ANZ's Shayne Elliott & Alexis George appear at Parliament House - 12.10.18

Summary:
Hansard Transcript - The Treasurer has asked the Standing Committee on Economics to inquire into and report on a Review of Australia's Four Major Banks. This is ANZ's appearance at the fourth review. Members of the BRN team were in attendance to bear witness. The MPs on the committee did a magnificent job. The CEOs were not able to bluff their way out of being accountable. We have saved the transcript here for you.

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Standing Committee on Economics - 12/10/2018 - Review of Australia's four major banks - ANZ's Shayne Elliott & Alexis George

ELLIOTT, Mr Shayne, Chief Executive Officer, ANZ

GEORGE, Ms Alexis, Deputy Chief Executive Officer, ANZ

Committee met at 09:15

CHAIR (Mr Tim Wilson): I declare open this hearing of the House of Representatives Standing Committee on Economics for the review of the four major banks. This is the fourth round of hearings that the committee is undertaking as part of its review. These hearings provide an important opportunity to scrutinise the bank CEOs following the shocking revelations of the royal commission. Commissioner Hayne's interim report identified incentives in banks, against the interests of customers, that have led to appalling conduct contrary to law, yet either this conduct has gone unpunished or the consequences have not met the seriousness of what has occurred. This must be addressed. These hearings will also be an important opportunity to follow up on unresolved issues from earlier hearings and consider how best to ensure appalling behaviour is not repeated, without inhibiting the banks' essential contribution to greasing our economy.

In November 2016, the committee published its first report, which followed the first round of hearings in October 2016. The report contained 10 recommendations for reform of the banking sector, including calling for new legislation and other regulatory changes to improve the operation of the banking sector for Australian customers. In its second report, in April 2017 following its March round of hearings, the committee reaffirmed the 10 recommendations in its first report and made an additional recommendation that non-monetary default clauses be abolished for loans to small business. In its third report, in December 2017 following its October round of hearings, the

committee made four recommendations, including that the Australian Competition and Consumer Commission examine the major banks' repricing of interest-only mortgages that occurred in June 2017. The committee anticipates that the ACCC's analysis of this repricing will be included in the final report of its inquiry into residential mortgage products, due on 19 November 2018.

I would also like to outline a number of matters related to the conduct of today's hearings. I refer members and witnesses to the House resolution relating to the procedures for dealing with witnesses at page 126, paragraph (9), of the House of Representatives standing orders. The resolution provides that, should a witness refuse to answer a question, they should be asked to state the grounds on which they object. The committee may either accept that objection or, alternatively, deliberate at a future private meeting on whether or not to insist upon an answer. If the committee does consider the matter in private, it may write to the witness with the outcome of its discussion. During the course of the hearing, witnesses may be asked to provide documents at a later stage. If a witness subsequently refuses to provide documents, the committee may meet in private to consider the matter. Under standing order 236 of the House of Representatives, the committee has the power to compel witnesses to produce documents where the committee has made a decision that the circumstances warrant such an order.

As I stated yesterday, the purpose of these hearings is between members of the economics committee and the witnesses, and it's expected that decorum will be maintained, even though I know it is a topic where people have strong views and people also have justifiable reason to be emotional about the issues. We appreciate that, where possible, witnesses are heard in silence so that we can make sure that they're properly deliberated and also so that it's an environment where we can have as free-flowing a discussion or inquiry as possible.

We have representatives from the ANZ for today's hearing. I remind you that, although the committee does not require you to give evidence under oath, the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of parliament. I therefore invite you to make an opening statement.

Mr Elliott : Thank you. The royal commission's interim report lays out conduct of a standard below what the community expects and, at times, what the law requires. These observations have rightly dismayed and disappointed Australians. We have acknowledged to the commission that ANZ has engaged in misconduct and conduct falling below community standards and expectations. The commissioner has also observed that ANZ may have other cases to answer. It is completely unacceptable that we have caused financial harm and emotional stress to our customers. As CEO since 2016, I am ultimately accountable for this.

I understand that you and the community want to know who has been or who will be held accountable for the bank's failings. In truth, accountability for the misconduct examined by the commission has been limited. In the past, ANZ has not focused sufficiently on formally holding executives to account for failures that harm customers. Where there have been consequences, they've often involved pay cuts and people leaving the bank, but direct and documented links between specific failures and consequences have been limited and insufficient. This is particularly true for events, including those studied by the commission, which have unfolded over time or occurred under a number of different executives. I recognise that this needs to change, and it is. If customers are harmed, those responsible can lose their jobs, their pay or their prospects within the company. This is due in part to the introduction of the BEAR, itself a result of this committee's work.

Failings acknowledged to the commission and the lack of satisfactory progress on remediation will have a material impact on executive remuneration this year. Further, since I was appointed the chief executive, I've been working to make our bank simpler and better able to serve customers. While no excuse for customer harm, complexity makes it harder to identify and fix problems. By focusing on what we're good at, we can better avoid failure. There is more to do, but our changes so far are making ANZ easier to manage and better for customers. The commission's interim report strengthens our resolve to fast track these and other reforms. Importantly, we're improving our remediation process so we can get refunds into the hands of our customers quicker, learn from our mistakes and fix things so they're not repeated. Earlier this week, we announced a charge of $374

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million related to further customer refunds and remediation. We acknowledge that the commission has questioned how we pay our frontline bankers, whether our scorecards are truly balanced and the role of incentive payments in driving poor behaviour. Remuneration clearly plays a role in culture, and we have more work to do.

I also agree that it's critical that we listen to customers. I've made it a priority to meet with customers and their businesses on their farms and in their towns. In fact, I'm meeting with individual customers after this hearing who've made submissions to the royal commission. Last month I went to Beaudesert to explain why we were shutting our branch there and to listen to their concerns. Alexis and I also held a forum in Cairns and visited farms in Queensland to see the impact of the drought. That influenced our decision to reduce interest rates by one per cent for farmers in drought-declared Australia, as well as excluding those towns from a recent interest rate increase. Customers email me daily, and I respond to each one of those personally. If any customer wants to contact me, my email address is public. It's shayne.elliott@anz.com. Thank you.

CHAIR: Starting from an assumption that you have read the royal commission's report—

Mr Elliott : Yes, I have.

CHAIR: How did it make you feel and to what extent do you think Australians have had their trust broken as a consequence of the findings of the interim report?

Mr Elliott : It was, frankly, pretty saddening to read the report. It made me feel embarrassed for the industry. I go back to when we actually put together our own 50-page submission in January. It made me feel appalled. I was aware of many of the issues in our own submission, obviously, but pulling them together collectively in a document and seeing the impact that we'd had on individual customers or groups of customers was embarrassing and shocking. In terms of your question around trust, yes, clearly we have broken the trust of many of our customers, for which we unreservedly apologise. There's no excuse for that.

CHAIR: You've said in your opening statement, quite rightly, that one of the big issues that Australians feel is that people who have legitimate complaints have not been heard, but, more critically, there has not been a line of accountability within the bank. You've gone through and identified that some people have suffered reductions in their income or their wage structures; other people have been terminated. How many people is that and how does that number break-up between those at the executive level and at non-executive levels of the bank?

Mr Elliott : That's a good question. There's a lot in there. I understand why people want to see a greater connection between failures—particularly when customers are harmed, but any kind of failure—and executive accountability. I totally understand the need for that. The reality is, if I go back some period of time—say, 10 years—ANZ was pretty good at that. When we found people doing the wrong thing—hand in the till, doing bad things—we were good at dismissing those people. In the intervening period, for a range of reasons, something to do with the way we decided to manage the company and reorganise, we lost touch with that. It's been completely insufficient. To give you the numbers, recently, in the last year, we've dismissed just over 200 people across the group for misconduct. Not all of them are related to events that are covered in the royal commission, but it is in the general area of misconduct. Some of those are senior executives. If the definition of 'senior executive' is people who have reported to me or are perhaps another layer down from that, within perhaps our top 200 people, then some of those people have absolutely been dismissed for misconduct. I don't have the exact numbers.

CHAIR: Are we talking single digits?

Mr Elliott : Out of those 200, we'd probably be talking more than a handful, but it's probably high single digits. It might be low double digits.

CHAIR: Do you think that actually raises issues with the culture of a bank when you have that many executives that may be dismissed because of issues of misconduct?

Mr Elliott : It absolutely raises questions. First of all, we should dismiss people when they are grossly negligent or when they do things that are clearly bad and cause customer harm. I don't doubt that. We need to be much better at strengthening the linkages between the misconduct and the outcome. As I said, we've been poor at that. In an organisation of our size, we have around 50,000 people who come to work at some point during the week at ANZ. There are going to be dismissals. I don't know what the right number is or whether that number is too high or too low, but my commitment is to make sure that I do hold people to account.

CHAIR: One of the critical concerns we've heard through both the royal commission and the discussions we had yesterday with CBA and Westpac is that there's a disproportional degree at which people are dismissed at a lower level of the organisation versus at the higher level. I don't think anyone's under any illusion that people at the higher end of the bank can't control every aspect or make every decision, but there seems to be a greater enforceability for people who seem to be, frankly, treated as replaceable in comparison to executives. What is the bank doing to create a culture where there's a line of accountability at the executive level for what actually happens, all the way down at the branch level? Critically, is the culture coming from the board, yourself as the CEO and executive team so that it filters all the way through the company?

Mr Elliott : That's a good question, and there's a lot of complexity in there. One of the good things that has come out of the BEAR is it's given us a framework to precisely answer that. We now have a framework and these accountability documents where myself, Alexis and the most-senior people in the company are very clear that it's documented and filed with APRA what our accountabilities are—where that accountability lies for what specific decisions and what specific outcomes. As a result of that, understandably, we then make it clear to the people who work for us what their delegated authorities are. I think the BEAR has given us a very valuable tool to be able to extend that throughout. We're having conversations as an executive team at this point about exactly how we do a better job at getting frameworks and definitions around accountability. If something goes wrong at a branch that's clearly in the category of misconduct, how far through the organisation should accountability go? I'm not going to pretend it's easy, but it's absolutely work that we're committed to doing.

Ms George : To add to that, even if we look back over the past, there have often been occasions where we have cut people's remuneration, but our documentation about why we did that is not that clear. That's what the BEAR helps us do as well—make sure that we document why we're taking certain actions, from the executive level right through middle management.

CHAIR: Just continuing on that theme, though—and I just want to make sure we're clear—when you spoke before about people who suffered remuneration reduction versus those who had been fired or terminated as a consequence of misconduct, have people within the executive levels only suffered from reductions in salary or bonuses or have they actually been terminated?

Mr Elliott : Both.

CHAIR: Both?

Mr Elliott : Yes. Again, if I look at the top 200 or people who continue to report to me, there have been people in that population who have been dismissed because of misconduct. I mean, dismissed with no pay—in the common lingo 'fired'. There have been people whose misconduct, or where areas of concern around their governance or oversight of issues has been taken into account, has resulted in them leaving the company under different arrangements. There have been people who have had their bonuses—that's a variable remuneration—either reduced or cancelled as a result of their conduct. They are people who have reported to me or my predecessor and people within the top 200 or beyond.

CHAIR: What is the trigger that ultimately shifts something from just being a measure where people may lose their bonus to termination of their employment? How severe does it have to be? Do people have to do the wrong thing? Do they have to oversight the wrong thing or turn a blind eye to doing the wrong thing?

Mr Elliott : Again, that's a difficult question. We have in place now—and I accept that we haven't always done this well, and that was part of my opening statement: we haven't done this well—a much greater framework to make sure that when we see misconduct we're now able to do a better job with the database, if you will. It documents any level of misconduct—and I don't want to demean it—however small that might be and all the way up to the top. We have a committee that I chair, and we literally go through and look at all of the misconduct issues, mistakes, errors, customer harm issues, operational errors, computer errors, programming errors or whatever it might be and decide: 'What is the right level of consequence for that? Should that person get a warning, should they have a pay reduction, should they be terminated, should they have previous equity taken away from them?' et cetera. Then we report that, and we're accountable to our board for those decisions. We may not be able to say, 'Here's a bunch of rules with clear triggers,' but we have a process for determining that. Obviously, over time, we're building a good set of precedents within the company based on our previous decisions.

Ms George : You just said it: it's a really difficult thing, and I think you do have to consider it on a case-by-case basis. We've been going through a formal process this year and running some case studies so that we can all workshop what the outcomes would be. It's not very simple, and I think you do have to consider every issue separately.

Mr Elliott : The only thing I would add to that is that, in the past, we had not been organised well to make sure that we were equitable in that. What I mean by that is that we may have had a part of the organisation, for example, when Alexis was looking after the wealth business, they may have treated misconduct very differently from, say, the branch network or the technology department. We ended up with these differing applications of consequence management. That is unacceptable and that's why we've brought it all together under this one committee to make that sure we have a consistent way of dealing with that.

CHAIR: In your opening statement, you spoke about the extent to which you've gone and met with aggrieved customers or victims of misconduct within the bank. How many people have you met with, say, in the past year?

Mr Elliott : I've visited probably 50 branches over a year. I meet with customers all the time. So I'm out and about on the ground in branches. Not all of those customers are aggrieved but I make myself available there. In today's world, I would probably get an email once a day or thereabouts from a customer who is aggrieved at some level. It might be at a very low level about a fee on a credit card and it might be something quite significant. I don't necessarily meet with those people, but, as I said, I respond to each of those personally. I don't have people who do that for me. I do have people who help me investigate root cause, but I do engage with those people. So it would literally be hundreds.

CHAIR: Are you arguing that the email address you've just given out goes directly to you and there is no filter or trigger that leads it to go up a scale towards being personally responded to by you?

Mr Elliott : No. My assistant doesn't filter my emails. There is one problem which was identified the other day—again a customer. We do have a different email address, which is ANZ group CO or something like that. That had been going off to a different team, and I wasn't aware of that and we've fixed that. But I do answer all those emails that I receive, if they come to my personal address.

CHAIR: Is there anything you disagree with in the royal commission's report?

Mr Elliott : I don't disagree with the broad thrust of the report that there have been—we acknowledged our own behaviour has fallen below community standards. We submitted a range of areas, of things that we said fell into the definition of misconduct. So, no, I don't disagree with the broad thrust of the report.

CHAIR: In terms of the leadership of the organisation, yesterday one of our witnesses accepted that the buck stops with him and that ultimately the culture of the organisation is set from the top all the way through to the branch level. When you have a problem with a bank where that culture emerges—and I presume that's a similar culture, at least you'd have to accept, in the case of the

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ANZ, but I'll let you answer that—does that mean when there's a problem that ultimately it's rotting from the head, or is it a deeper cultural problem within the organisation that has to be confronted?

