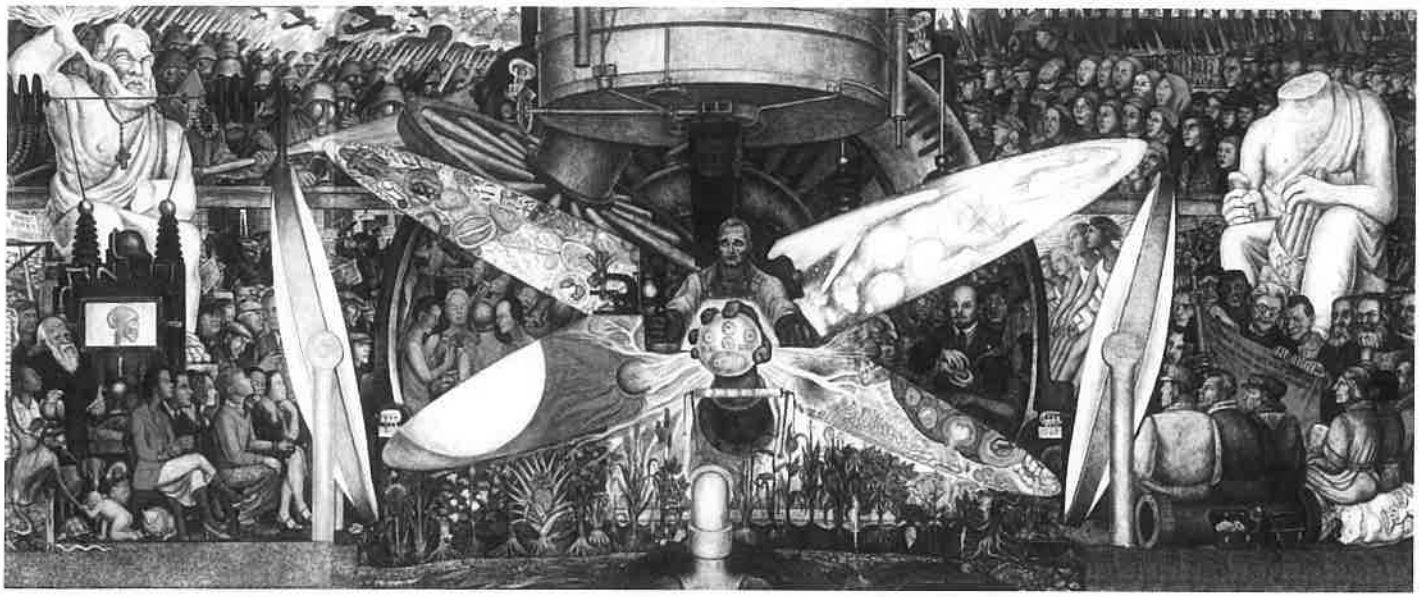

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CRIMINAL FRAUD IS ROUTINE IN THE BIGGEST BANKS: TIME TO PROSECUTE THE BANKERS

June 28, 2012 · *by* symmetrybreaks · *in Short Posts* · *2 Comments*

There was a period of remorse and apology for banks- I think that period needs to be over.

Bob Diamond, Group Chief Executive of Barclays plc.

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On Wednesday, the Commodity Futures Trading Commision (CFTC), US Department of Justice and UK Financial Services (FSA) authority released their statements on Barclays, which is facing a fine of some $450 million. They revealed systematic, routine fraud in the organisation, via the manipulation of the Libor and Euribor rates, the effective interest rates at which banks lend to each other, between the years 2005 and 2009.

These rates set the price for derivatives markets and tiny changes in the rates can yield enormous profits for the company manipulating them. For example, according the CTFC, Libor forms the basis for the Chicago Mercantile Exchange, with a trading volume exceeding $564 trillion, among others, and Euribor is used in derivatives with a notional value of $220 trillion. The value of these markets is many times greater than the economic output of the entire world: global GDP stands at a mere $63 trillion.

Between 2005-2007 Barclays distorted Libor and Euribor rates to favour the bank in derivatives trading. After the financial crash of 2007, after worrying that the high rates would make the bank look vulnerable, they altered the rates in the other direction. The CTFC states:

> *The Bank routinely made artificially low LIBOR submissions to protect Barclays' reputation from negative market and media perceptions concerning*

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Barclays' financial condition

The evidence shows that this culture of fraud and corruption was routine and permeated right the way to the top of the organisation. Yet Barclays was by no means alone in this scandal. The investigation is now going to spread to other companies: it is believed that Citigroup, JP Morgan, Deutsche Bank, HSBC and Royal Bank of Scotland (RBS) were all manipulating rates in precisely the same way. In other words, almost every major banking firm was taking part.

