



BANKING AND FINANCE

Standing up to greed and power

A Royal Commission and stronger consumer protections

The financial sector has been riddled with scandals in recent years. The five largest banks have all been implicated. Tens of thousands of Australians have been wronged. A Royal Commission is needed to get to the heart of the issue, and stronger regulations are needed to protect the public.

Banking is not what it used to be. In the digital and deregulated age, it has become bigger, faster and omnipresent. Money can be moved almost anywhere and at any time of any day. Compulsory superannuation has given everyone a stake in the market. Financial advice has become a mainstream service.

The new world of banking offers a range of opportunities to consumers. But it also presents new problems. The global financial crisis (GFC) demonstrated how incredibly complicated and interwoven markets have become, and the scale of the problems that this can cause. The Greens recognise that banks provide an essential service. But they have also become too powerful and too greedy.

> A ROYAL COMMISSION

The Australian financial sector has been riddled with scandals over recent years. Misconduct has been uncovered at the financial advice arms of the Commonwealth Bank, National Australia Bank, ANZ and Macquarie. ANZ and Westpac have been charged with rigging interest rates. The Commonwealth Bank is alleged to have fraudulently denied life insurance claims. And the full horror of the collapse of forestry investment schemes has implicated ANZ and Bendigo & Adelaide Bank.

These scandals have been uncovered thanks to the bravery of whistle-blowers, the determination of investigative journalists, and the work of senate inquiries. But there is much more that needs to be explored, including the collapse of forestry managed investment schemes which is grounds alone for a Royal Commission based on scale of loss.

A Royal Commission with all of its resources and coercive powers is needed to uncover the full extent of misconduct in banking and insurance. A Royal Commission would be able to examine the structural issues that unpin this behaviour. A Royal Commission would give victims of white-collar crime a platform for their story to be heard in full. Royal Commissions have been used to examine financial scandals in the past, most recently after the collapse of HIH Insurance. A Royal Commission would cost \$53 million. This is a good investment and it is what is needed to get to the heart of the problem.

> RETAIL VS INVESTMENT BANKING?

At the heart the modern financial system is the 'vertically integrated' business model. Investment products are now being offered alongside conventional deposit and loan services. This has created conflicts of interest between what is good for a customer and what is good for a bank. Consumers have been sold risky and convoluted financial products that they cannot be expected to make informed decisions about. Ordinary people have lost money after being advised against their best interest.

The Greens would use a Royal Commission to fully examine the problems associated with the 'vertically integrated' model. This would include looking at 'breaking up the banks' to separate retail banking from financial advice and investment banking.

> PAYING FOR BEING TOO-BIG-TO-FAIL

Australia also has one of the most concentrated banking sectors in the developed world. The 'big-four' hold nearly 80% of the loans market.¹ The Commonwealth Bank, National Australia Bank, ANZ Bank and Westpac are all too-big-too-fail.

The problem of too-big-too-fail became acute at the height of the GFC. To safeguard against a run on the banks, the government introduced a deposit guarantee. This guarantee remains in place, but the major parties have abandoned a plan to apply a levy for the privilege.

The big banks also benefit from the market's expectation that the government will bail them out. The Reserve Bank estimates that the market advantage of being too-big-to-fail is worth between 20 and 40 basis points on the cost of credit.²

So the government covers the big banks' risks but they don't have to pay a cent. This creates moral hazard and leaves the public exposed to private losses. The Greens would apply a tax deductible levy of 0.20% on the asset base of institutions worth

¹ APRA, Quarterly Authorised Deposit-taking Institution Performance, September 2015.

² Australian Financial Review, Taxpayer subsidy worth billions for major banks, 26 May 2016.

greater than \$100 billion. This measure would raise nearly \$15 billion over the forward estimates.

The rate of the levy is equal to the lower bound of the RBA's estimate of the value of an implicit government guarantee. It is also the value suggested by the IMF based on the average benefit of implicit guarantees throughout the G20.³

> PENALTIES FOR WHITE-COLLAR CRIME

The recent spate of financial scandals indicates that current penalties for misconduct are not sufficient to deter bad behaviour. Many companies seem to be factoring in the relatively small fines as the cost of doing business.