Mr Elliott : Clearly, I'm accountable. That's part of the job of being the chief executive. However, there is also an enduring culture within any organisation. The culture of the bank did not change on 1 January 2016 when I became chief executive. There was already a culture that had been built up over 185 years. My job is to mould and shape that culture that's appropriate for the time. So it's a little bit of a blend of both. That doesn't mean I don't take accountability for it. I am accountable for it, but I can't have total influence over it immediately in real-time.

CHAIR: But you would say that, on your opening statement, a decade ago you argued that the bank had a better culture of dealing with complaints and around accountability, and that has declined during that decade.

Mr Elliott : Yes.

CHAIR: To what extent have you as CEO then sought, prior to the royal commission, to change that culture, to actually get better accountability within the organisation, without being prompted?

Mr Elliott : I think we have. I think that's exactly what we have been doing. It may well be insufficient, and no doubt the royal commission has strengthened our resolve to do that. But we had absolutely put in place prior to the royal commission stronger accountability regimes. Part of the reason we had that failure in the past was the way we were organised. We had a very strong matrix management, where it was very difficult to look at conduct in any part of the bank and say: who is the senior executive that is directly accountable for that? By rearranging the way we organise ourselves and who reports to who, we have absolutely achieved that. It is far from perfect, but we had improved the accountability framework within the organisation prior to the royal commission.

CHAIR: The question, then, is: what is the bank doing and what process has it set up for the future? Australians aren't just asking: why did this happen, but there's a critical question for them, which is: how can it make sure that misconduct doesn't happen again?

Mr Elliott : Yes, I agree. And, again, there's work to do. We're changing the way we incent our people, through the balanced scorecard process. Again, there are some questions in the commission about the veracity of that, and I agree there's more work to do, but we've changed that. We've changed the metrics we look at as a group. ANZ hasn't had revenue or sales as a target within our group scorecard for the CEO or for the senior management in the last three years. So we're making changes around incentives.

CHAIR: That's changed under your leadership?

Mr Elliott : Yes. We're making changes in terms of, as I mentioned, the accountability framework, being really clear who reports to who, who's accountable for what. And we're putting in place our accountability to our board around how we identify misconduct and what we do about it so that we're held accountable. So there's much transparency. But there is still an enormous amount of work to do there; I accept that.

CHAIR: How would you describe your relationship with the regulators, principally ASIC?

Mr Elliott : It's a challenging relationship. They have a role. I personally, as CEO, don't interact with ASIC very regularly. We take the relationship really seriously. It's an important part of our own measurement of success in a year to make sure that we're well governed, to make sure that we obviously comply with regulation. Alexis, you probably deal with it a little bit more.

Ms George : It is a tough relationship. We try to be open and transparent with them, because we're traditionally talking with ASIC about issues. We want to make sure they have the facts we have. That's the way we approach it: in an open, transparent manner, respecting the roles they and we have to play in that relationship.

CHAIR: Who is the principal person responsible for engaging with ASIC?

Mr Elliott : Accountability and making sure all of the bank is well represented with the regulators fall under our chief risk officer, but the reason I asked Alexis to comment is that with ASIC a lot of the issues tend to be more in the wealth area, for which Alexis has had responsibility. It depends on the particular issue, but in a broad relationship area it's the chief risk officer and myself. As I said, mine tends to be a high-level thematic relationship with ASIC rather than around the detail of enforceable undertakings, for example.

Ms George : Typically be the chief risk officer would be responsible for certain issues that may have occurred.

CHAIR: Does the bank fear that ASIC would take appropriate action if misconduct were uncovered?

Mr Elliott : Yes. Fear is a strong word, but we respect ASIC. There's no doubt that having any kind of action from ASIC against any individual, unit or the general bank is seen in a negative light in the company. We don't take that lightly. I understand the focus around ASIC and APRA, but we deal with something like 130 regulators around the world. Any issue, undertaking or audit gets reported to our board, and the progress we're making in remediating or resolving those issues is tracked pretty closely. That has visibility from our board.

CHAIR: Is that a satisfactory relationship with a regulator? I understand the point around respect, but ultimately if you have an organ of government, an independent authority, responsible for holding a bank to account, particularly when there are issues of misconduct, is it enough for it to be a relationship of respect? The royal commission's interim report highlighted the need for the banks to take their concerns much more seriously.

Mr Elliott : Again I've given this some thought, given the interim report. I can tell you that I take it seriously and I know my senior team does. There is no pride in having a regulatory sanction of any sort, whether that's through a court process or an enforceable undertaking. That is seen as a major fail. It's embarrassing.

CHAIR: If there is a major failure, is there a direct line to issues around accountability within the company?

Mr Elliott : Yes. When we think about performance of a unit or individuals, the first thing we consider is, 'Has this place been well managed?' We don't look at the relationship with the regulator in determining that, but if findings or issues have been raised, that is seen in a very serious light. I understand people may think it is convenient for me to say that, but those things have a very material impact on the operation of the organisation for a couple of reasons. They mean we quite rightly have to commit a serious amount of resources to remediate and do the right thing, and cause us enormous reputational damage. That reputational damage comes at a cost either in customers thinking twice about wanting to work with an organisation under that cloud or in shareholders thinking about whether they want to invest in a company that has that kind of reputation, so it is taken very seriously.

Mr THISTLETHWAITE: When you last appeared before us in October 2017 you said:

I personally believe that a royal commission would be distracting.

Do you still hold that view?

Mr Elliott : No. I've said on the record that I was wrong, and it has been reported in the press.

Mr THISTLETHWAITE: There have been close to 10,000 submissions to the royal commission. A large proportion of those are from aggrieved bank victims. How we are going to use this process to restore trust and confidence in the banking system in Australia, a position which we all want to eventually get to, if a large proportion of those that have made submissions to that commission feel they haven't had the opportunity to put their case and haven't had justice? Their lingering feelings about

the royal commission will go on in the future long beyond those recommendations being made. Do you believe they deserve the opportunity to put their case?

Mr Elliott : I have empathy for that situation and can understand that, if I were one of those people, I may well want to have my day in court, to use that phrase. I understand the desire for that. I don't know that the royal commission is the right forum for that. All I can say is that at ANZ I personally am happy, if anybody has issues with ANZ, to hear them out with my team in whatever forum is appropriate. I understand it's not going to be easy, given the numbers, but I'm open and committed to do that if that would help those individuals in any way.

Mr THISTLETHWAITE: Do you believe the royal commission should have its time extended so there can be an avenue for aggrieved victims to have their say, be interviewed and put their case verbally in a similar manner to the process that was set up for the royal commission into child abuse in Australia?

Mr Elliott : I don't know that I'm the right person to comment on that. My understanding is that the terms of the royal commission were set up with a desire to have this done at some level of speed to ensure the reforms can be done, understanding that the process itself—and hopefully the reforms—will have an impact on the economy. I understand there's bit of a trade-off with time. As I said, I'm prepared to be more involved in listening to people who have been aggrieved by ANZ; I don't know I can comment on the way a royal commission should operate.

Mr THISTLETHWAITE: A lot of the banks have set up reviews. You have the FOS and other avenues for people to put their case, but they're still not happy. Do you think perhaps the banks should look at establishing their own processes to review some of these cases and to allow people to come in and have their say?

Mr Elliott : Yes. We've elevated how we think about customer complaints—I use that in the broadest terms—so we have much greater visibility at my level and the board level particularly where people have been aggrieved for long periods of time. We regularly look at those cases with my executive team. Now the interim report is available, I have asked Colin Neave, who's my customer fairness adviser, previously the Commonwealth Ombudsman, to set up a team with some independent consumer action advice to look at the individuals and groups of customers, because some are grouped, that are named in the report for ANZ, to go back and say: 'Now that the report is out, have we treated these people properly? Have we done the right thing?' and to see whether we should change our remediation approach or make changes to the way people have been treated.

Mr THISTLETHWAITE: When you say the report, do you mean the royal commissioner's interim report?

Mr Elliott : Yes. Only a few individuals are named, but there are some broader groups, which I would include.

Mr THISTLETHWAITE: Will that process be extended beyond those that have been mentioned in the report to those who are ANZ customers that perhaps have made submissions or feel they haven't heard their case?

Mr Elliott : That's an interesting idea. I'm absolutely open to looking at that. Our priority, obviously—maybe not obviously—is around those names in the interim report. We can learn from those to see if there is something to be gained and if we can make better decisions as a result. I'm perfectly open to extending that to other cases.

Mr THISTLETHWAITE: You may need to take this on notice, but can you perhaps give the committee some information about the number of referrals or cases that the customer advocate has looked at over the last five years in your organisation? Do you know offhand if there has been an increase?

Mr Elliott : Yes, there has been an increase, and I will give you the data; I don't have it off the top of my head. Pre my time, ANZ has had a customer advocacy office since the early 2000s. I am sure there will be cases where people won't be happy, but it's been generally successful and it's just

another avenue for people where they're not comfortable with our normal complaints process. However, people still have the option to go to FOS and now AFCA. I will give you the data, but there absolutely has been an increase. There's been an increase in customer complaints across the board for all sorts of reasons. One, of course, is the publicity around the royal commission, which has given people another reason to come back to the bank and say, 'I'm not happy with the way my case has been treated' or 'I don't feel I've been heard.'

Ms George : I think the role of the customer advocate has really become much more visible in banks. We'd encourage customers to go there, because sometimes it's an easier process for them than FOS or AFCA to come.

Mr THISTLETHWAITE: Do you advertise the role of customer advocate?

Ms George : Certainly, when we're going through a complaints process, we absolutely advise the customer that we have an advocate that they can go to if they wish.

Mr THISTLETHWAITE: I want to ask some questions about remuneration structures—it's a subject that's come up in the royal commission. All of the banks have been providing evidence that they're moving away from sales targets being linked to pay for frontline staff, but the royal commissioner's made the point that, in his view, for many managers, middle management and senior managers, there's still a large proportion of those who are subject to various targets that may be linked to sales. He says in his interim report:

It will always be in the interests of any manager (no matter how senior) to have subordinates carry out their work in a way that will allow the manager to achieve whatever incentive targets have been set for that manager.

That's really the crux of the problem, isn't it, in banking at the moment? Although there've been some changes to frontline staff, the incentive still exists for those that are pushing those people to push products that are linked to various sales targets, various revenue targets, to achieve those bonuses.

Ms George : This is a complex—and I don't mean to hide behind that—issue. You're quite right: we can, and we have at times, got the balance between our commercial obligations and community obligations out of balance. That's most apparent when you look in the past at some of our so-called balanced scorecards. They were clearly unbalanced, and they had a bias towards sales. I'm not in the camp that suggests that there can be no financial metrics in the organisation. We are a commercial enterprise. We actually have an obligation under the law to our shareholders, and we have a general obligation to be profitable. As a bank we need to be able to generate capital so that we can fulfil our social obligations, but we need to get that balance right. We've clearly failed on that in the past, and we're moving away from that.

As I said, revenue, in its generic term, or sales hasn't been part of the group scorecard in the last three years, so we don't have that same middle layer saying, 'Middle management have got a sales target, but the juniors don't.' We don't have that today, but we can certainly improve. I agree that we need to do more work in getting that balance right.

Today in our branches, as I think we've discussed here before, our tellers, to use a generic term, don't have any financial metrics. Their metrics are around customer service. As we progress through the organisation, we do put some weighting on financial metrics. As I said, we are a commercial operation, but they are not sales typically and even then they tend to be less than a third of somebody's scorecard.

Mr THISTLETHWAITE: You say they're not linked to sales targets and things like that, but they are linked to things like referrals, aren't they?

Ms George : Again, you're right: sometimes they are linked to things like referrals. We are a commercial organisation. We believe that the services we offer are good things: helping people buy their home, run their business, insure the things that are important to them. So, yes, we want to be

able to measure how successful we are in doing those things. I agree that it can go too far and that you can incent the wrong behaviour, and that's why we've got to get this balance right. That's why we increasingly put risk, conduct and values ahead of those. I'm not suggesting for a minute that we've got that perfect across the organisation.

Mr THISTLETHWAITE: But it appears to be all the banks. I recently went into a bank branch—it wasn't one of your branches—because I needed to get a bank cheque for a transaction. As soon as I asked for a bank cheque, the teller said to me, 'You're going to buy a home, are you? Do you want to see one of our lending managers? Perhaps you might be interested in a home loan,' and gave me a card. I didn't even ask for it. I said: 'Give me a break! No, I'm just here to get a bank cheque.' Isn't that the problem that pervades the whole organisation, from the top right down to the bottom? It's all about pushing those products when customers don't ask for them and may not need them, and, in some cases that have been highlighted in the royal commission, they're not in the interests of that person and they're certainly not in the best interests of that person.

Mr Elliott : There's some validity to what you say, as I said. But we don't have numeric targets at ANZ. I can't speak for others; I don't know. But we do not have numeric targets that say that branch, that teller, that person has to sell a certain number of credit cards or mortgages et cetera.

Mr THISTLETHWAITE: But can I interrupt?

Mr Elliott : I accept that referrals can be a derivative, if you will, of sales, and I'll go and have a look at that. But, again, mostly that comes out of a good space—I agree it can be corrupted—where people are trying to help; they're trying to ascertain from your behaviour whether there are things they should refer you to.

Mr THISTLETHWAITE: I imagine the teller was doing that because if that referral was successful then that would be a good thing for the teller and it would put them in line for some financial incentive and bonus at the end of the day.

Mr Elliott : I don't know what that bank's incentives were. As I said, the incentives for our people are structured so that less than a third are around financials or those kinds of goals; the rest are around things like customer satisfaction, living our values, conduct, audit and those kinds of things. But I will absolutely have a look at the referrals piece. I think that's a fair point.

Mr THISTLETHWAITE: One of your documents, I understand, was tendered to the royal commission—'2017 Performance management & performance measures'. It goes through in detail how the balanced scorecard works for various positions within the organisation. I am looking here at one—home investment lending manager group 5—and on the left-hand side of the balanced scorecard it says, 'Customer 35%'. I'm assuming that is the proportion of the at-risk pay that's linked to customer interactions. Is that correct?

Mr Elliott : It's not perfectly correct, but, yes, basically we would assess that person and say, '35 per cent of the assessment of your performance will be taking into account those measures.' It's not a formula that says, 'As a result, you automatically get X, Y or Z.' If you fail on an audit or there are other breaches, you still get zero. But, yes, broadly that's right.

Mr THISTLETHWAITE: The other banks have used gate openers in their structures, so you get through the gate and then you're eligible for these rewards. Do you operate a similar system?

Mr Elliott : Not as bluntly as that. What we try to do is say: you can't be eligible for a bonus if you don't behave well. If you're not meeting the minimum requirements around behaviour, values and conduct, it doesn't matter how well you've done on all the other metrics, you shouldn't be eligible. So in that sense we consider it as a gate. It's a kind of veto, if you will, rather than a formulaic gate for our people, if that makes sense. That's what I mean by it not being totally formulaic. I think what's really important here is: you can't trade one against the other. You can't say, 'I did a brilliant job; my customers are satisfied, but I failed a whole bunch of audits—net net, I'm ahead.' That clearly is unacceptable.