Although the scandal has been unusually large in scale, it is hardly unique. Since the rapid deregulation of the 1980s and 1990s, criminal activity has a mainstream activity of the most powerful banks. Charles Ferguson's brilliant documentary *Inside Job* (which I cannot recommend highly enough- film here, transcript here) details multifarious cases fraud within the largest and most powerful banks.

In 2002, ten investments banks (Bear Stearns, Credit Suisse, Deutsch Bank, J.P. Morgan, Merril Lynch, Morgan Stanley, UBS, Goldman Sachs and Citigroup) were collectively fined 1.4 billion dollars for promoting and profiting from internet companies they knew would fail. J.P. Morgan bribed US government officials, Riggs Bank laundered money for General Pinochet, Credit Suisse helped to launder money for Iran's nuclear program, violating government sanctions, Citibank funnelled $100 million of drug money out of Mexico. Fannie Mae faced fines of $400 million for overstating earnings by more than £10 billion between 1998 and 2003. Freddie Mac was fined $125 million for accounting fraud in 2003. UBS (as mentioned in a previous article) was fined $780 million for illegal tax evasion. It was forced to release information which eventually helped to expose the recent Libor scandal. Citibank, J.P. Morgan and Merrill Lynch were fined $385 million for helping ENRON to conceal its fraud.

Banks were routinely committing fraud to profit from the mortgage market in the run up to the financial crisis of 2007. According to Charles Ferguson:

> *Goldman Sachs bought at least 22 billion dollars of credit default swaps from AIG. It was so much that Goldman realized that AIG itself might go bankrupt; so they spent 150 million dollars insuring themselves*

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> *against AIG's potential collapse. Then, in 2007, Goldman went even further. They started selling CDOs specifically designed so that the more money their customers lost, the more money Goldman Sachs made...*
>
> *Hedge fund manager John Paulson made 12 billion dollars betting against the mortgage market. When John Paulson ran out of mortgage securities to bet against, he worked with Goldman Sachs and Deutsche Bank to create more of them. Morgan Stanley was also selling mortgage securities that it was betting against.*

Fraud was at the heart of how the financial services industry operated at the time of the financial crisis (and how they still do). Executives knowingly awarded larger bonuses to themselves and colleagues, based on illusory profits which were then wiped out by subsequent losses on the same assets. Executives at Lehman Brothers deceived officials about their company's financial position in 2008. Executives as Bear Stearns seem to have pocketed money that should have gone to investors.

The Department of Justice has decided not to prosecute these and other matters. Almost no senior bankers have been prosecuted in the USA and UK since the Savings and Loans crisis in the early 1980s. Even since the financial crisis, prosecutions have been scarce, one exception being Angelo Mozilo, chief executive of Countrywide Financial until 2008, who was sentenced for insider trading and fraud. He faced a fine of just $67.5 million, a small fraction of the $470 million he made from the housing bubble. Partly, the lack of prosecutions is because no authorities have the power and scope to deal with international crimes on this scale, but also due to new guidelines issued by the Justice Department in 2008 urging a "softer approach" to corporate crimes.

It's hard to explain this lax approach to the largest financial crimes in history. Part of the reason must surely be the huge influence that these corporations hold over the government and the bodies that should be regulating them, in both the USA and the UK. Lynn E. Turner, former Chief Accountant of the US Securities & Exchange Commission (SEC) argues that it is "the influence of the Wall Street lobby that has resulted in a lack of prosecution". The top leadership at the Department

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of Justice draws almost exclusively from White Collar Criminal Defence practices at large firms that represent the very firms that it should be investigating. As Forbes has pointed out:

> *Covington and Burling, the firm from which both Attorney General Eric Holder and Associate Attorney General and head of the criminal division Lanny Breuer hail, has as its current clients Goldman Sachs, Bank of America, JP Morgan, Wells Fargo, Citigroup, Deutsche Bank, ING, Morgan Stanley, UBS, and MF Global among others. Other top Justice officials have similar connections through their firms.*

So we shouldn't be surprised that the culture of fraud and criminality is ubiquitous. The largest banks believe that their power puts them above the law. By and large, they are right. The fines have been large, but the profits being made by these schemes have also been huge. As long as they think it statistically unlikely that they will get caught, this sort of fraud remains a rational activity for the most powerful firms. Given that the risk of facing criminal prosecution for even the largest fraud is minuscule, and the potential profits astronomical, there are significant incentives for the largest banks to commit financial fraud. In his recent Reith Lecture, economic historian Niall Ferguson, by no means a radical left-winger, argued:

> *But greedy people will only commit fraud or negligence if they feel that their misdemeanour is unlikely to be noticed or severely punished. The failure to apply regulation – to apply the law – is one of the most troubling aspects of the past five years. In the United States, the list of those who have been sent to jail for their part in the housing bubble, and all that followed from it, remains laughably short.*

If we are to avoid future financial crises, and cases of wide-scale corruption, we need to enforce the rule of law, even on the most powerful corporations. This must involve serious sentences -including imprisonment- for those found guilty of significant fraud. This *is* possible: in the Savings and loans crisis of the 1980s, more than 800

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05/05/2013

bank officials were jailed. Iceland's socialist government has insisted on prosecuting fraudulent bankers, including Kaupthing Bank's the former chief executive and chairman. Even former Prime Minister Geir Haarde is facing trial for criminal negligence. If we are to change the incentives of our powerful corporations, to prevent future cases of fraud and future financial crises, it is essential that we follow this example. It is time to prosecute corporate criminals.