The Greens would increase the level of penalties that can be applied to make them commensurate with those applied in other advanced economies. For criminal offences, this would be the greater of \$5 million or 3 times the benefit gained. For civil and administrative offences, this would be the greater of \$1 million, or 3 times the benefit gained.

The Greens would also increase the range of administrative penalties available to regulators so that they are more easily able to penalise those who have done wrong. This would include making 'on the spot fines' available for smaller offences. These would require a lower burden of proof and would help regulators avoid costly and protracted court cases.

Finally, The Greens would make it easier for regulators to pursue recovery of ill-gotten gains. Currently, ASIC and other regulators need to engage prosecutors to pursue the proceeds of crime. In combination with the increased level and range of penalties, this will provide real deterrence and force financial institutions to improve their culture.

> WHISTLE-BLOWER PROTECTIONS

In the previous parliament, the Greens negotiated with Labor to pass new laws to enshrine legal protections for public servants and contractors that expose wrongdoing in the public service. It is time to extend these protections to private sector workers.

But offering legal protections is not always enough for people to risk their financial security, job security and mental health. It is time to follow the lead of US and provide rewards for whistle-blowers that expose misconduct that enables authorities to reclaim money. The US False Claims Act offers whistle-blowers a defined proportion of reclaimed money that is found to be wrongfully gained.

> BETTER CONSUMER PROTECTIONS

Banks and other lenders continue to charge fees and interest rates that do not reflect the cost of the service and are not made clear to consumers. These charges disproportionately impact upon the young and poor.

Principal among exorbitant fees are those charged to use ATM machines. It should not cost consumers \$2.50 to access their

money. In line with recent changes to credit card fees, The Greens would make it illegal to charge excessive ATM fees.

Payday lenders business model involves enticing vulnerable consumers into a debt trap. The Greens would cap establishment fees at 10% for loans less than \$2,000, and cap monthly repayment fees at 2%. These are the levels originally proposed by Labor when they were last in government.

The Greens would also reinstate the time limit on banks holding unclaimed monies in dormant bank accounts to three-years. The government extended the period before a bank has to hand over money to seven-years. This means consumers have to wait another four years to retrieve 'forgotten' money with the help of a publicly searchable database.

Finally, The Greens would introduce a system of full account portability. The digital age makes 'identity transfer' relatively easy. People can carry mobile phone numbers from one provider to another. The same option should be available to consumers in banking. The Greens would require the adoption of a common data system to make it easier to change banks.

> STOP GIVING HOUSING A FREE PASS

Australia is in the midst of a housing bubble that is being fuelled by speculators. However, investment property is not treated as a financial product. This has allowed dodgy developers to entice people into projects that have not gotten off the ground. It also allows 'property investment providers' to provide financial advice that they are not qualified to provide and for commissions to be passed on to mortgage brokers. This is exacerbating the level of speculation in the market. The Greens would include loans for investor properties within regulatory framework for financial advice to provide consumers the full range of protections.

The Greens would also prohibit superannuation funds from direct borrowing to invest in housing. The Financial System Inquiry warned that continued growth in borrowing for housing by superannuation funds could pose a risk to the financial system. However, the recommendation to limit borrowing by superannuation funds was ignored by government.

> INDEPENDENT DISPUTE RESOLUTION

Australia does not have a truly independent dispute resolution body to help consumers reach agreement with banks and financial advisors outside of the courts. The Financial Ombudsman Service is the main dispute resolution body for banks and financial advisors. However, it is a membership organisation and its members are banks and financial advisors. In recent years, issues have arisen with the Ombudsman's ability to address consumer concerns as a result of funding constraints.

The Greens would establish an independently constituted Ombudsman as a government regulatory body. The Ombudsman would continue to be funded by the banks and financial advisors by way of a levy based on market size. However, the government would approve the target budget for the Ombudsman on the basis of consumer need.

³ IMF, A Fair And Substantial Contribution By The Financial Sector: Final Report For The G-20, June 2010