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Mr THISTLETHWAITE: Say you're a bank teller, who assesses you for that behavioural element?

Mr Elliott : The manager—in that case, it's generally the branch manager. That branch manager would assess it and then that branch manager typically would have to report to the district manager to say how they'd reached those conclusions. So there's some level of oversight of that. They have to be able to defend it and say why they assessed that person as good or bad.

Mr THISTLETHWAITE: If you're a teller and you feel that you've worked pretty hard and done all the right things but you don't get a good assessment, you're not going to feel good about your branch manager, are you?

Mr Elliott : Potentially, but I think that's really about communication. One of the things that's really important, as much as we like to focus around the money and the incentives, which are important, is the feedback. We have pretty structured performance assessments where that branch manager will have to sit down with the individuals and go through why they were assessed the way they were—where there are areas for improvement or what things that person is doing well.

Mr THISTLETHWAITE: The other elements in the scorecard are: people and reputation, 15 per cent; financial and discipline, 30 per cent; and risk and process, 20 per cent. That obviously makes up the 100 per cent.

Mr Elliott : Yes.

Mr THISTLETHWAITE: But within the customer element there's a subheading 'Branch', and then it's got 'Leads and Offers—leads action rate, leads acceptance rate, offers acceptance rate'. What does that mean?

Mr Elliott : That was the point you were talking about with referrals. Commissioner Hayne, in the interim report, pointed out that, while we've made improvements in making the scorecard more balanced, we've still got work to do. I think that's absolutely right. As you pointed out, that can be interpreted as a quasi-sales target, and that shouldn't be the case.

Mr THISTLETHWAITE: That's an investment lending manager, so that's a management position where those referrals rates still matter in terms of your pay?

Mr Elliott : If that was the home investment lending manager, that is an authorised, qualified person who can talk to a customer about taking out a home loan. Tellers—not anybody can speak to a customer about a home loan. You have to be authorised within the organisation. It's a specialist role. It's not necessarily senior; they're not necessarily managing other people, but they have authority, yes.

Mr THISTLETHWAITE: I'm running out of time, so I've got to move on here. Mortgage brokers have come up in the commission. The commissioner has floated the idea of fee for service. What's your view and your bank's view on that?

Mr Elliott : We're the only major bank that doesn't own a broker, so we have a slightly different perspective on this. We think brokers play a really important role in the market. More than half of all mortgages that originate in Australia come through brokers today. Consumers like the service. They see they get value from it. I accept that there is the potential for conflicts of interest in the remuneration. We've moved away from volume based commissions, and people have floated the idea of whether it should be a flat fee and who should pay—is it the bank that should pay? I think all of those things are worthy of discussion. My only caution would be: no system is perfect, and any system will have potentially unintended consequences. I think the industry needs to sit down with the broking industry and with the regulators and consider improvements to that model. But, as of today, we think they perform a valuable role; consumers prefer them and choose to increase the amount of business they give to brokers every year.

Mr THISTLETHWAITE: What's the value of the up-front commission and the trailing commission that you'll provide for a broker when they take out a loan with you?

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Mr Elliott : Roughly, because it is slightly different—and, again, I can come back with the formal numbers—my understanding is that the up-front commission is about 0.8 per cent or thereabouts and the trailing commissions are about 0.15 per cent for the first three years and 0.2 thereafter. It's in that ballpark.

Mr THISTLETHWAITE: What about the idea of brokers being subject to the best interest duty under the Corporations Act?

Mr Elliott : It's a really interesting idea. I imagine that most people that go to a broker think they do have a best interest duty.

Ms O'NEIL: That's part of the problem.

Mr Elliott : I think that most mums and dads imagine that's true. So I think there is an absolutely valid argument to say that they should have some obligations in that area, absolutely.

Mr THISTLETHWAITE: I said to Mr Hartzer yesterday: the notion of a broker, in its purist form, is a good one—that someone with expertise will use that expertise to shop around on behalf of their client to get them the best deal.

Mr Elliott : Yes.

Mr THISTLETHWAITE: But it appears, based on the evidence that's come out of the royal commission, that doesn't always happen. Banks have tried to establish relationships with brokers using various means of bonuses, holidays and the like so that they will have an incentive to refer people to that bank. That's the reason why we're in this mess and why we have to be considering best-interest duties, isn't it? As you said, we would all hope that they act in the best interests of the customer, but that's the problem: they don't. That's where we have to step in and regulate. Ideally, we probably wouldn't like to, but we have to. That's the problem.

Mr Elliott : I think it can be a problem. I'm not sure it's the problem. I think it can be a problem. I think that most brokers are decent, honourable people who do the right thing for their customers. Remember that most brokers have literally a lifetime relationship with those clients; it's not just transactional. But I do think there can be improvements there around that. I don't doubt that for a second.

Mr THISTLETHWAITE: Okay, thanks.

Mr EVANS: Thank you, Mr Elliott and Ms George, for being here again. I'm just picking up on some of those questions before about your remediation practices. You said in your opening remarks that you'd improved your remediation processes. In some answers just then, you focused on your customer advocate's work. I think there might be some confusion here for anybody listening at home. I'm seeking clarity around what exactly are the changes that you've made to your remediation processes. I guess I'm really hoping that you can draw out the distinction between activities that apply across the board in a business-as-usual sense and the specific resources or procedures that you've brought together to deal with the backlog of cases.

Mr Elliott : Sure. That's totally reasonable. The sad fact is that we have too many things to remediate. We've made too many mistakes, and we've had a series of failings in terms of misconduct. We've accepted that. It is totally fair to say that in the past we did not give due attention to remediation. It was not the No. 1 priority. I accept that, and we have changed that.

Your question is: what have we actually done? First of all, we need to strengthen the way we identify problems, so we've reorganised the company to make sure there is greater accountability and clarity about who's in charge of what. There's no finger pointing. There's no, 'Hey, that's not you, that's me,' or that kind of thing. So we have greater accountability. For example, in the Australia business, which is what most of us would be familiar with—our retail and small business banking—until recently, when I took over, the people who ran the processes and the operations, the people who ran

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the call centre, were not part of the Australia business. They were separate. So you can imagine that, where you've got multiple accountabilities, it's much harder to identify when things go wrong. So we've changed all that. We've given clarity.

Secondly, we've set up a specialist team for remediation. It's the largest single team we have within the Australia division. It started with 20 or 30 people. It's now at about 165, from memory. They are fully dedicated to remediation. We've also changed the governance process around remediation. So we're funding them more directly in terms of money, and they now have process, governance, oversight and accountability through to me and through to our board about where we are on those remediations et cetera. We are tracking data around identification, how long it takes to remediate and how long it takes to get money back into the hands of customers. We're doing that much more systematically and escalating that data to a much higher level.

Ms George : If I can add a few more things to that, if we look back at the past, as Shayne just said, the remediation activities were perhaps done by different groups throughout the bank. In both the wealth division and the retail and business banking division, we've centralised those remediation activities. Our head of remediation in the wealth area reports directly to me. In the case of business and retail banking, it's the same, with the head of remediation reporting directly to the head of that division. So that's one thing we have done. We have over 250 across the bank doing dedicated work on remediation. We also now have remediation frameworks which we've submitted to ASIC and which we work through. So we've got a process that we work through with each remediation. As Shayne said, there are now governance frameworks across the remediation so we can monitor what's happening, how quickly it's happening and where we haven't yet met the milestones that we've put in place. I don't think that, at a bank level, any of us are proud about the length of time it's taken to remediate some of the customers. Issues still continue to come up and will come up, but I think there's a real process in place now, with much better visibility of these things so we can manage them better.

Mr EVANS: So that specialist team is predominantly focused on the backlog of cases or business-as-usual-type activities?

Ms George : Firstly, we've got to deal with the backlog that we've identified, but, as we move forward, we need to make sure these things don't happen again, that the promises we're making to customers today actually are being delivered. It is a combination of those.

Mr Elliott : Yes, they are focused on the backlog, but as new issues arise—and, unfortunately, they do—we transition those into that team. They are live cases, not just historical—if that makes sense. Secondly, over and above that we have about 200 products or services that we offer through our Australian banking business today. It used to be 300; it's now down to 200. We have a systematic approach to go through each one of those and say, 'Are we meeting the terms and conditions?'—essentially, 'Is there anything to remediate?' That is a systematic piece of work to go through prospectively, looking before anything has necessarily arisen as a problem, to make sure that things are fit for purpose. That work is ongoing and also monitored to a board level.

Mr EVANS: Is that specialist team of 165 people led by a senior executive who is captured by the BEAR?

Mr Elliott : No, not directly, but Sarah, who runs that team, reports to somebody who is captured by BEAR. In a delegated sense, yes, but she does not have an accountability statement with her name on it at APRA—not today, no.

Mr EVANS: But one of your senior executives captured by the BEAR does ultimately have responsibility for this?

Mr Elliott : Yes.

Mr EVANS: How many senior executives do you have captured by the BEAR at ANZ?

Mr Elliott : Fifteen to 20; I can't recall exactly.

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Mr EVANS: In terms of the activities of that specialist team, you talked about the frameworks that you have there. Do you as the CEO, and does the board, have visibility of their activities?

Mr Elliott : Yes.

Mr EVANS: Down to the circumstances or factors in individual cases?

Mr Elliott : The board less so, but they've been through some examples in some detail. They will have slightly less. I have, obviously, more. Then Fred, who runs the Australia division, has a high level of detail through that. Not only is it a special team, they have a special area set up. There's a control room. That room summarises all the work. It has all the data and has the status of all the programs. Our board has been through that room and spent hours in it, as have literally dozens of people. We use it as an educational point—particularly to your point, about making sure we don't have future problems—to take our staff through and say: 'This is what happens when things go wrong. How can we learn from this remediation work to make sure these things don't happen again?'

Mr EVANS: Stating the obvious, there are clearly a number of people out there, including some people in this room, we know, who believe very strongly that they're not being heard by their bank, including your bank. Thinking about a customer who's in that situation, where they feel they aren't being heard currently by ANZ, let's say they take you up on the invitation you made in your opening remarks to contact you directly. Let's say that they meet with you. I believe that you're meeting later today with a constituent from Brisbane, Carolyn Thomson.

Mr Elliott : Yes.

Mr EVANS: She tells me that she's tried to have her day in court. One interesting aspect about her case is that it seems that she tried to have her day in court, and officers of your bank who were subpoenaed to give evidence apparently got caught up in some confusing internal processes in your bank whereby they didn't appear to give evidence. The point is: what should customers like her, who take you up on your invitation, expect from here?

Mr Elliott : Every case is unique, but they should expect a response. In that case I'm meeting with that customer after this session. It will depend, but I give my commitment that I will be personally involved in the response with the bank, whether it's appropriate that that's me—I understand that people want to talk to me. I'm not always the best person to speak to if it's about detail, but I have really good people at the bank who will respond and deal with those issues. My commitment is to stay on top of that and make sure that they end in a manner that is fair and satisfactory.

Mr EVANS: Can you give any guidance around time lines?

Mr Elliott : As I said, I answer every single email I get every single day within that day. I don't know. Some of these cases are complex. For one of the customers I'm meeting this afternoon, the issue goes back to 1992. These are not simple things where you can say, 'We can deal with them in a week.'

Mr EVANS: You mentioned in your opening remarks, when it comes to remediation, a figure that you'd paid out in recent weeks or months. What was it?

Mr Elliott : $374 million.

Mr EVANS: In what time frame was that?

Mr Elliott : That's a provision for the future. I'd have to come back to you on the specifics but we've already paid out many hundreds of millions of dollars. It's been paid either in refunds or penalties to customers. The $374 million is an estimate of partly refunds and partly the cost of collecting the data and managing the remediation that we know about today but is likely to happen over the next year or two.

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Mr EVANS: So a $370 million-plus provision going forward?

Mr Elliott : Yes.

Mr EVANS: I think about some of the recent headline cases. In May last year, I think, it was $40 million to $50 million for failing to provide financial advice but charging customers. There was $10 million-plus towards the end of last year, I think, for improperly dealing with inactive super accounts. Aren't we starting to talk about a figure that is in excess of half a billion dollars, maybe more?

Mr Elliott : Yes.

Mr EVANS: Following on from that answer, and thinking about the royal commission hearings in recent times, how do your investors feel about this?

Mr Elliott : I meet with investors pretty regularly, and I did so when I was the CFO. Obviously they're dismayed. That's a real cost. That's real money. That's their money that is being paid out. They want to make sure that we are doing the right thing, clearly, and that we are on top of the scale of the issue—that's No. 1. No. 2 is: what are we doing to make sure that these things don't happen in the future? That is the predominant focus of their attention. All investors are different but I would say that that sums up the predominant view: how do we ensure that this is not going to happen again, and what assurances can we give them? 'Is this the end of it?', 'Is there more?', et cetera—those are the questions.

Mr EVANS: I'll have to put some questions on notice but I have a couple of very specific questions about the Banking Executive Accountability Regime. You told the committee last time you were here that we shouldn't need one but you understood the need for it. You've reinforced that today; you said in your opening remarks that you've found it to be useful in ensuring that you've got a more rigorous process around accountability. Just confirming: you are 100 per cent clear in where responsibilities fall with your bank going forwards?

Mr Elliott : Yes.

Mr EVANS: You talked before, in one of your answers, about a matrix approach that you previously had and how the BEAR's changed or improved on that. Can you draw that out in a very specific example? What does that mean?

Mr Elliott : Banks in Australia are not unique; it is a management philosophy that is still in place in many companies around the world. It's probably best to use an example. As I mentioned, the way the Australian retail bank was run in the past, with branches and things, was that there was one group of people with one executive accountable for products—mortgages, credit cards, savings accounts—and customers, but a completely different executive and a different team of people accountable for processing those things and answering phones in the call centre when things went wrong, and then there was a third executive accountable for the technology; did everything work? So what I mean by a matrix is that you essentially have three people with overlapping accountability and responsibilities. The theory was that there were some efficiency gains and specialisation, et cetera.

When it comes to accountability: when something goes wrong, it's very rare that the cause is simple. It's usually a complex convergence of factors. Unfortunately, in that case, it was very hard to say, 'Who exactly is accountable—which team, which individual—and how do I fix it when I've got these overlaps?' That was what I was talking about with the matrix. What we've done is simplified that. We've said, 'No, those call centres, the people who process those products, are now part of the same team in terms of where the customer sits.' That gives a greater ability for us to look through and discover accountability. It also, frankly, gives the executive much greater ability to manage that process and make sure that it's fit for purpose. There will always be some gaps, and there will always be some things we centralise authority for, but there are less than there were before—significantly less. I hope that answers the question.

Mr EVANS: So you would now say that, in a situation like the example you just gave, there is one

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single executive, captured by the BEAR, who would know without any ambiguity that they are responsible for a case like that?