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Eric Holder (Credit: AP/J. Scott Applewhite)

JOSEPH AND MARY ROMERO OF CHIMAYO, N.M., FOUND THAT THEIR MORTGAGE NOTE WAS ASSIGNED TO THE BANK OF NEW YORK THREE MONTHS *AFTER* THE SAME BANK FILED A FORECLOSURE COMPLAINT AGAINST THEM; IN OTHER WORDS, BANK OF NEW YORK DIDN'T OWN THE LOAN WHEN THEY TRIED TO FORECLOSE ON IT.

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GLENN AND ANN HOLDEN OF AKRON, OHIO, FACED FORECLOSURE FROM DEUTSCHE BANK, BUT THE COMPANY FILED TWO DIFFERENT VERSIONS OF THE NOTE AT COURT, EACH BEARING A STAMP AFFIRMING IT AS THE "TRUE AND ACCURATE COPY."

MARY MCCULLEY OF BOZEMAN, MONT., HAD HER LOAN CHANGED BY U.S. BANK WITHOUT HER KNOWLEDGE, FROM A $300,000 30-YEAR LOAN TO A $200,000 LOAN DUE IN 18 MONTHS, AND IN DOCUMENTS SUBMITTED TO THE COURT, U.S. BANK INCLUDED FOUR SEPARATE LOAN APPLICATIONS WITH DIFFERENT TERMS.

ALL OF THESE EXAMPLES, FROM ACTUAL COURT CASES RESOLVED OVER THE LAST TWO MONTHS, RENDERED RARE JUDGMENTS IN FAVOR OF HOMEOWNERS OVER BANKS AND MORTGAGE LENDERS. BUT DESPITE THE FACT THAT THE NATION'S COURTROOMS REMAIN ACTIVE CRIME SCENES, WITH BACKDATED, FORGED AND FABRICATED DOCUMENTS STILL SLOSHING AROUND THEM, STATE AND FEDERAL REGULATORS HAVE NOT FILED NEW CHARGES OF MISCONDUCT AGAINST BANK OF NEW YORK, DEUTSCHE BANK, U.S. BANK OR ANY OTHER MORTGAGE INDUSTRY PARTICIPANT, SINCE THE ROUND OF NATIONAL SETTLEMENTS OVER FORECLOSURE FRAUD EFFECTIVELY CLOSED THE ISSUE.

MANY FOCUS ON HOW THE FAILURE TO PROSECUTE FINANCIAL CRIMES, BY ATTORNEY GENERAL ERIC HOLDER AND COLLEAGUES, CREATE A LACK OF DETERRENT FOR THE PERPETRATORS, WHO WILL SURELY SIN AGAIN. BUT THERE'S SOMETHING ELSE THAT HAPPENS WHEN THESE CRIMES GO UNPUNISHED; THE ROOT PROBLEM, THE LEGACY OF FRAUD, NEVER GETS FIXED. IN THIS INSTANCE, THE UNDERLYING OWNERSHIP ON POTENTIALLY MILLIONS OF LOANS HAS BEEN PERMANENTLY CONFUSED, AND THE RESULTING DISARRAY WILL CAUSE CHAOS FOR DECADES INTO THE FUTURE, HARMING HOMEOWNERS, INVESTORS AND THE BROADER ECONOMY. HOLDER'S CORRUPT BARGAIN, TO LET WALL STREET WALK, COMES AT THE COST OF PERMANENT DAMAGE TO THE LARGEST MARKET IN THE WORLD, THE U.S. RESIDENTIAL HOUSING MARKET.

