<u>Critical Analysis of CBA and Bankwest Public Statements 2008 to 2015</u>

Introduction

In 2012, the Commonwealth Bank of Australia witnesses and Bankwest (BWA) witnesses provided a substantial amount written and oral evidence to the Senate Committee in relation to victims of systemic constructive defaults.

In essence, witnesses from both CBA and BWA gave extensive evidence pointing to 'victims unfortunately falling into difficulty', 'due to the GFC'.

A central CBA witness submitted histrionic written evidence to the Committee on 4/07/2013, asserting that the 'CBA had not acted inappropriately' and CBA's previous (false) evidence ***'does not fit their [the victims] myopic belief that somebody other than themselves must be responsible for how events unfolded'.***

CBA' – Abusing Their Position of Trust

A key CBA witness went on to say that victims allegations were ***'well-orchestrated',*** *a* ***'continuation of conspiracy claims'*** that ***'required a suspension of belief'*** that the bank would act in this manner. Here the witness is relying on (and abusing) the extensive trust placed in the CBA.

He is further relying in the truth bias, a cognitive bias where individuals and institutions are naturally biased to believe what they are told. This truth bias is compounded, when the person giving evidence holds a high position of trust in the community.

In this submission, victims have effectively been falsely and cruelly characterised by the CBA as 'conspiracy theorists' who are in denial that their catastrophic demise was anything other than entirely their fault.

This highly emotive language and extreme characterisation of victims who experienced a genuine pattern of extremely aggressive and underhanded conduct at the hands of the CBA raised the question:

If the CBA was on legal / moral 'high ground' in relation to Bankwest, why would CBA witnesses resort to a strategy reliant on a foundation of tightly scripted, highly emotive and misleading statements?

If it had not engaged in serious, systemic misconduct, the CBA could have built a strong, rational case by providing clear, concise evidence backed by relevant documents and genuine, accurate statistics relating to the number of Bankwest foreclosures.

The absence of this led to a critical analysis of publicly available information relating to CBA takeover of Bankwest and the extraordinary level of foreclosures using constructive defaults.

Analysing Bank Evidence
A critical analysis of CBA's public commentary relating to mass-constructive defaults of Bankwest commercial loans was conducted to determine if the bank's historical commentary supported the main bank witness's central proposition in 2012 that 'nobody was to blame but the 'myopic customers'.

The CBA's 2012 evidence was also considered in the context of significant new evidence now pointing to the CBA's carefully intention and carefully planned strategy to foreclose 1000-plus loans from 8th October 2008, the date of the Bankwest acquisition announcement. This strategy is fully detailed in a separate submission.

Former CBA Insider
A former (extremely senior) CBA executive has provided confidential insight into the CBA's view of the Bankwest commercial Loan Book at the time of acquisition:

"CBA thought that the entire HBOS commercial loan book was rubbish, there was not one good loan in there. They were priced more competitively than CBA. They didn't want the book; they wanted to get rid of it from day one. There was nothing wrong with the book"

Key Finding
In short, the CBA and BankWest narrative does not withstand critical analysis.

The analysis highlights a long-term trend of vague, inconsistent and contradictory statements made by two CBA CEO's and two CBA chairmen, as well as two BWA CEO's.

Importantly, the analysis finds that all previous public comments by senior executive of CBA and BWA point to a wide variety of factors, **which were all out of the affected customer's control.** Additionally, the evidence provided by CBA in 2012 was a sudden departure from historical narrative, prior to allegations of misconduct.

This leads to the important question: Why would the CBA narrative in relation to Bankwest suddenly become inconsistent and contradictory to historical narrative? Tellingly, the narrative only changed once allegations of systemic misconduct surfaced.

Integrity of Other Recent CBA Evidence
In considering the CBA's evidence to date in relation to Bankwest, the committee should also consider the CBA's recent track record in relation to other allegations of misconduct.