Mr Elliott : Yes.

Ms George : We've gone through hours and hours of case studies around the BEAR to try and figure out if there are any other overlapping responsibilities. That's an easy one; there are still situations where there's dual accountability. But it's clearly documented where that is the case.

Mr EVANS: If you dive into that documentation, how does it divide those sorts of responsibilities?

Mr Elliott : I'm trying to think of an example.

Ms George : For technology, if there is a system that's supporting a process, the executive is clearly accountable for making sure that the investment in the technology is there but the technology head would have some accountability for making sure it's robust and secure.

Mr Elliott : One of the problems in the past would have been—and this is a very good point that Alexis raises—that the executive accountable for the business may well not have wanted to invest sufficiently in the processes to keep them fit for purpose, because they're more driven by financial metrics than they should be. Those are the kinds of conflicts that we've had that we are eliminating.

Mr EVANS: Thank you for your time. I'll put some more questions on notice.

Mr KEOGH: Thank you, Mr Elliott and Ms George. Have you implemented all of the recommendations from the Sedgwick review?

Mr Elliott : We're in the process of doing so, yes; 20 of the 21—not the mortgage broking one. Yes, we are implementing them.

Mr KEOGH: When do you anticipate having them fully implemented?

Mr Elliott : They're due to be implemented by 2020; that was the commitment. We believe we will have them fully implemented and embedded by the middle of next year, ahead of schedule.

Mr KEOGH: For the 2019-20 financial year?

Mr Elliott : Yes.

Mr KEOGH: The interim report of the royal commission said:

ANZ has used a balanced scorecard since at least April 2017. The scorecard seeks to move away from focusing only on sales …

which you've discussed already:

The description of the operation of the balanced scorecard is very complicated. But beneath the complexity lies a simple point, made in ANZ's 2017 Performance Management and Performance Measures for the Australian Branch Network. It is that 'Performance is reviewed half yearly and annually to ensure employees are appropriately recognised and rewarded for their contributions towards ANZ's overall results'. The purpose of the incentive scheme is to improve 'ANZ's overall results' …

The report went on:

But, despite the scorecard's complexity, sales lie at its heart and the chief purpose of the whole incentive program remains to enhance the bank's 'overall results'.

Is that approach really successful in removing the incentives for sales incentives?

Mr Elliott : No. I accepted that they're insufficient, and we've made improvements. It's certainly better than it was but I totally accept that there needs to be more work done on that. I think Mr Thistlethwaite raised one of the areas that we would look into, and there will undoubtedly be others. We will make changes, yes.

Mr KEOGH: Why was there this half-baked approach? This is an issue we raised with you back in 2016; it was clearly on the cards back then as an issue. This is talking about your 2017 performance management process. We've had the Sedgwick report come out in that time as well, and, as you've said, you're still working towards implementation of that by next year. Other banks have already implemented Sedgwick for this current financial year.

Mr Elliott : With all due respect, I think there's a definitional issue with what 'implementation' means in Sedgwick—it's not possible to have implemented some of those. We're all on the path of reform. I take your point. As I said, though, it's about balance. We are a commercial enterprise and we do have a responsibility to generate a profit. Without that, we fail to meet our regulatory obligations around capital and other things and we would not be able to operate. It's about getting balance. Have we got the balance right?

Mr KEOGH: In respect of that balance issue, one of the issues that's been raised with other banks is the concept of gateways so that, if there is an issue in relation to regulatory compliance or customer misconduct, there is a barrier to any bonuses where sales may be a contributor to the calculation of that bonus. Are there similar gateways in place under the ANZ remuneration structure?

Mr Elliott : We don't call them a gateway, as I said to a previous question.

Mr KEOGH: A barrier?

Mr Elliott : The gateways that I believe others have talked about are things like whether you have done your mandatory training, et cetera. We don't call that a gateway. But if you have not done your mandatory training, that is a flag and that leads to a consequence. Sometimes there are legitimate reasons: people are on parental leave, they have been sick or other things that we have taken into account. It's not black and white, but we insist that there is a consequence of that. We have a guideline about what that consequence would be, in terms of the financial implication of that. We don't call it a gateway. Financial planners are a good example. We don't call it a gateway, but in terms of—

Mr KEOGH: Maybe I can ask a more specific question. One of the issues I raised with the gateway approach was the mere fact that it was only a training requirement, as opposed to any sort of review or understanding of whether that individual is actually complying with the law and deriving good customer outcomes or there have been any complaints or concerns raised about the conduct of that employee. Is there any assessment of that done, as a barrier towards—you don't get access to variable remuneration if there's been an issue here?

Ms George : We don't call them gateways.

Mr KEOGH: I don't care what it's called. I just want to know if that happens.

Ms George : We have values assessments as well, which come into play when we're considering any variable remuneration. The values assessment today, which play a really important part in that assessment of any individual, do include integrity and accountability, et cetera.

Mr KEOGH: So there is an assessment of each individual as against potential customer misconduct. Where it's a financial adviser, is there some kind of file audit or review to say, 'Yes, we're happy with you are performing.'

Mr Elliott : We have what we call a consequence management group, which I kind of alluded to before, which I chair. We go through—and we are getting better at this—and we build a database of every element of misconduct, a failure to meet a law, failing an audit, not doing a mandatory

training or whatever it might be. We systematically go through all of those individual cases and we ask that the senior executive, the accountable executive, signs off and says, 'I have taken this into account,' and, 'This is what I've done as a result of that.' Sometimes there is no action required, because they're not necessarily accountable for that. But we insist that there is a process and that they are accountable for—in front of me—saying what they have done about it, whether it is that someone has lost their job or lost their pay, et cetera.

Mr KEOGH: Touching on an issue that has conceptually been raised already, back in March there was a report in The Courier Mail that reported that:

The ANZ bank has refunded about $220 million to customers, including $90 million to people charged the wrong interest rate on their home loans.

Nearly 3000 customers do not know they will share a $1.5 million refund by Christmas while a yet-to-be-determined number will be in line for $13-15 million over a different processing error.

Those refunds are the latest connected to mortgage processing errors—

This is on top of refunds for various home loan processing errors. How do you get these sort of errors wrong so often? This doesn't look like a manual issue; this looks like there is an actual computer system problem.

Mr Elliott : Again, there is no excuse for that. That's one of the confronting elements of our own submission: we have made these mistakes too often in the past. On the face of it, they look like very simple things and to some extent they are. From my reading and looking into those situations, a root cause of a lot of this is complexity. In those particular cases, these are complex products that we put together with offset accounts and all sorts of variables. They were not implemented well in the first place, typically—partly because of issue we talked about before—because of a lack of accountability. One person is putting in place the computer programming on it and they're not necessarily accountable for the outcome. Secondly, there was really poor change management. Over time, we changed terms and conditions. We then don't go back into the code and change it correctly, so these errors fester for periods of time and then emerge. That's why we're so focused on the simplification of our product suite so that these don't happen.

Mr KEOGH: On that work you talked about, in terms of simplification, I presume you have now gone in and fixed these sorts of issues so that they are not still occurring?

Mr Elliott : For those particular ones, yes; but I cannot say that we have done—we are still going through the process for those 200 products to make sure that they fit.

Mr KEOGH: The article referred to said that there were 3,000 customers who didn't know that they were due for a refund, but clearly there had been an identification that there were a group who would be getting a refund.

Mr Elliott : Yes.

Mr KEOGH: Why don't you tell people, as soon as you know that you've got a problem, that you have overcharged them? Even if there is still some issue around calculating the final amount of that refund, you could say, 'Hey, we got it wrong. A refund is coming. This is going to take some time,' instead of waiting and waiting and people not being aware?

Mr Elliott : I agree with you. That was part of the failure in the past, in terms of our poor remediation processes. Now we have principles—

Mr KEOGH: This was in March.

Mr Elliott : No, with all due respect, that issue predates March. That when the refunds were starting. The actual issue goes way back in time. You're quite right, though. That's part of this remediation team that have now. They have set up remediation principles that deal with exactly that: when do

we tell customers, what do we tell them and how quickly do we get money back, et cetera.

Mr KEOGH: This then flows into what the interim report says:

The third, and equally simple observation to make is that, if an entity does not deliver what it has sold, the entity must remedy that default and the consequences of the default as soon as reasonably practicable.

Once this is understood, the so-called processing errors identified by banks called for much quicker responses than exemplified by ANZ's prolonged processes for identifying and then compensating customers affected by failures first identified in 2003, which were still far from complete when the Commission took evidence on the subject in March 2018.

That's 15 years later. Now, I know you've apologised for that. You said that you have changed the systems. How did it have to wait for a royal commission to occur for you to realise the problem was here—15 years?

Mr Elliott : With all due respect, it didn't. I accept that it is now public through the royal commission, but we knew about that event. We—

Mr KEOGH: So why weren't you fixing it earlier, then?

Mr Elliott : We were.

Mr KEOGH: Clearly, you were dragging your feet.

Mr Elliott : We were not dragging—can I answer? You're quite right to point it out. It's shameful; I agree with that. It's wrong. That particular issue you talked about—nobody is proud of it—was absolutely a mistake. The original attempts to remediate it—for some of the reasons we talked about before about the way the place was organised, et cetera—were poor. It didn't get fixed properly the first time. In fact, the initial remediation was badly done and then it had to get re-remediated. That is absolutely unacceptable. That's why we are making the changes. We have made changes to executives as an outcome of that and are making changes to the way we organise the place and hold people to account for remediations precisely to avoid that. That is an absolutely unacceptable outcome. Nobody is going to argue with you on that.

Mr KEOGH: Do you think part of the issue here might be the concept of what you described before, when being asked some questions around shareholder concern about having to pay out all of this money in remediation, where you said, literally minutes ago: 'It's their money.' But it's not the investors' money; it's actually the customers' money. The investors were never entitled to it in the first place. You said it's not, when it should have been in the customers' pocket the whole time.

Mr Elliott : I accept that I misspoke there, fair point. Of the 347, the bulk of the money is not refunds, actually. The bulk of the money is actually the cost of going back, finding and recalculating the money and doing the dataset. That is the piece I was talking about: the cost of remediation. The work costs significant amounts of money. That was what I was referring to. But you're quite right: the refund money obviously belongs to customers.

Mr KEOGH: Thank you.

Ms George : Can I just say I don't think anyone in our organisation is proud of the fact that they have to remediate these customers. We deal with these customers on a daily basis. We understand what we've put them through. As Shayne said, sometimes we haven't done it quick enough and sometimes we do do it quickly and get it wrong, and we have to balance that. I think we really are focusing on this now. We have centralised the groups. We're putting as many resources as we can possibly find into those to make it better as quickly as we can. I just want the committee to know that it's not something we're proud of, the fact it's taken so long.

Mr KEOGH: On that, the ASIC report No. 594, Review of selected financial services groups'

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compliance with the breach reporting obligation, at table 3 on page 8—in respect of finding No. 4, 'delayed remediation for consumer loss'—says:

For significant breaches that involved consumer financial loss, CBA, NAB and ANZ... We identified historical documents from two of these major financial groups that referred to remediation for consumers as a 'distraction'.

Was ANZ one of those banks? Before you answer that question, the Commonwealth Bank told us yesterday that they were not.

Mr Elliott : I believe it may well have been ANZ. I believe it is. It's wrong. As I mentioned before, we didn't pay sufficient attention to remediation.

Mr KEOGH: That's more than not paying attention; that's trying to avoid dealing with it because it was apparently a distraction.

Mr Elliott : Well, we can talk about the words.

Mr KEOGH: But that's a cultural problem.

Mr Elliott : We did not pay sufficient attention to remediation—I've said that—and that's why we're changing the way we run the bank.

Mr KEOGH: I know that as a matter of fact, but the use of that word and that concept in correspondence, ASIC found, speaks to there being a cultural problem with the idea of having to deal with remediation of customers when it's seen as a distraction.

Mr Elliott : With all due respect, it's a document. I don't know specifically which executive said that and in which context. I'm taking accountability that we did not do a good enough job on this and we didn't give it due attention. I agree with that.

Mr KEOGH: Maybe going into that issue—as you said, you don't know where this came from—ASIC observed that there were 'limited and inconsistent levels of oversight by and accountability of senior management across key stages of a significant breach' when looking at those issues. What are ANZ now doing to rectify those issues?

Mr Elliott : As I've mentioned, we changed the way we organise the place, we've changed accountability frameworks, we've made it clear who is accountable, we've changed what functions reports have and we've given people a degree of control to make sure that they can remediate things with the right care and skill.

Ms George : Every breach is now in a central system. As an executive, I see every breach that goes to ASIC. We monitor every breach, we monitor how long it's been since we had to interact with the regulator and what we've done since that point. It's all maintained centrally now, which it perhaps wasn't in the past.

Mr KEOGH: Mr Elliott, I understand you've taken the banking and finance oath.

Mr Elliott : Yes.

Mr KEOGH: That oath in part talks about trust being the foundation of your profession, serving all interests in good faith, speaking out against wrongdoing and supporting others who do the same, and accepting responsibility for your actions. Does the conduct that's been revealed through the process of the royal commission, some of which has been under your watch as CEO, live up to that oath?

Mr Elliott : No, not all of it. As I said, there's no pride in that. We failed. I've said that multiple times. Our organisation had failed the community and failed our customers in many instances. That's unacceptable. The oath, to me, is about making sure that it doesn't happen; being honest about it;

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making sure it doesn't happen again; making sure we remediate things to the very best of our ability, with the concept of fairness at the heart of that; and doing the right thing by customers. That's what I am leading at ANZ.

Mr CRAIG KELLY: Mr Elliott, this morning when you gave a brief summary and introduction you talked about bank failures and you talked about misconduct. You put them in what I would describe as two separate categories. You describe some of those failures and misconduct as being below community standards, and you also describe some conduct as being below what the law requires. I will come to the first: community standards. I put it to you that in a normal competitive market what maintains those community standards is actually a competitive market. In any other sector of the economy, where a business operates below community standards they are punished by the market and by competition. Why hasn't that happened in the banking sector? When you've seen the banks have been operating below community standards, rather than being punished by the market and by competition, they've actually been able to report record profits.

Mr Elliott : I think the point you raise is a reasonable one. The community, our customers, will hold us to account for our behaviour, and therefore competition in a sense is a good thing, obviously, just in terms of that community behaviour. I think what is interesting at the moment is that I would say that that is actually what's happening. Today the reality is that the non-majors—not the big four—are growing at a rate faster than the big four. Their market share, collectively, is the fastest-growing part of the Australian banking system today. To my knowledge, there are, I believe, 27 new banks seeking a licence with APRA—either through the sandbox regime or actually formally seeking licences—to enter into the market. I think the competitive environment is far more intense today than it has been in at least 10 years. We can discuss whether it's enough, but it's certainly happening at quite a rapid rate, and the data from the regulators and from the ABS supports that.