BY NOW WE KNOW THE DETAILS: DURING THE RUN-UP TO THE HOUSING BUBBLE, BANKS BOUGHT UP MILLIONS OF MORTGAGES, PACKAGED THEM INTO SECURITIES AND SOLD THEM AROUND THE WORLD. AMID THE FRENZY, LENDERS FAILED TO FOLLOW BASIC PROPERTY LAWS, WHICH ENSURE LEGITIMATE TRANSFERS OF MORTGAGES FROM ONE LEGAL OWNER TO ANOTHER. WHEN MASS FORECLOSURES RESULTED FROM THE BUBBLE'S COLLAPSE, BANKS WHO COULD NOT DEMONSTRATE THEY OWNED THE LOANS GOT CAUGHT TRYING TO COVER UP THE IRREGULARITIES WITH FALSE DOCUMENTS. FEDERAL AUTHORITIES MADE THE OFFENDERS PAY FINES, MUCH OF WHICH BANKS PAID WITH OTHER PEOPLE'S MONEY. BUT THE SETTLEMENTS PUT A BAND-AID OVER THE MISCONDUCT. NOBODY WENT IN, LOAN BY LOAN, TO TRY TO EQUITABLY CONFIRM WHO OWNS WHAT.

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NAB admits 255 breaches of credit law

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Former NAB adviser charged by court

April 18, 2019 IFA- Indipendent Financial Adviser

In June last year, ASIC permanently banned NSW-based adviser Max Kiattisak Eung for numerous incidents of dishonest conduct, including creating false bank accounts under clients' names.

ASIC alleges that between March 2016 and December 2016, Mr Eung dishonestly obtained a financial advantage of funds totalling $166,500 from accounts held with MLC Limited and Nulis Nominees (Australia) Limited in circumstances where the account holders did not authorise the withdrawal of those funds from their accounts.

Mr Eung was an authorised representative and financial adviser of NAB from 21 May 2015 to 20 December 2016.

ASIC said the offences each carry a maximum penalty of 10 years imprisonment, and that the matter is being prosecuted by the Commonwealth Director of Public Prosecutions.

The matter has been adjourned by consent for further mention on 7 May 2019 at the Downing Centre Local Court in Sydney.

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FINANCE FINANCE NEWS

11:44am, Nov 15, 2019 **Updated: 12:05pm, Nov 15**

NAB faces hefty penalty after admitting money-laundering breach

NAB has admitted breaches of money-laundering and counter-terrorism laws.

National Australia Bank faces the prospect of further remediation and a huge fine after it revealed it might have made multiple breaches of counter-terrorism and anti-money laundering laws.

Alex Druce

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The lender said in its annual report on Friday it might have been involved in a breach or alleged breach of laws governing bribery, corruption and financial crime.

It said it had provided documents and information to the financial intelligence watchdog.

NAB said it was unsure how deeply the issue had run and how significant any AUSTRAC penalty would be.

Commonwealth Bank was fined **a record $700 million** in 2018 for serious breaches of the same laws.

NAB said it had self-reported "a number" of issues to finance intelligence agency AUSTRAC, and was investigating and remediating several counter-terrorism and anti-money laundering breaches.

The bank accepted any confirmed wrongdoing would further harm its reputation and bottom line, both of which have already copped a hiding in the wake of **misdeeds uncovered by the financial services royal commission**.

"The potential outcome and total costs associated with the investigation and remediation process remain uncertain,"

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the bank said in its annual report.

"Given the large volume of transactions that the group processes, the undetected failure of internal AML/CTF controls, or the ineffective implementation or remediation of compliance issues, could result in a significant number of breaches ... and significant monetary penalties."

Shares in the bank had dipped by 1.26 per cent to $27.45 by 11.30am (ADST) on Friday.

-AAP

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		-0.0003 (-0.0389%)	-0.38 (-0.60%)	-2.60 (-0.17%)

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NAB facing a 700 million fine by USTRAC?

Tristan Harrison
Motley Fool 15 November 2019

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There is a chance that **National Australia Bank Ltd** (ASX: NAB) could face a large fine by AUSTRAC, which it admitted in its annual report today.

The major ASX bank released its full annual report this morning which includes more review and commentary of its operations than the preliminary report which was released earlier this month.

In the full report the company said that it may be involved in a breach or alleged breach of laws governing bribery, corruption and financial crime.

NAB pointed out that in June 2018 Australia's financial intelligence agency AUSTRAC reached an agreement with **Commonwealth**

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Bank of Australia (ASX: CBA) for a $700 million penalty relating to serious breaches of anti-money laundering (AML) and counter-terrorism financing (CTF) laws.

NAB has self-reported a number of AML/CTF breaches to the relevant regulators and has responded to a number of requests from regulators for information and documents.

The big bank said it's currently investigating and fixing a number of AML/CTF compliance issues. At this stage the potential outcome and total cost of this is uncertain.

Identified issues include certain weaknesses with the implementation of 'Know Your Customer' requirements.

NAB warned about the potential size of the breaches, "Given the large volume of transactions that the Group processes, the undetected failure of internal AML/CTF controls, or the ineffective implementation or remediation of compliance issues, could result in a significant number of breaches of AML/CTF obligations and significant monetary penalties for the Group.

The post Is NAB facing a $700 million fine by AUSTRAC? appeared first on Motley Fool Australia.

Foolish takeaway

Regulation issues seem to be a constant theme for major banks these days. When you combine that with higher capital requirements I think the banks aren't worth holding for the long-term.

For growth and dividends I would much rather own **these top ASX dividend shares** over NAB.

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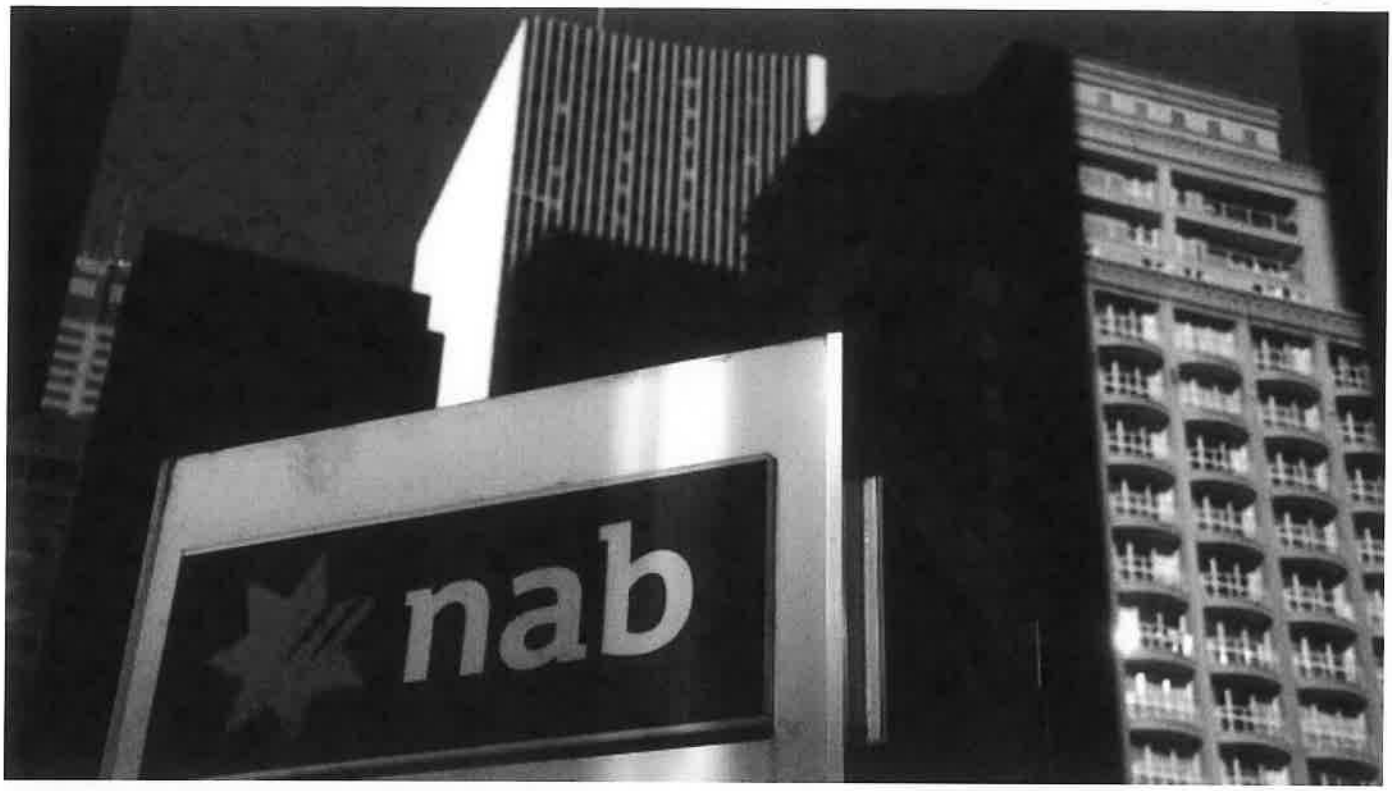
Financial & markets regulation

Regulator sues National Australia Bank over 'unlicensed brokers'

Case is expected to be the first of many following public inquiry into financial sector



NAB's "introducers programme" generated A$24bn in loans and as much as A$150m in commissions for non-employees who referred customers to the bank © Reuters

Jamie Smyth in Sydney AUGUST 23 2019

Australia's corporate regulator is suing National Australia Bank for allegedly allowing unlicensed brokers to refer customers for loans in breach of the country's consumer protection law.

The action, which was initiated on Friday, marks the start of an expected onslaught of court proceedings flowing from a national inquiry into misconduct in the finance industry that criticised regulators for not being tough enough.

The Australian Securities and Investments Commission has said it is reviewing up to 50 potential legal actions, as part of a new "why not litigate?" strategy.

Asic said the Federal Court action related to the conduct of 16 bankers, who allegedly accepted loan information and documentation from 25 unlicensed introducers in relation to 297 loans in breach of the National Credit Act.