Mr CRAIG KELLY: But, to be fair—and you can measure it by market share; but I think measuring by banks' profitability is perhaps a better parameter—the banks have been able to increase their profits at a time when they've been operating below community standards. Doesn't that indicate that there's been a significant lack of competition in the banking sector?

Mr Elliott : No, I'm not sure that I agree with that. In fact, the reason that the banks have increased their dollar levels of profits is because we're bigger. Our capital bases have increased, partly because of regulatory requirements to do so, and the—

Mr CRAIG KELLY: The reality is that you've increased profits at a time when, you have admitted, you've been operating below community standards, I put it to you: in any other sector of the economy, if a business operates below community standards, they are punished by the market—

Mr Elliott : I think we are punished. The reality is that in the sector, including ANZ, our return on equity has fallen from 17 or 18 per cent to 11. We have been punished. ANZ's profitability is dramatically lower than it was three years ago, five years ago and ten years ago—dramatically. The profitability of the Australian banks is lower than the average listed ASX50 company.

Mr CRAIG KELLY: And you believe that is because of your previous misconduct and bank failures, and the market punishing you for that?

Mr Elliott : No; I didn't say that it's solely—I don't know that it's solely because of that. You put it to me that the banks had been increasing their profitability during that period. And I'm just suggesting that, when you look at the profitability, the return we get on our shareholders' money, that is actually dramatically lower.

Mr CRAIG KELLY: I'm not commenting on the return; I'm not criticising the return that you get. The point I'm making is that you were able to increase your profitability at a time when you are operating below community standards. And I'm saying that that is contrary to almost any other sector of the community, where a business operating below community standards would expect to see their market share and profitability significantly hit.

Mr Elliott : And I'm coming back to you to say that, in that time, our profitability has gone down, not

up. We earn less for every dollar we deploy than we used to at any time in the last 20 or 30 years.

Mr CRAIG KELLY: I will come to the second category, bank failures and misconduct; that's what you said—below what the law requires.

Mr Elliott : Yes.

Mr CRAIG KELLY: To me, that's saying that there were breaches of the law?

Mr Elliott : Again, I'm not a lawyer, but the terminology, and particularly in the royal commission, was around misconduct and failing to meet community standards and expectations. So we were drawing a line there. The misconduct has a legal definition, and that is what I was referring to; yes. Those cases are outlined in the interim report. There were some instances around providing car financing and other things, where that amounted to misconduct. We agreed with that; we submitted that to the royal commission and they accepted that those met the definition of misconduct.

Mr CRAIG KELLY: Would those instances come under the provisions of the old Trade Practices Act, now the Australian Competition and Consumer Act, about misleading or deceptive conduct?

Mr Elliott : No, I don't believe they fall into that definition. But they certainly resulted in regulatory action as a result of those—

Mr CRAIG KELLY: What about unconscionable conduct?

Mr Elliott : Again, that's for the regulators to determine. The cases that are in there—I can't off the top of my head remember the details, but they're not in that category. They're more—

Mr CRAIG KELLY: What about breaches of the Corporations Act provisions that require services to be provided, I think it is, 'clearly, honestly and efficiently'?

Mr Elliott : We did not submit that we have broken that law, and we don't submit that we have, no.

Mr CRAIG KELLY: But, again, you acknowledge that some of the conduct was below what the law requires?

Mr Elliott : Yes.

Mr CRAIG KELLY: If that's the case, given that we've got several hundred people wanting to have their cases heard before the royal commission, why haven't these people been able to get access to justice before the court system? You've said, the banks operate below what the law requires. We have the laws. The laws, I believe, in relation to unconscionable conduct and misleading and deceptive conduct in the Corporations Act, are quite adequate, and I think you'd agree with that.

Mr Elliott : Yes.

Mr CRAIG KELLY: If that's the case, and you've admitted it's below what the law requires, why haven't these people been able to get access to justice in the past, to have their cases determined one way or the other?

Mr Elliott : I believe that many of them have. Many of those cases have either gone through courts in some cases and resolved in settlements—

Mr CRAIG KELLY: But, to be fair, in terms of people making submissions to the royal commission—which I know my colleagues on the other side of the chamber have acknowledged and I think we share the same sentiment on this—many of these people simply feel they haven't been able to, as you said, 'get their day in court'. Why do you think that is? Do you think that there's been a complete imbalance in the legal playing field in this country?

Mr Elliott : Again, I'm not an expert on the law. I would say that that was part of the reason that the

government of the time put in place things like the FOS and now AFCA, to have a solution so that people can seek resolution without going through a full court process. The stats would suggest that that process, FOS, has been successful in many, many cases for many of those customers.

Mr CRAIG KELLY: But we've actually acknowledged that FOS previously wasn't adequate by the fact that we've put in a new regime to handle the issues going forward. So, isn't that itself—

Mr Elliott : That's for you. I'm not sure that that was the reason, but I think there was a view to merge some of the existing ombudsman regimes to make it more comprehensive, but the new regime is well considered. It hasn't started yet; it starts on 1 November. It's well resourced and obviously we will cooperate with them.

Mr CRAIG KELLY: But, as I understand it, that will only be able to hear future cases. It won't be able to deal with past cases.

Mr Elliott : I believe that's the case. I'm not totally sure of that, but I believe that that is the case, yes.

Mr CRAIG KELLY: Where you have covenants for small business loans and there's a breach of that covenant and the penalty for the breach enables the bank to hike up the interest rate, is that something you have in your contracts?

Mr Elliott : Sometimes.

Mr CRAIG KELLY: And what would a typical interest rate hike be for a breach?

Mr Elliott : I would have to come back to you. I'll take that on notice. I'm not sure. Basically the issue is that, when the risk profile of a customer changes, it's reasonable that the price of the loan changes to reflect that. And that is declared up-front and customers enter into that knowingly in advance of signing up to those contracts.

Mr CRAIG KELLY: But, whatever that interest rate hike is, that would still be potentially covered by the common law? It could be an unlawful penalty?

Mr Elliott : No, I don't accept that.

Mr CRAIG KELLY: If the amount was excessive, would you agree that it could be deemed to be an unlawful penalty?

Mr Elliott : As I said, I'm not a lawyer. I'd have to go and get legal advice on that. My understanding is that penalties are very defined under law. But, in that particular case, when you say to a customer going in, 'Hey, if the risk profile of this loan changes, there will be a consequence,' I've been advised that that is not a penalty in the legal sense of the term.

Mr CRAIG KELLY: One final question: in terms of the current drought, I'm assuming you have many farmers or farming communities—

Mr Elliott : Yes.

Mr CRAIG KELLY: Maybe not farmers—maybe other industries in the regional sectors in drought-declared areas. Are you doing anything special in that respect?

Mr Elliott : Yes. We unilaterally reduced the rate on all farm loans by one per cent if you are in a drought-affected regional part of Australia. We've made donations to some of the services that assist farmers in difficulty. We're moving ahead on the farm management deposit scheme. We've got some issues to deal with on the operations, but we're moving ahead on that. And we made some changes to home loan rates recently and we excluded all customers—not necessarily farmers, but all customers—from that rate increase if you're in a drought-affected town or region of Australia.

Ms O'NEIL: Thank you for being with us today. I really appreciate it. If we could start with the royal commission, Mr Elliott, you're on the record as saying you didn't want a royal commission. Today you're now saying that you've been finding that very helpful. I think initially you said you felt a royal commission would be a distraction. I accept that you've accepted that you were wrong and you've apologised, which I note is more than some others have done, so I appreciate that. I want to get an understanding of why you have had such a change of tune? What is it about the royal commission that's teaching you something about your industry that you didn't already know? You talked about being embarrassed and shocked and you said that the bank put together this dossier of misconduct that was handed to the royal commission. Given that you run the bank and you know what's going on in the bank, can you help me understand what has surprised you that's come out of the royal commission?

Mr Elliott : That's a very fair question. Just to give a bit of context, I took over as CEO in 2016 and, prior to that, I'd been the CFO. Really, in that role, you don't get to deal with customers typically—a little bit but not typically. And you're not confronted, necessarily, with the same issues. Coming into that role, having to prepare the submission to the royal commission fairly early on—obviously after my original statements thinking I'm not sure that we need a royal commission, then doing the work was shocking for me. It was a really big lesson to sit down and document all of the failings that the organisation that I worked for and that I now led had made and to see them all in one place.

Some of them I knew about. As CFO, I knew we were paying money for this, that and the other, but I hadn't really seen the human side of that. To sit down and read those cases of farmers, small businesses, home borrowers, whoever that might be, people that we had let down, overcharged, charged for services we hadn't provided, it was really the human element of reading that. And then, secondly, really putting it all together. As I mentioned, any one of those things is shocking and tragic, but, when you pull them all together and it really causes you to question: is there something wrong with the system here? Is there something wrong with this organisation that I have, obviously, a strong feeling for? I've only worked at ANZ for nine years, but I have a strong attachment to it. I know that the vast bulk of people there are good people, so how could this happen? That was the epiphany, if you will—to go through and see that. So that changed my view. Finally, I think it's fair to say, even then, at the time of the submission, before the royal commission had really started, I was still only aware of the ANZ issues. To be able to watch and see and hear the vast array of similar stories from other organisations, that obviously just added to and compounds that feeling.

Ms O'NEIL: You mentioned the powerful force of the human element, and I want to talk a little bit about the impact on the people who are at the end of the misconduct. You have acknowledged that, at times, your bank, people working for you, have acted with misconduct and that that's put them through financial harm and emotional stress. One of the concerns I have about the royal commission is that that human element, in my view, has been very much minimised because the royal commission was not given enough time to hear more stories. We've had 27 victim stories told. I have met with probably twice as many people as that in the last 10 days who have been victims of that misconduct. You talked about emails. That's good. I'm glad that you're engaging with customers. Can you tell me a little bit more about what you're doing to sit down face to face with bank victims? Some people may think this is in some way a political exercise, and I can guarantee it's not. You cannot appreciate the impact this harm has caused until you speak to someone who's lost a family home or a farm at the hands of the banks. Can you talk to me a little bit about how you're ensuring you're doing that?

Mr Elliott : Sure. I will get to the royal commission and particular cases in a second. I agree with you, and I agree it changes your perspective when you sit and hear people's personal stories. As I mentioned, that's why—again, I don't do it enough, and I accept that—I fronted up in towns where we were closing branches to hear the impact. We had many town halls where customers came and told us what that meant to them and what it meant for the town.

In terms of the royal commission and the actual cases involving ANZ, prior to making those submissions about the various customers, I had not met any of those people. Our advice—it may well have been overly conservative—is that the royal commission is a legal process, these people were being asked to be witnesses, and at some level it would be inappropriate for me, during that, to contact those people who were giving evidence, if you will, against ANZ. But, now that the interim

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report has been filed and I believe those are now public, it is my intention to sit down with many if not all of the ANZ individual customers that are named in that report, and I will do so.

Ms O'NEIL: Thank you, Mr Elliott. Actually, though, while I'm worried about the people who appeared before the royal commission, my greater concern is the thousands of people who didn't get to appear before the royal commission.

Mr Elliott : Sure.

Ms O'NEIL: I see that you're meeting with a few people who are here this afternoon—

Mr Elliott : Yes.

Ms O'NEIL: who are victims of some type of misconduct, potentially, at the hands of ANZ—alleged, of course. I just invite you to consider what you might be able to do to speak with victims who are not here in Canberra today, people who perhaps don't even feel that their voices are legitimately a part of the conversation, because those are the people that we need to really seek out to understand what's happened to them so that reparations can be made. So I just ask that you have a think about that, and perhaps your team can get back to us about how you're planning to make sure that you and your senior leaders are able to take that opportunity.

Mr Elliott : For what it's worth, I don't have to think about it. I will commit that I will do that. The difficulty, obviously, will just be logistics and the numbers.

Ms O'NEIL: Yes, of course.

Mr Elliott : But I will make a personal commitment to sit with as many as I can, practically, of the people that contact me and hear their stories personally. I will insist and encourage my team to do the same.

Ms O'NEIL: Thank you very much. I appreciate that. You have talked a little bit about the process that you're putting in place internally, and I think you'll be getting a clear message from us at the committee that we see how you are treating past victims of misconduct as an indicator for how seriously your conduct is changing. Could you tell me a little bit more about the numbers that you're using here? Did you mention 190? How many staff are in the team?

Mr Elliott : There are 165 in the Australia division. There are another 100 in wealth.

Ms George : There are over 250 in total.

Ms O'NEIL: That's good. I feel like that's serious resources. Can you talk to me about numbers: how many people's cases have found their way? Can you give us a sense of the speed at which you're able to work through them?

Mr Elliott : This is complex.

Ms O'NEIL: I accept it is hard, because we're talking here about going from a victim who has been charged a fee for no service—and you can easily calculate that—over to people who have had legal battles that have gone on for 20 years. So I accept that.

Mr Elliott : Yes, I agree. I will ask Alexis to give some detail. The sad reality is that, when you count people that we have overcharged—whether it's a fee or whether it's the interest rate example that one of your colleagues mentioned before—there are hundreds of thousands of our customers. It's not a million, but it's many hundreds of thousands that either have already been refunded or are in the process or need to be.

Ms O'NEIL: I'm so sorry to interrupt; I don't mean to. It's just that I don't have long. I see the bank is trying to deal with the easy cases quickly. Could you talk to me about the people who have got more complex cases.

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Mr Elliott : Yes, I meant to. From that level, we're doing that, and we then have a list of customers where we believe the issue is (a) material—and it's always difficult, because every issue is material from a customer's perspective, and I accept that—and (b) longstanding. Those are not 100, but there are lots. There are fewer than 100 in that list. These are the ones that actually get literally name-by-name attention from myself and my team. I don't know the details of all of those cases. The progress around those gets reviewed at my executive committee regularly to say, 'What's happening and where are we going?' A couple of those people are the ones that I'll be meeting with later today.

Ms O'NEIL: Okay. So you have about 100 that you've classified as difficult and material.

Mr Elliott : Hardcore. These are complex, difficult, generally longstanding issues that go back in time. Some of those relate to the very unfortunate and public areas around the Landmark acquisition, but there are a broad range of customers in there.

Ms George : I think when you come to the advice sector, where there have been some issues, you just said it: to be able to calculate fees is a mechanical exercise. It's still not easy, but it's an exercise. When you come to poor advice, we've now been through over 7,000 files of individual customers. Looking at that in relation to the original commitments we made, we have fewer than a thousand to go but, unfortunately, we are still finding incidents, so they add to the pile. We've been through a significant number of files in relation to the advice, and it's an ongoing process that we have to continue to watch.

Ms O'NEIL: That's great. I think you are meeting with this committee again in six months, and it would be terrific to get an update on how you're tracking through that.

Mr Elliott : Sure.

Ms O'NEIL: Mr Elliott, you talked about the fact that people within the bank have acted in a way that has sometimes fallen below community standards. There is a great deal of anxiety in the community at the moment about accountability for people who have done the wrong thing. I want to ask you a bit about that. When you talked about how the bank is holding those people accountable, all the things you mentioned are internal to the bank. You talked about people losing their jobs and their prospects within the company, but some of those people have broken the law. I want to understand what the bank has done to make sure that the justice system deals with those people appropriately.

Mr Elliott : Again, I will ask Alexis to comment, because some of them are more in her area. When somebody has broken the law, we report that to the police in some cases or to the appropriate authority, depending on the law that is broken.

Ms O'NEIL: So whenever any of your staff members break the law, you're confident that you are referring them to the police? Is that accurate?

Mr Elliott : Absolutely. We have a group investigations team, which is largely made up of ex-police men and women, who investigate cases. Sometimes it's theft, embezzlement—whatever it might be. They have a close working relationship with the various authorities, and we report those and then it goes through the process. We also report to the regulators. I'm thinking about financial planners—

Ms George : Regardless of the breaking of the law, we use the internal investigation team, which typically consists of ex-police of some form. It depends on the law, as Shayne said. Some we report to police—they're typically simpler issues, to be honest—but most we report through to our regulator. As to how many individuals we've reported, even in advice we've reported over 80 individual advisers to the regulator for misconduct of some form.

Ms O'NEIL: Could you tell me where the sale of your superannuation business to IOOF is at the moment?

Ms George : We're still in the process of going through that, as I'm sure you heard during the royal commission. It is important for us to make sure that we act in the best interests of the members

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when we consider that transition of the sale.

Ms O'NEIL: It's more than important; I think that's the law.

Ms George : It's the law. As an executive I'm very conscious of that requirement. We also have a trustee board that's independent. I'm sure many of you had the opportunity to watch our chairperson of that trustee board at the royal commission, who is fiercely independent. While we have an open and transparent relationship with that board, we don't always agree on everything. Ultimately she is the decision-maker when it comes to the transition of those customers to the new entity and across to the IOOF. As the executive accountable I take that responsibility carefully as well, and we are not at that point where the decision has been finally made. We're working through the process.

Ms O'NEIL: Thank you. I think IOOF has not come out very well from the royal commission. I don't think I'm editorialising too much to say that. APRA has said that it's concerned about IOOF's structure and governance. There has been evidence presented that half of the members of IOOF's Super Choice fund would be better off in another account and that IOOF is making an additional $8 million a year through what they call 'low-arbitrage risk'. That's their term for customers not understanding that they could be in an account that's going to earn them more money. The royal commission has said it's open to the commissioner to find that IOOF has failed to understand the duties to super members and failed to manage conflicts of interest. The board minutes have been inaccurate and lack detail, because the chairman has said that, if they do them accurately, they may 'get an organisation into trouble should litigation later arise'. There has been cheating on compliance exams, misrepresentation of performance, and the company had to back down from a big fee hike earlier this year, because its advisers said they didn't think that was right for their customers. Could you explain to me how this transfer could be in the best interests of the members of your super fund?

Ms George : Firstly, can I say: when you watched what happened at the royal commission and some of the things that came out, ultimately I am responsible for the customers of the superannuation entity. But the people who served those customers, who would also move across to IOOF—I don't take that responsibility lightly.

Ms O'NEIL: How do you describe your responsibility for the members of the super fund?

Ms George : I have to act in the best interests of the members of the super fund. I also have to act in the best interests, I believe, of the people who will support the members of those super funds. Clearly I take that responsibility seriously. When those things came out during the royal commission—which I wasn't aware of beforehand—we've had multiple contacts, formally and informally, with the management and with the board of IOOF to inquire about the issues that arose and what they were doing to address those, what they had done to address those in the past. As a manager, that's what I've done. On top of that, as I mentioned before, we have an independent trustee board who take those things very, very seriously and have similarly written formally to the organisation asking for explanations. As I said before, we're still going through this process, and there will continue to be engagement on the issues that came out there.

Ms O'NEIL: Earlier in the year—in August, I think—ANZ said that it had never met with IOOF to get any comfort about how the interests of its super members would be protected by the new owner. Has that meeting taken place?

Ms George : I think the chairperson of our board said that the board had not formally met with IOOF to do that. I think she also said that she hadn't done that—and I think rightly—because she didn't want to influence any of the decisions that they needed to make in relation to the transition. She also said that they'll consider that in the light of what came out and in the decisions they have to make going forward. I meet with the management of IOOF on a regular basis. And, as I said, she has formally written to IOOF asking for information about certain things. But, at this point, they haven't met with her.

Ms O'NEIL: I'm sensing we need to finish up. There seems to me to be a conflict inherent in this transaction—in that you owe a duty to your shareholders and you owe a duty to the members of this

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superannuation fund, and they seem to be divergent. Do you agree, and how are you resolving that within the bank?

Ms George : Clearly, as an executive, there are always conflicts, as there are with any business. That is the purpose of having—

Ms O'NEIL: There are conflicts? This is pretty fundamental.

Ms George : Yes. That is why we have an independent trustee board there. They are an independent trustee board. All of the external members of that board are experienced, qualified and pride themselves on their own reputation. I think having them there is a constant check and balance on the role of executives.

Ms O'NEIL: This is the trustee board that allowed almost a million members of the fund to be paid below the cash rate over a 10-year period of time?

Ms George : I'm not sure which particular one you're looking at.

Ms O'NEIL: I'm looking at OnePath MasterFund, of which almost a million members, at 30 June, were being charged a range of fees, including four per cent on all contributions and up to 2.9 per cent on top of that four per cent entry fee, leading them to get below the cash rate over 10 years.

Ms George : If we can pull that back, we have a range of cash funds available on many of our platforms. You've pulled out one there. There are hundreds. Most of the options—nearly 95 per cent of our cash options—don't have a fee on them. We've been closing many cash options. You can have a look over the last years at whether there have been fees. If there is a fee being charged with a cash option, there is always one on the platform where there isn't a fee-charging option. I accept you've pulled out one there that is. I'm telling you that nearly 95 per cent do not have fees being charged with a cash option or have another option available for the customer and the adviser to choose.

Proceedings suspended from 11:09 to 11:20

CHAIR: We shall resume with you, Mr Bandt.

Mr BANDT: Thank you, Mr Elliott and Ms George. Why are you selling the wealth management businesses?

Mr Elliott : When I took over as chief executive I was thinking about the future of the financial services business. Contrary to some of the other comments, we saw a future that said the world is getting much more complicated, profitability is falling, growth is not what it needs to be and we've made too many mistakes in the past. Part of the source of that was complexity. We said, as a simple philosophy, we should do a few things and do them really well. What are those few things? We want to be the best bank for people who want to buy and own a home or start and run a small business and then everything else we should really question. We looked at the wealth business and said that we believe we have an obligation to provide wealth services to our customers. Customers would expect to be able to insure things for their retirement and to come to somebody like ANZ, but the best way of providing that was not necessarily to be in the business of manufacturing those products. We thought there was a better model where we would partner with people who woke up every morning committed to being the best they could in those businesses. That's a longwinded answer, but it's not just about wealth; we've done that in a number of businesses.

Mr BANDT: In terms of the mistakes that you referenced in your answer then, and earlier when you were talking about mortgage broking, you said that most people who would go to a mortgage broker would presume that that broker had a duty to act in the customer's interest rather than perhaps the interests of the bank, who might be the ultimate owner of them. Those two come together, don't they, with respect to the wealth management arm? Part of the problem and part of the source of mistakes is that, in those wealth management and wealth generation arms, the obligations of the people who were selling the products were, in many ways, conflicted.

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Mr Elliott : They're certainly different. I will ask Alexis, because she's much more ingrained in this than I am, but I agree that they're very different. I think that's one of the difficulties of banks, in our experience at ANZ. I can't speak for others. The relation you have as a bank with a customer verses a wealth product is different. When people come to talk to us about a home loan or credit card, they've made up their mind. They want to buy a home and they come to seek that solution, but it's different when people come in and want advice about saving for their retirement. It's a different kind of relationship. Our estimation, our view, is that it's not the right model to necessarily have them under one management structure.

Mr BANDT: This might be relevant to the next answer. That seems to me to be of a piece and broadly in agreement with the royal commission's view expressed in the interim report when talking about the potential issues that arise when you have these different business structures, which you are clearly moving out of. The royal commission said the inescapable fact seems to be that interest too often trumps duty. Hayne said:

... too often conflicts between interest and duty are 'managed' in a way that coincides with the interests of the party who owes some conflicting duty or has some conflicting interest.

Would you broadly agree with that view expressed by the royal commission?

Mr Elliott : Broadly. It's clearly an issue and, as Alexis mentioned, these conflicts exist and it's about how you manage these conflicts. I will say, in our case—again, I can only speech for ANZ—our wealth business was very small relative to the rest of the bank. What can happen in situations like that is you don't always have sufficient resources to invest to make sure those products and services are the best in the class. So this resource contention was also a really important question for us How do we do a few things well? How do we be the best bank we can be and get things right the first time? It's easier if we're simpler.

Mr BANDT: In the context of it being, as you describe it, a relatively small proportion of the overall business—we were talking about a sum of somewhere between half a billion and a billion dollars that's been put aside for, I will use the term 'compensation' but that might be in various forms, it might be refunds of fees, it might be settlements for wrongdoing and so on—do you have an estimate of how much of that sum arises out of the wealth management side?

Ms George : I think it would be fair to say approximately half of that over the years has been in relation to some of the wealth issues.

Mr BANDT: So half of this really significant sum of money but it wasn't half of ANZ's business?

Ms George : No.

Mr Elliott : No.

Mr BANDT: Looking at that from our—

Mr Elliott : You're right. It was less than 10 per cent of—

Mr BANDT: So less than 10 per cent, but you've had to put aside about half of the money that you put aside for compensation, it's somewhere between half a billion dollars and a billion dollars that's coming out of 10 per cent of your business. Looking at it from our perspective, and looking at it from the public's perspective, the inescapable conclusion seems to be—and I would draw the inference that it's part of the reason that you're getting out of this—that there's a fundamental conflict there. These wealth management and wealth creation businesses are run in a way to maximise profit, in this instance for you as the owner, not to act in the customer's interest. For you as a bank, given that you have been referring customers over to them and that you had a relationship with them, is a fundamental conflict that is leading to these significant payouts. It seems to us that it would be a sensible course of action, given how much of a problem it has been, to break up these entities across the board and say, 'If you're going to be a bank that deals with people's deposits, or that writes loans

for people, you cannot be in the business of this other wealth management business.' Surely that would be a fair thing to institute across the board?

Ms George : I will talk from our perspective. I hear what you're asking. We made the decision to start divesting some of our wealth businesses over 4½ years ago. The first one was general insurance. Shayne said it before and I will repeat it, it's the reality that this is a small component of the bank. As a result of that, it didn't always get the investment that it required to stay up to date, to stay current and to meet the digital requirements of the new age customer. We made decisions that started over 4½ years ago to get out of some of those businesses. General insurance was the first and then we've been through a very public sale process in relation to the other components of our wealth business for over two years. It's not a recent decision we made. It's absolutely been about focusing the bank on what it can do well, focusing the investment on what it can do well and partnering with people who can absolutely focus and invest in those businesses for the future.

Mr Elliott : I'll add one little thing if I may, this decision around simplification, taking out complexity of our business and doing a few things and doing them well is not limited to wealth. In the last three years we have sold 21 businesses at ANZ with a cumulative value of $7 billion or $8 billion. Wealth is a big chunk of it. The philosophy is not purely around wealth and the issues of conflicts; it's a philosophy exactly going back to the source of the issues around the royal commission. We should do a few things and do them well and get them right the first time. It's much easier if you're simply doing fewer things with fewer people—

Mr BANDT: Is it partly to do with the potential conflict or you're saying this is not about customers at all this is about the bank's interests?

Mr Elliott : I get the perspective of what you're saying. At the time we made the decision, when we were talking about it, it was not on the list of reasons it was more in the camp of what just we talked about—the difficulty of managing complexity, allocating resources efficiently and competing with people who have nothing else to do but be the best insurer that they can be or be the best superannuation they can be. That was really what the decision was about.

Mr BANDT: Knowing what you know now as a result of the royal commission will it have a benefit for customers in that there won't be that potential for conflict of interest?

Mr Elliott : Well, absolutely at the heart of this is to have a better outcome for customers. The reality is that, when we looked at the business—to your earlier point—this was actually a very small part of ANZ. It's not a highly profitable business in absolute terms or in the returns. It's an important part of the service offering. People should insure the things of value to them and they should save for retirement, and going to a bank is a reasonable place to ask for those services—it's not the only place—and so we have an obligation to provide some level of service there. We said, 'What's the best way we can do that at the lowest risk for those customers?' We do not believe that us owning and operating that was in the best interests of our customers.

Mr BANDT: Would any of the potential liabilities that arise out of activities that were previously part of your wealth management arm transfer to IOOF, or will ANZ retain full responsibility?

Mr Elliott : We're accountable for any conduct or any issues that arose when we were owners or managers of the businesses. We're on the hook for that, as we should be.

Ms George : There are normal indemnities, as you would expect in a contract like that, where we have to remediate any things that have happened.

Mr BANDT: Can I ask you about ASIC's Wealth Management Project, which they started in 2014, before you were a CEO, Mr Elliott. They began investigations—and the royal commission has covered this—around fees being charged for no services. The royal commission also said that some of the issues they uncovered were pre FOFA, but some of the systemic issues also continued after FOFA, with respect to charging fees for no services. Then the matter got tied up—and I will ask you some questions in a moment about how it got tied up—a couple of years later when I think you were CEO, Mr Elliott. During those couple of years, did ASIC issue any proceedings against ANZ with respect to

the matters under investigation as part of the no-fee-for-service in the Wealth Management Project?

Ms George : I think you would be aware that we accepted an enforceable undertaking at the beginning of this year.

Mr BANDT: Yes, but prior to that there were no proceedings issued?

Ms George : Not that I can recall at this point.

Mr BANDT: That enforceable undertaking was entered into just a couple of days before the royal commission began hearings about fees for no service, wasn't it?

Ms George : I can't remember the exact date, but it was around that time, yes.

Mr BANDT: As part of that you gave undertakings, and the royal commission said:

The undertakings went no further than to record ASIC's 'concerns' and that the relevant entities acknowledge that those concerns are 'reasonably held'.

Is that a fair assessment of the undertakings you gave?

Ms George : I can't honestly remember everything in that undertaking; it's quite lengthy. If you are reading it, I'll take that as read.

Mr BANDT: The royal commission also said:

This is well short of a full and frank acknowledgment by the entities that what they had done was wrong.

Do you dispute the royal commission's assessment of the undertaking you gave to ASIC?

Ms George : I think when we put in our statement, as Shayne said before, we acknowledged the fee-for-no-service issue and since that time we've spent nearly $80 million, as you said, remediating that issue.