Each breach of the law is subject to a civil fine of up to A$1.8m ($1.2m), the corporate watchdog

added.

A$24bn

The value of loans generated by the NAB 'introducers' programme'

"The imposition of a licensing regime was intended to address concerns that third-party referrers (including brokers and introducers) may misrepresent consumers' financial details to ensure loans are approved, and their commissions are paid, in circumstances where the consumers' true financial position means that the loan should not be made," Asic said in a statement.

The suit relates to NAB's "introducers programme", which was criticised during the inquiry over how it generated A$24bn in loans and as much as A$150m in commissions for non-employees who referred customers to the bank.

The inquiry concluded such programmes needed to be better regulated to ensure introducers did not exceed their roles.

Sharon Cook, NAB's chief legal and commercial counsel, said the bank was taking the allegations seriously and had taken on board the issues raised in the inquiry, the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, and understood its actions needed to change to meet the expectations of customers and the community.

"That's why in March this year we announced we would be ending referral payments to introducers," Ms Cook said. "We also established a remediation programme in November 2017 to assist impacted customers."

Public hearings heard how the introducers programme contributed to a fraud in western Sydney, where NAB employees accepted cash bribes in envelopes over the counter to facilitate loans they knew were based on false documentation to meet bonus targets.

In May a former NAB banker, Andrew Matthews, was jailed for eight months after being found guilty of defrauding NAB of A$640,000 by exploiting the introducers programme.

Mr Matthews, who bought a Ferrari with the proceeds of the crime, had an arrangement whereby he nominated a friend as the "introducer" for 129 loans. The friend, who the court found had never met the loan applicants, subsequently funnelled 90 per cent of the commissions he earned back to Mr Matthews.

Introducers under NAB's programme were meant only to provide the bank with the potential customer's name and contact details. In order for an introducer to provide NAB with further information or documents, the law required that the introducer be authorised under an Australian credit licence.

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Asic alleges the NAB bankers cited in its legal action accepted information and documentation from the 25 unlicensed introducers, including completed home loan applications, payslips, copies of customer identification documents and more.

This behaviour can pose a serious risk to consumers, as in some instances the documents provided to NAB by the unlicensed introducers were false, according to Asic.

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NEWS

Serious Fraud Office sets out case for how former BNZ and ANZ bankers were allegedly paid off to accept 57 fraudulent mortgage applications

27th Feb 18, 7:53am *by* Jenée Tibshraeny

05/05/2023

The SFO accuses Richard of paying Charly, as well as a banker who worked at ANZ (Peter Cheng) but fled the country before he was arrested, $511,303 in kickbacks for processing the applications.

Instigator already sentenced

Presenting the prosecution's opening submissions in court on Monday, lawyer Todd Simmonds said a fifth person in the scheme - the owner of the construction business LV Park, Kang (Thomas) Huang - was the instigator.

He explained Thomas and his wife Jenny were declared bankrupt between 2011 and 2013.

LV Park's primary source of funding was from a private lender, Basecorp Finance. Charging interest of up to 16% p.a., Thomas used the names of his family, friends and employees to secure cheaper mortgages from banks on behalf of LV Park.

Fake IDs, bank statements and employment letters were used to support the fraudulent mortgage applications.

Thomas was **sentenced on February 9** to four years and seven months in prison, having admitted to eight charges of 'obtaining by deception', one of 'corruptly giving consideration to an agent', and one of' dishonest use of a document'.

The trio on trial

While Simmonds said Thomas co-ordinated the funding, he accused Jenny of actually forging the documents and supplying the banks with these.

She faces 34 Crimes Act charges of 'obtaining by deception'.

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Simmonds said the SFO found templates used to create the documents when it executed a search warrant at LV Park's Queen Street offices in central Auckland.

He told the court a number of the mortgage applications were also made by the lawyer, Richard.

While initially Richard and Thomas were acquaintances, LV Park soon become Richard's key client.

Simmonds said Richard was "heavily involved" in the transactions, and even made some of the supposed property purchases himself.

Richard faces 11 charges (including two representative charges) of 'obtaining by deception'.

He is accused of failing to inform the banks of the fact LV Park was the true borrower behind the mortgage applications.

He also faces a representative Secret Commissions Act charge of 'corruptly giving consideration to an agent' for paying off the BNZ and ANZ bankers.

The former BNZ employee, Charly, faces a representative Secret Commissions Act charge of 'corruptly accepting' $260,303 in kickbacks.

He also faces 25 charges of 'obtaining by deception'.

The SFO alleges the former ANZ employee, who is believed to be in China, received $258,000 from Richard.

Prosecution to call 35 witnesses

Simmonds said the prosecution would be calling 35 witnesses to give evidence in the judge-alone trial.