Mr BANDT: So do you, today, give a full and frank acknowledgement that what you did was wrong?

Ms George : I don't think we delivered the services that we promised to deliver.

Mr BANDT: Is it wrong?

Ms George : Yes.

Mr Elliott : Yes, it's wrong.

Mr BANDT: So why weren't you prepared to tell ASIC that what you did was wrong?

Mr Elliott : We should go back in time. We actually reported this to ASIC. We discovered this problem many years ago—

Ms George : 2013.

Mr Elliott : We self-declared this to ASIC at the beginning as a breach, as an error, and absolutely—

Mr BANDT: In the context where you can say today that what you did, the charging of fees for no service, was unquestionably wrong and where ASIC is pursuing you for two years, you sign an agreement with ASIC on the verge of the royal commission conducting hearings and, in that agreement, you're not even prepared to admit that what you did was wrong—you just say that ASIC's concerns were 'reasonably held'—it invites the inference that you don't take ASIC seriously at

all. Like, you are in bed with ASIC. You strike a deal with them that does not include any admission of wrongdoing, and it takes a royal commission to get you to say that you were wrong.

Ms George : Can I comment on that. By the time we signed that enforceable undertaking, we had almost completed remediating the customers of those that had not been—had the service delivered to them. So I don't know the exact wordings of the undertaking; you have them in front of you, and I would like to go back and review those. But clearly we'd admitted that we'd done wrong, because we'd been in the process of giving the customers back those fees, and we were in the process of making sure that we got it right for the future. So I think we'd been working on that for many years before we got to the point of the undertaking being signed, and we'd been given constant updates through ASIC throughout that whole period.

Mr BANDT: But the royal commission was very critical of this arrangement that you struck with ASIC. It makes the point that you forked out nearly $50 million with respect to remediation and you didn't even have to admit that you were wrong. This suggests to many people who are looking on it that you are just in bed with ASIC. You are in bed with ASIC and you do not fear them at all, and you know that you can string out an investigation for a couple of years and sign an agreement that involves no admission of wrongdoing. And then it's only when someone calls you to account in the form of a royal commission that you put your hand up say, 'Yeah, we were wrong.' That is an unacceptable. That is an unacceptable way to regulate your industry. Don't you agree with that?

Mr Elliott : No, I don't agree with that. With respect, we have said we were wrong. Perhaps it's not written down in an enforceable undertaking, but we've said we've been wrong; we've said that many times. The allegation that we're somehow in bed with ASIC doesn't bear scrutiny from my perspective. We do, using the terms that have been put here, 'fear' ASIC. Nobody wants to get an enforceable undertaking; nobody wants to have regulatory action against us. It's caused us damage, harm. It's embarrassing; it's wrong. I accept all of those things.

Mr BANDT: It was better than having proceedings issued against you, wasn't it?

Mr Elliott : That's a matter for ASIC, obviously.

Mr BANDT: It is, and it's something that we'll pursue, but it seems to us that you've got a benefit out of ASIC's approach.

Mr Elliott : Well, I don't—

Ms George : I can just tell you from personal experience: at the end of the day it's up to ASIC to decide consequences for us. But it doesn't feel like there's not pecuniary obligations there. I think we've been working on remediation now in that particular case for four or five years. We've dedicated significant resources to it. We've written to all of those customers multiple times. I personally feel responsible for it. I think no-one's proud of it. It doesn't feel like it's not been a punishment.

Mr BANDT: Would you have any problem if the ACCC were put in charge of regulating the consumer activities of banks instead of ASIC?

Mr Elliott : I think that's a matter for the government.

Mr BANDT: I have one last question in the couple of minutes left. Mr Elliott, your total package is somewhere between $5 and $6 million a year, as reported. Is that right?

Mr Elliott : Yes.

Mr BANDT: And your predecessor's package was in the order of about $10 million a year, as reported?

Mr Elliott : Yes.

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Mr BANDT: How much of yours—and if you know with respect to your predecessors—is variable and how much is fixed?

Mr Elliott : So, typically they're structured as a third is fixed and the other two-thirds is variable, but with different conditions in them.

Mr BANDT: A lot of the wrongdoing that's been uncovered by the royal commission happened under the watch of your predecessor. Can you point to any instance in which the variable component of your predecessor's salary was reduced as a result of that wrongdoing?

Mr Elliott : First of all, I wouldn't necessarily know that. I wasn't part of the board or had access to that at the time. As of now, my predecessor has no—there is no ability, I believe, for the board to go back and look at making an adjustment to his compensation.

Mr BANDT: Has the variable component of your package reduced as a result at all of anything that's come out of the royal commission?

Mr Elliott : I'm not party to that. Our year-end, at 30 September, the board determines that and then seeks shareholder approval for that later this calendar year. So I'm not party to that. I'm obviously not involved in that decision.

Mr BANDT: The general principle that the royal commission has found so far has been that, in almost all of the instances of wrongdoing, there's been a connection between the wrongdoing and a financial benefit that the person involved in the wrongdoing stood to gain. It seems to me that when you have CEOs who are getting between $5 and $10 million a year and two-thirds of that is variable and therefore will go up if the amount of money that the bank makes goes up, in some part, we're just inviting more and more wrongdoing, aren't we, by allowing so much of bank's CEO's salaries to be variable?

Mr Elliott : The reality is that the variable component of mine and my predecessor's compensation is not solely driven by financial outcomes. In fact, the financial metrics for me on the variable is 25 per cent of the scorecard. It's not a direct correlation between profit, revenue, returns or any of the financial metrics. They influence a quarter of that decision and three-quarters is based on other completely non-financial metrics, like customer service and control functions, whether we fail audits, whether we have regulatory actions, our reputation, our people and employee engagement. A whole range of other factors goes into that.

Mr BANDT: What do you say to someone who's lost their house and they scratch their head as to why a bank CEO can earn between $5 and 10 million a year and not seem to suffer any haircut at all, despite everything that's come out of the royal commission?

Mr Elliott : I didn't say that I'm not suffering any haircut. What I said is it's not determined by me. That is a matter for the board, as representatives of our shareholders, and it goes to a shareholder vote. The shareholders get to determine if that recommendation is fair and reasonable.

Mr BANDT: I'll finish off by asking this way: can you point to one instance where either you or your predecessor suffered any financial penalty as a result of the things that we're hearing about from the royal commission?

Mr Elliott : There's a temporal element. The royal commission is only happening now. I can't talk about my predecessor. I don't know. In terms of my own, last year there was no royal commission. I did not receive my full target of compensation, so there was a haircut. I'm not aware of what the board will decide this year. I imagine that the royal commission will weigh heavily on their decision—not the royal commission in and of itself but the conduct that it reveals. The slow progress on remediation and other factors, I'm sure, will weigh heavily on their decision.

Mr KEOGH: Mr Elliott, you're also chair of the Australian Banking Association.

Mr Elliott : Yes.

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Mr KEOGH: Earlier in the week, it was reported that the fee-for-no-service scandal engulfing the major banks has forced the industry's peak body to overhaul a section of the recently revamped code of practice, which was only released a few months ago. Why do you need the code to change to tell you and the other banks to not take dead people's money?

Mr Elliott : We don't.

Mr KEOGH: That's what's been reported.

Mr Elliott : Obviously we don't.

Mr KEOGH: Your CEO went out and said, 'We're going to change the code because of this.'

Mr Elliott : We don't need it. Clearly it's wrong, and nobody needs to be told that. It's about making a more public commitment to it. We can argue the merits of that, but, equally, we can argue the merits of having a code at all. Many of the things that are in the code perhaps don't need to be publicly attested to. We felt, collectively, that there was value in making a public statement to make it really clear so that nobody was left in any doubt.

Mr KEOGH: Is there a concern that there are things in the code at the moment that effectively suggest that you should or could be charging those fees?

Mr Elliott : No.

Mr KEOGH: Good. Eighteen months ago, the ABA announced its Better Banking reforms and created a nice website. One of those reforms was the debt repayment and management service. On the site, it describes it as the following:

As part of a commitment to help customers in financial difficulty, banks are working with financial counsellors to establish a new debt repayment service for people struggling with multiple debts. This page will be updated with more details as they become available.

That was 18 months ago. Where is it up to now?

Mr Elliott : To be honest, I'd have to come back to you. I'm not sure. I'm not over the detail of the debt repayment service.

Mr KEOGH: Any idea of progress?

Mr Elliott : No. As I said, I'd have to take that on notice. I'll come back to you on the details of that.

Mr KEOGH: Absolutely, if you can, that would be very much appreciated. During the lead-up to the introduction of legislation for Banking Executive Accountability Regime, there was some commentary in the media. It said:

... the provision of that draft legislation, late on a Friday with a one-week review period during school holidays, does not feel like the "genuine and timely" consultation for which the government’s Office of Best Practice Regulation calls.

What is your view on that?

Mr Elliott : The reality is that BEAR is a good thing. Our focus is on implementing it. We spent hours and lots of—

Mr KEOGH: My question's not about that. In the process of getting there, there was a consultation and then you were given a week's notice of the legislation. There were concerns about that expressed in the media by those involved in the process. I'm after your view on that as well.

Mr Elliott : There's always a trade-off between the desire to get things done quickly and make an impact, and making sure that we do things properly. The royal commission speaks to some of those things that can go wrong, so of course in any change of regulation there will be a desire by people that are affected to have more time for consultation, to think through the consequences et cetera. But, at the end of the day, we got there.

Mr KEOGH: So, coming back to that issue—

Mr Elliott : We did consult. We got there. It's working—it's early days. We're confident it's a good structure. I don't think there's been any sufferance as a result of that.

Mr KEOGH: Coming back to getting it done properly, is there any reason why banking executives shouldn't be held personally accountable also for wherever there are breaches in the area of responsibility that affect customers that go to customer conduct issues as opposed to just the prudential and risk issues?

Mr Elliott : No, I don't think—I imagine it's a more complex area around definition et cetera, but the broad principle, no. Going back to your earlier point about the code and fee for no service, I feel I have that accountability already. Again, we can put it in a statement, and I understand that gives the regulator more power to enforce it but I believe that senior executives already do have that accountability.

Mr KEOGH: It's quite clear that there's no legal enforceability against individual executives within banks about having that accountability. That's why the BEAR scheme was brought in in respect of risk and prudential matters. As you say, it's early days. It doesn't sit there in respect of customers facing misconduct issues, and that's why I asked that question.

Mr Elliott : Again, I think that's a reasonable question, and I imagine that the BEAR will evolve. Like any regulatory structure, we will learn, it will evolve over time and make it better.

Ms George : Whether it's written there or not—and Shayne just said it—we feel personally accountable every day for any conduct.

Mr KEOGH: That's good, but it's the capacity to be held legally accountable when those things go wrong and which, as thousands of people can attest to in Australia at the moment, there's a severely lacking element of the regulation of our banking system to this point.

Mr Elliott : I understand that.

Mr EVANS: I want to spend a couple of quick moments checking some issues around small business lending practices. Obviously, in recent times, ANZ's made commitments to change a number of its practices around small business lending. That includes changes that have been recommended by this committee by the Small Business and Family Enterprise Ombudsman, ASIC and others. It includes some very important commitments, including the removal of unfair contract terms and the removal of non-monetary default clauses in small business products. Can you please confirm that you've met all of the commitments that you've made in respect of those recommendations.

Mr Elliott : I believe we're absolutely on track for all of those, yes.

Mr EVANS: Are you aware of any areas of small business lending practices where you haven't yet implemented the changes you've committed to or are running late according to the implementation timelines?

Mr Elliott : Not to my knowledge—I'd have to check. There might be a little bit of timing slippage, but my understanding is that it's nothing material.

Mr EVANS: I'm happy for you to check that and report to us on notice. The royal commission, in its interim report, obviously, dedicated a chapter to small business lending practices. Some of ANZ's small business customers were heard, and the interim report makes some comments, including ANZ

acknowledging misconduct or conduct falling below community standards and expectations in cases where business loan arrangements had been varied or come to an end. So, just to put beyond any doubt, the previous practice of being able to unilaterally change contract terms in small business loans is definitely now impossible after the actions you've taken in relation to unfair contract terms?

Mr Elliott : I believe so, yes.

Mr EVANS: When it comes to small business finance or loans ending, can you also confirm that you're now giving small businesses at least 90 days notice whenever you're intending not to continue their loans or roll over their finance.

Mr Elliott : Again, that is my understanding. I'd have to go back and check exactly when that was implemented but, yes, that is the intention and, yes, that's what we're doing.

Mr EVANS: What about starting to provide some visibility or transparency to small business customers by giving them access to any, say, valuations or investigative accounting sorts of reports that you've had done on them—are you now giving small business customers access to that?

Mr Elliott : Again, I'll have to come back to you on the detail, but I believe that is absolutely happening, if it isn't already in place, yes.

Mr EVANS: I'm happy for you to—

Mr Elliott : Yes, I will come back to you.

Mr EVANS: come back and report to us in practice. I've a very quick couple of questions chasing up Mr Kelly's questions earlier about competition. Putting it very frankly, the royal commission has told us, in that interim report, that one of the major causes of the conduct we're all here talking about today is a lack of competition in Australia's banking industry. Recently the Productivity Commission's report of its inquiry into the financial system made some conclusions about having market power as a group. The residential mortgage price inquiry interim report by the ACCC noted a lack of vigorous competition. Very briefly, do you believe that you have market power as a group of banks?

Mr Elliott : No. It doesn't feel like that. I can only speak for ANZ. We have something like 15 per cent market share. Eighty-five per cent of people aren't with us. We wake up every morning feeling that we work in a really competitive environment. We're competing against not just the other big three; there's a huge number of banks out there that are doing well. As I mentioned, collectively the big four are actually losing market share consistently, at the moment, across a wide range of products and services. We've got new players. We've got new entrants in terms of digital-only banks, people coming into the payment system or new wealth offerings. I believe that the market is more competitive today, in terms of the number and the style of competition, than it has been. That is evidenced if you look at the pricing outcomes for customers. Margins in banking—the difference between what we pay for deposits and what we lend money out at—have never been lower, and they continue to fall. And that's a sign of competition.

Mr EVANS: Thinking about some of those factors you just listed, when it comes to new technology and new processes that could help customers better compare and switch, and the actions the government has taken to encourage all of those new licences for banking in Australia, do you see those changes as a threat or an opportunity?

Mr Elliott : I see them as both. On one hand, they're clearly a threat. We have all these new banks coming, with great services and offerings and digital this and that, and there's lots to like about those. And they are a threat to us. Then, on the other hand, I see us as a relatively small bank with 15 per cent share; if we do well, if we service our customers better than we have in the past, if we invest sufficiently in some of those new services, if we're smarter and more focused on our customers than our competitors, and if we use customers' data to help them more effectively, I believe we can win. So it's a mixture of both.