He said SFO forensic accountant, Blair Bulloch, was expected to spend two to three weeks walking the court through a 414-page statement aimed at explaining all the transactions.

The banks, a real estate agency, property valuation company, and former LV Park contractor are also among those expected to give evidence, as well as Thomas and Jenny's parents.

Simmonds alleges the parents were essentially "puppets", whose names appeared on records, but had no involvement in the business.

Interest.co.nz will report on the defence's opening submissions in coming days.

Please note Interest.co.nz has referred to the defendants by their English first names, rather than their surnames, for ease of reading.

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SFO BNZ ANZ HIGH COURT FRAUD MORTGAGE FRAUD AUCKLAND HOUSING MARKET PROPERTY 05/05/2023

ANNEX B

05/05/2023

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Letter of Advice – Rapid Repay Home Loan

D00528394

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including certain key information that is required to be set out in a Disclosure Statement by the Credit Contracts and Consumer Finance Act 2003

Bank of New Zealand

Bank Address: **125 Queen Street, Auckland.**

DISCLOSURE STATEMENT DATE: **9 November 2007.**

TO: **The persons named in the Schedule of borrowers being the Trustee(s) of Kakahu Trust.**

ADDRESS: **33 Slant Street**
Careys Bay
Dunedin

("Customer")

We offer to provide a Rapid Repay Home Loan *facility* to *you* on the terms:

- set out below;
- ☐ in the Home Loan – Facility Master Agreement as amended from time to time (*"agreement"*);
- In the Facility Fees section of the Personal Account, Service and Facility Fees Brochure (as amended by *us* from time to time); and
- in any other *facility documents*.

The *facility* will be available on *your* Ready Money Account identified in clause 7 (*"specified account"*). The terms of this *facility*, the terms and conditions of *your specified account*, and any other agreements between *you* and *us* are separate contracts unless *we* specify otherwise. The terms of this *facility* apply, in addition to the terms and conditions of *your specified account*, when *your specified account* is used to borrow money under the *facility*.

We will make this *facility* available to *you* on the date *you* nominate if, by that time, *you* have accepted *our* offer by signing and returning this *Letter of Advice* to *us*. *You* may return it to *us* by facsimile.

Words in *italics* in this *Letter of Advice* have the same meaning as in the *agreement*.

Parts 2 and 3 of the Credit Contracts and Consumer Finance Act 2003 only apply to this *Letter of Advice* if *you* are an individual and, at the time *you* enter into this *Letter of Advice*, *you* do so primarily for personal, domestic or household purposes.

Type of Facility: Rapid Repay.

Credit Limit at commencement of *term*: four hundred fifteen thousand dollars zero cents ($415,000.00).

From the month after the month in which this *facility* becomes available, *we* will reduce *your credit limit* by the relevant *reduction amount* on the last *business day* of each month.

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Reduction amount means, for any month, an amount equal to the amount of principal that would be repayable that month (on the basis of a fully amortising table loan), if *you* had borrowed a *loan amount* equivalent to *your credit limit* with the same *end date* as the relevant *facility* (based on the *agreed annual interest* rate for that month)

1 **Initial Unpaid Balance: NIL (as at the date of this *Letter of Advice*/statement).**

2 **Term: Twenty-Five years** from the date *you* first borrow money under this *facility*.

3 **Interest Details:**

Method of charging interest: Interest charges are calculated by multiplying the *amount outstanding* at the end of the day by the daily interest rate. The daily interest rate is calculated by dividing the *agreed annual interest rate* by 365. Unless otherwise provided in the *agreement* or this *Letter of Advice*, interest will be debited from the *specified account* on the last *business day* of each month. A minimum debit interest charge of $1.00 per month applies.

3.1 *Agreed annual interest rate*:

3.1.1 As at the date of this *Letter of Advice*/statement the *agreed annual interest rate* is **10.55%** per annum. This comprises the Rapid Repay Variable Rate (currently **10.55%** per annum) plus a *customer margin* of **0%** per annum. The prevailing standard interest rate (without the *customer margin*) is ascertainable by contacting any of *our* branches or visiting www.bnz.co.nz.

3.2 Default interest rate; a per annum rate **2.00%** greater than the *agreed annual interest rate* prevailing at that time. If *you* fail to pay any amount to *us* when it falls due, *we* may charge *you* interest at the default interest rate on a daily basis on the overdue amount, calculated from the date that amount became due until the date it is actually paid. Such amount will be immediately due and payable.

4 **Payment Details:**

4.1 *Agreed dates*: Any date on which, but for the payment of the *minimum payment*, the *amount outstanding* would exceed *your credit limit*.

4.2 *Minimum payment*: An amount so that the *amount outstanding* does not exceed *your credit limit*.