Mr EVANS: The Reserve Bank recently was critical of some of the major banks for not being ready for

the New Payments Platform and for being behind the pack compared to smaller banks and mutuals. Very briefly, how committed are you to new technology, to open banking—

Mr Elliott : Completely committed. In fact, in front of this committee, when the concepts were first raised around open banking, I believe we were the only major to be supportive of that regime. I believe there are benefits to the economy from it, and, as to your earlier question, I think there's an opportunity, if we get our act together, to actually benefit ANZ as well. New Payments is a massive investment by the industry—a billion dollars or so. I'm very aware that the RBA was critical about the timing of implementation of that from some of the majors, but one of the lessons from the royal commission has been that, when we do things poorly, when we rush, we don't get them right, we pay the price and our customers get really badly affected. So we took a view, particularly around NPP, to do this properly. Unfortunately that meant we were a little bit slower. But, as CEO, I'm accountable for that, and I don't want to be creating the remediation problems of the future. So we've taken a cautious and conservative view on that, to get it done properly. It's up and running now. People are using it. It's being progressively rolled out. And I'm really confident it's going to be of benefit to the community.

Mr EVANS: Thanks, Mr Elliott.

Mr THISTLETHWAITE: Thank you, Mr Elliott. The Australian Banking Association, in a media release a couple of days ago, recommended that the parliament look at amending the FOFA aspect of the Corporations Act to ban grandfathered commissions. Is that something that ANZ supports and would like to see the parliament do?

Mr Elliott : I'll ask Alexis to answer.

Ms George : Yes, we would support that, but I think we need legislative intervention to make sure that that happens appropriately.

Mr THISTLETHWAITE: So you'd like to see the parliament prioritise that?

Ms George : I think it's an important change to make to restore trust in that particular sector of the business, yes.

Mr THISTLETHWAITE: Okay, thanks. Bank branches and closures: this is an issue that came up with ANZ in the royal commission. Can you run us through the process that you go through to close a branch. I'm assuming that it's because the volume of foot traffic going through the branch and business is diminishing and economically things don't stack up anymore. And I'm again assuming that a lot of that is because more people are doing their banking online these days. What's the future of bank branches?

Mr Elliott : That's a really good question. It's not an easy decision. You're quite right: the reality today is that fewer and fewer people come into a branch, because they don't need to. At some level that's a good thing. Because of the investments we've made in technology et cetera—people have a bank in their pocket, on their phone—people don't come to the branches. So we have to be able to respond; you're right. We monitor that pretty closely, and at some point the branches get to a tipping point where they're no longer viable.

The first thing we look at is whether there are different models. We reduce, potentially, staffing or the size. There were the days of the big old banking halls. We look for smaller premises initially. We've even experimented with reduced hours—perhaps the bank's only open three days a week et cetera. We do have all of those models to try and slow it down, but at some point we need to close branches. I believe that there is a future for branches but that there will be fewer than there are today. The branches are transforming from places where transactions happen, where people go to get money and cash cheques, to places where conversations happen, where people go and say, 'I'm buying a home; I want to understand how I can finance that,' or, 'I want to talk about saving for retirement.' So the nature of branches is changing quite dramatically. All of us are investing in different kinds of formats for what the branches look like, where they are and what's done within those branches. So there is a role for it.

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It's very interesting to look at the research. People assume that digital banking is very much for millennials et cetera. Actually, the data doesn't support that. Lots of people, of all sorts of demographics, prefer to be able to bank at their convenience. One thing we really struggle with is how we deal with the people who are essentially left behind, the people who are unable or unwilling to try, or are not attracted to, those solutions. How do we deal with that rump of customers who are personally affected when we close a branch? We don't always have the answer to that.

Mr THISTLETHWAITE: Are you looking at closing any more branches over the next 12 months, and can you give us an indicator of how many you are looking at?

Mr Elliott : Yes. The answer is we are, and there are some at the moment that have been announced. I think there are about a dozen, if I'm not mistaken, where it has been announced they will close, and that's out of about 650-odd, which is our base. No, we don't have a plan, but I can give you an indication. Over the last couple of years we've closed somewhere between 30 and 50 a year. I doubt it will continue at that pace, but that's a reasonable number.

Mr THISTLETHWAITE: Phnom Penh Sugar was in the media again this week. It's been reported, after a Treasury division did an assessment of the transaction, that by financing this project the bank failed to meet its own human rights standards, particularly around child labour and workplace deaths. What's your response to that? I'm trying to understand how the bank financed this project and why the red flags weren't raised when you were having a look at potential issues, particularly when, I understand, there were some groups advocating against it at the time.

Mr Elliott : The first thing to say is that this is a dreadful situation. Nobody is proud of the situation that's happened in terms of the land situation in Cambodia. This happened some years ago. I can give you chapter and verse on it—perhaps we can do that—but, in reality, it was through a partially owned bank, ANZ Royal, which we were a shareholder in. We did not finance the clearing of land or the sugar plantation. We were merely involved in the refinery, the plant. That doesn't excuse it at all. When we found out there were issues around the land clearing, we pressured that customer to do the right thing. They made commitments to us, which they did not meet, and we used, to the best of our ability, our financial pressure to make them do the right thing. In the end, they agreed to part ways and we ceased that relationship with that customer. At present, we no longer—we've also sold our business in Cambodia. Not totally because of that situation, but that's where it is. I think we've learnt a lot in that. The recent report—I'm aware of the report coming out. To be honest, it only came out, I think, yesterday; I haven't had the chance to go through it. I will go through it. If there are more things to learn from that, I will take that on board.

Mr THISTLETHWAITE: Did the division that financed it make a profit out of this transaction?

Mr Elliott : Perhaps—yes; I'm sure there was a small profit on it.

Mr THISTLETHWAITE: Has the bank pocketed the profit? Or has it gone back into trying to help those that were displaced from their homes as a result?

Mr Elliott : We haven't done that. Again, my understanding—and the report doesn't necessarily recommend or suggest that we had that obligation, but that doesn't mean that we can't look at it. As I said, I'll look at the report; we haven't done that to date. I will look at the report and if there is new information that suggests that we should go back and look at that, we will. The profit on something like that would have been quite de minimis, but that doesn't mean that we shouldn't do the right thing with it.

Mr THISTLETHWAITE: What is the bank's process? Assuming that you have a set of human rights values that you look at, in terms of financing projects, how is that assessed against a project like this?

Mr Elliott : Yes; things are radically different than at the time when that loan was done, partly because we've learnt from that. We have a series of what we call 'sensitive sector policies'. It's to do with water, resources, the environment and then, obviously, anything to do with human rights.

We've strengthened those policies. They're publicly available. We have an ethics and responsible business committee which we established a year ago, that I chair, where we set the parameters around our risk appetite—or the rules around those kinds of decisions—and we review major decisions through that committee to make sure what we're doing is the right thing to do. I believe that that transaction would not get approved at ANZ today.

Mr THISTLETHWAITE: Perhaps that ethics committee could look at this report. You mentioned earlier that the assessment by the Treasury division was that there was no obligation for you to look at compensating some of those that were kicked off their land. But I would argue that there is a moral obligation for you to at least look at compensating people. I met with some of these people when they came to Australia, and the circumstances were quite shocking. They were basically booted off their land, given the equivalent of $100 by the Cambodian government, and that was it. Some people were killed in the process, for protesting against it. It was quite shocking. Perhaps that's something the bank could look at.

Mr Elliott : We will look at that report through that committee.

CHAIR: My final questions relate to some of the issues around the power imbalance between individual customers and banks. This has been a consistent theme throughout the hearings so far, where people either don't feel they've been heard or had a pathway, but also where the perception, held very strongly among some people, is that banks are using their position—not just, obviously, in size but also in their capacity to hire lawyers and legal teams—to essentially stop claims being brought against them or to exhaust them, where people aren't in an equal position to fight back fairly. Would you consider ANZ to be a model litigant?

Mr Elliott : To be honest, I'm not really sure what the definition of a model litigant is.

CHAIR: The principle behind being a model litigant is that you act in good faith and you don't seek to abuse your power.

Mr Elliott : Yes; I do believe that.

CHAIR: You believe the ANZ is a model litigant.

Mr Elliott : In the definition you've just given me; yes, I do.

CHAIR: And do you feel that's the same across the banking sector—that no-one seeks to abuse their power to try and—

Mr Elliott : I can't comment on that. I don't monitor other banks, I don't monitor legal process—I can't honestly say that. All I can tell you is that, since my time in leadership, the culture that we have set is that we need to be fair and reasonable and equitable and customer-focused. Do we always get it right? I'm sure we don't. But that is the culture that we set and that is the expectation we set for ourselves and for the people that we work with—for example, any legal firms that represent us.

CHAIR: So you don't believe that at any point a decision has been made, either by the bank or by a legal firm that you have commissioned, that when a choice has been faced about settling or resolving an issue, or seeking to drag it out as a means to make it harder for people to fight back, it would always be by the standard of the best outcome?

Mr Elliott : No, I don't believe I can claim that, despite our good intentions. One of the things I've been doing is actually sitting with our legal firm representatives—I haven't done all of them, but I've done the major ones. I've been sitting down with senior members of the firms, the partners and, more importantly, the people who do the day-to-day work and I've said: 'These are my expectations of you. You are representing ANZ. You need to live our values and conduct according to my culture and values; not just what you would do for any other bank.' I've taken them through what we believe in and how I expect them to behave. Absolutely I cannot guarantee they are all doing that as of this minute. We talked about cultural change before. One of my responsibilities is to make sure that our representatives—in this case, legal firms—live up to our expectations as well.

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CHAIR: Does that mean you have some sort of internal code that deals with how matters, when they reach the court, should be dealt with in a way that would meet the aspirations of being a model litigant?

Mr Elliott : I'd have to go and check. It's probably a good idea. I don't know we do actually have a written-down code around that. I think that's definitely an interesting idea.

CHAIR: Would you be reasonably prepared to undertake a commitment to this committee that ANZ, if it doesn't have a code along those lines, would be prepared to consider and develop a code along those lines?

Mr Elliott : Yes. We have a general code of conduct that covers general behaviours, but in terms of the specific case you have, I have no issue with that. I think there is merit in that idea.

CHAIR: I imagine there'd be quite a few people who would think that would be a substantial improvement in the conduct of the banks and would probably be something that would alleviate some of their concerns about the actions of banks going forward. In terms of the regulatory environment, one of the things Commissioner Hayne brought out in the royal commission interim report was his concern that regulation in itself and the volume of regulation weren't the problem; in fact it was the failure of adherence to and enforcement of that regulation. There is potentially room for simplification of that regulation as well. I'm interested in your views on simplification because this is obviously something this committee, this parliament and future parliaments will have to consider. Where would you see the opportunities for simplification of regulation?

Mr Elliott : Again, I'm probably not the right person to ask. I think the comments around the benefits of simplifying the regulatory framework are eminently sensible. I thought the principles that were laid out by the commissioner of what might drive that were incredibly sensible concepts. I imagine that the difficulty will be taking those concepts and drafting those into some form of workable structure. I can't comment on where exactly you would start or where the difficulties are. I can say that I believe, in terms of operating our business, there absolutely is a complexity factor around the law and regulations and the multitude of those and where they overlap and intersect, which has made things complex. That doesn't take away our accountability for getting it right, but it is a statement of fact that it has added complexity. We know that wherever there is complexity, more things can go wrong.

CHAIR: Yesterday Westpac had an example where they had a different interpretation, essentially, of the law and regulation versus the regulator's interpretation. They claim they continued to operate along their interpretation until the regulator came and made a clear decision that this was the way it should be interpreted. Do you have similar examples where you're operating potentially contrary to the interpretation of the regulator but continue along your own path until they make a formal ruling?

Mr Elliott : I'm not aware that we knowingly do that—that we knowingly have a different interpretation, and when the regulator has advised us of a certain definition or interpretation we have knowingly said we're different. I'm not aware of that.

Ms George : No. If I look back, I think, in some cases in relation to personal and general advice, it's a bit confusing what the difference is between those two. That's an area I'm very comfortable with. To have some clarification around that, I think, would be useful for the whole industry. That's one area. There are many others. I know that I heard some referred to yesterday as well.

CHAIR: I think a lot of Australians, at least, would look at any changes to regulation around financial services and worry, or at least be concerned, that simplification might become a de facto pathway to either deregulation or making the environment easier for banks despite the conclusions of the royal commission.

Mr Elliott : Yes.

CHAIR: I think that's quite an important thing that needs to be addressed as part of any

simplification—

Mr Elliott : I would agree with that.

CHAIR: to make sure that it's clear where the expectations lie. On top of that, quite clearly, throughout this whole royal commission, there is the discrepancy between having a rule and having it enforced. Part of the reason banks are taking it seriously is that there are punitive measures, proportionate, particularly when the harm's done. There's been story after story of people losing their own homes or having their entire lives altered, to pick up Ms O'Neil's point. Do you believe there is a case for strengthening the penalties where bank executives have done the wrong thing or the bank has done the wrong thing, to offset simplification?

Mr Elliott : I believe that there already has been a strengthening of those penalties. I understand the desire for it. I believe that there is a strong case to make sure that the penalty is commensurate with the crime, if you will. I believe that that, in reality, probably should be extended beyond banks. I believe that's true of any corporation. To clarify and strengthen accountability is a good idea, and punishment should be commensurate with the crime. There is probably some work that goes—

CHAIR: Do you consider the current punishment commensurate with the crime?

Mr Elliott : We'd have to look and see what the specifics of things are. All I know is that I take my accountability and my responsibility seriously. So I believe it is. I'm aware I have criminal accountability if I act in a certain way. I certainly have financial accountability. I understand reputation. I can be banned from the industry under the BEAR regime. I believe the consequences are very apparent. I can tell you that our executive team have discussed that at length. We've had legal advice come in. We've had people from other regimes where this is already in place come and give us the benefit of their experience. I can tell you that our executives take that really, really seriously.

CHAIR: Are you concerned about overregulation as a consequence of the royal commission and what could happen where you have not simplification but new added layers which are designed to drive accountability but simply make it more complex for banks to operate?

Mr Elliott : My focus at the moment—we've only just had the interim report of the royal commissioner—

CHAIR: Of course.

Mr Elliott : I think we've got a way to go. I don't know I've given any real thought to solutions or outcomes. We're really focused at the moment on remediation and making a positive contribution. I will be appearing before the royal commission in late November, and I imagine there will be discussions about how to get that balance right.

CHAIR: Thank you very much. Thank you for your attendance here today. The committee secretariat will be in touch with you in relation to any matters arising out of today's hearings. You will be sent a copy of the transcript of your evidence, to which you can make corrections of grammar and fact. I'm mindful of the fact that you've spent three hours here today as well as preparation time. It's probably also going to be complemented with—I will leave it to you to decide whether it's flattering or otherwise—a cartoon in The Australian Financial Review tomorrow. Thank you for that.

Resolved that these proceedings be published.

Committee adjourned at 12:14

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