5 **Security:**

5.1 The following *securities* (which secure all obligations of *you* to *us*, unless otherwise specified) are to be, or have been, taken by *us*. If *you* default under this *facility* or the *agreement*, *we* may be entitled to repossess and sell any property specified as a *security* and make demand on any *Guarantor*

5.1.1 Existing Registered Mortgage over property situated at 33 Blueskin Road, Careys Bay, Dunedin.

6 **Fees, Premium and Rebates:**

6.1 Establishment fee of **$250.00**, payable on signing this *Letter of Advice*.

5/5/23

6.2 The fees and premiums set out in Facility Fees section of the accompanying Personal Account, Service and Facility Fees Brochure (which section forms part of this *Letter of Advice*/statement) are, or may become, payable under the terms of this *facility*.

6.3 Charges for keeping accounts, activity fees, base fees, honour/dishonour fees and other fees and premiums set out in the Account Fees and Service Fees sections of the accompanying Personal Account, Service and Facility Fees Brochure are, or may become, payable under the terms and conditions of *your specified account*, subject to any fee rebates *you* are eligible for as set out in that Brochure.

6.4 *You* may be required to pay a fee relating to any property the subject of a *security* taken in connection with this *facility*, including:

a. a fee for a valuation of the property if a valuation is required by *us* of an amount determined by, and payable to, the provider of that valuation;

b. a fee for an engineer's report in relation to the property if a report is required by *us* of an amount determined by, and payable to, the provider of that report;

c. a fee for any legal services incurred in connection with the preparation, execution and/or registration of the *facility documents* of an amount determined by, and payable to, the provider of those services;

d. an insurance premium for insurance of the property the subject of a *security* of an amount to be determined by the insurance provider; and

e. a fee for registration of any mortgage taken by *us* in connection with this *facility* or any discharge of that mortgage payable on registration and discharge of the mortgage respectively.

6.5 Default Fees:

a. a fee may be payable to compensate *us* for a reasonable estimate of any loss incurred by *us* in the event of *your* default under this *facility*;

b. a charge may be payable to compensate *us* for any costs *we* incur in recovering any money owing under this *facility* in the event of *your* default under this *facility*.

6.6 Fees payable under the terms of this *facility* will be debited monthly from the *specified account* on the last *business day* of each month.

7 **Specified Accounts:**

7.1 *Specified account* (which is *your* Ready Money account): **02-0912-0064824-083**

8 **Special Conditions:**

8.1 Other:

8.1 1 *You* confirm that *you* have not created or executed any further *security* over any part of the property described in the "*Security*" section of this *Letter of Advice* and that there have not been any other dealings lodged on any title (without limitation, for instance a caveat), without *our* written approval or consent, since any *security* in *our* favour was executed by *you* or any *Guarantor*/third party and *you* agree not to deal with the title of any property subject to any *security* in *our* favour without *our* prior written consent to any such dealing and that *we* can demand immediate payment of any amount outstanding or reduce *your credit limit* if there are any dealings lodged on the title of any property subject to any *security* in *our* favour provided by *you* and/or any *Guarantor*/third party, without *our* prior written consent to any such dealing.

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9 **Disclosure (including continuing disclosure):**

9.1 *You* acknowledge that *you* have been handed a completed copy of this *Letter of Advice*, the agreement, the Personal Account, Service and Facility Fees Brochure, and the terms and conditions of *your specified account* and any *facility documents* that have not been previously disclosed to *you*.

9.2 Continuing disclosure statements relating to the *facility* will be sent to *you* on a monthly basis ("statement period"). The statement will describe the balance, each advance during the statement period, any interest or fees during the statement period and the amount and time of your next payment.

Schedule Of Borrowers

Makoura Scott in their capacity as Trustee(s) of Kakahu Trust established by Deed of Trust dated 22 May 2006.

Signed on *our* behalf by:

Per.....

(Signature) (Name) (Position)

I/We accept the above offer.

Important note for Trustees

If you are signing this document in your capacity as a trustee of a trust you are as personally liable under this document as you would be if you had entered into it in your personal name only.

This is the case even if you add after your signature the words "as trustee". You should note:

- *the Bank need not wait until you have been indemnified out of the assets of the trust before requiring you to make any payments due to the Bank;*
- *as a trustee, subject to the terms of the trust deed governing the trust, you will only be entitled to be indemnified out of the assets of the trust for expenses that have been properly incurred by you;*
- *if the trust's assets are insufficient to indemnify you in full, you will have to meet the shortfall from your personal resources.*
- *Your personal liability is not limited by this document except if you are a trustee acting in an independent capacity and you have no interest in the assets of the trust except as a trustee or appointer (i.e. you are not a beneficiary of the trust), in which case your liability under this document is limited to the extent of the value of the trust's assets (as set out in the Limitation of Trustee Liability contained in this document).*

If you have any questions regarding your liability as a trustee under this document you must seek professional legal advice.

05/05/2023