It would be expected that the former Bank of the Commonwealth would not engage in serious, systemic misconduct, let alone attempt to dishonestly conceal such behaviour where it had been uncovered. The entire banking system is based upon the highest levels of trust. Instead, the CBA and BWA acted as guerilla banking terrorists.

However, the CBA were found to have deliberately misled victims, the Federal Government, relevant regulators and the press in relation to the large-scale misconduct towards vulnerable elderly customers. A vulnerable section of the community, many lost their life savings. Many remain without compensation over 12 months on from the announcement of a 'world-class compensation program'.

Hence the CBA's involvement misconduct and giving of misleading evidence is not without recent precedent. The Bankwest matter is conservatively estimated to be 200 times bigger than the Financial Planning Scandal impacting vulnerable elderly victims.

This provides important broader understanding and context of CBA's culture when conducting this analysis. It is entirely plausible that the CBA will continue to deliberately mislead all relevant parties making genuine inquiries into this matter. The stakes are extraordinarily high

High-Level Executives Public Statements
It is now understood that CBA engineered the (wrongful) foreclosure (using constructive defaults) of $8 billion-plus Bankwest commercial loans, and the contract was negotiated to achieve this outcome from day one.

Public statements made by the following senior executives highlights the highest level of involvement in the planning, execution and cover-up of this audacious sham:

- CBA former chairman Jon Schubert
- CBA current chairman
- CBA former CEO
- CBA current CEO Ian Narev
- CBA group general counsel David Cohen
- Bankwest former CEO Jon Sutton
- Bankwest current CEO Rob De Luca

Analysis
CBA use two broad bases to introduce and provide rationale for the size and scale of the unexpected commercial loan 'problem'.

1) CBA blame actions of Bankwest **under HBOS ownership** (i.e. pre-acquisition) for 1000+ commercial loan-book 'problems'.
2) CBA blame actions of Bankwest staff **under CBA ownership** (i.e. post acquisition) for 1000+ commercial loan-book 'problems'.

Both tactics are couched within the economic environment at the time - the height of the 'Global Financial Crisis (GFC). A separate submission details how the GFC provided a near-perfect (but ultimately false) 'alibi' to avoid scrutiny that the CBA's actions might otherwise have attracted. Ultimately, the only place the GFC affected commercial loans significantly in Australia, was within Bankwest itself, due to the constructive defaults.

1) Summary of CBA Claims Blaming HBOS Management

Claim	Valid?	Comment
BWA lent to customers you won't find at other banks	X	BWA's successful acquisition strategy was to poach from other banks – including CBA
Norris: "BWA aggressive lending practices"	X	Wrongly suggesting that BWA practices were un-commercial / unsound.
BWA "systemically" inflated the credit quality of hundreds of commercial property loans"	?	If this is the case, did CBA report this to ASIC?
BWA lent to risky sectors - east coast property loans sectors that suffer most in economic downturn	X	These loans were all performing and not impaired. No other banks experienced significant problems in those sectors
Loans written on unrealistic security valuation	X	Loans were written with legitimate valuations
Security supporting loans over-valued	X	Why did BWA need to pressure valuers to provide lower valuations?
Bankwest (under HBOS) did a lot of lending that was not prudent lending	X	This does not follow, as CBA reported the loans were still performing / not impaired at the time they constructively defaulted them(And well after the peak of the GFC)

2) Summary of CBA Claims Blaming Bankwest Management

CBA Claim	Valid?	Comment
Loans 'soured' due to National Economic Downturn (GFC)	X	How had they 'soured' when they were all performing / not impaired at time review was instructed?
Loan inappropriately rated from credit quality perspective	X	If they were still performing & not impaired how exactly were they 'incorrectly rated'?
Security supporting loans over-valued	X	If this is the case, why did BWA need to pressure valuers into artificially reducing values of current valuations
• A number of loans were found to be impaired and weren't moving through watch-list as they should. • CBA stated senior BWA staff responsible sacked.	X	Did CBA report this to ASIC?
Lending policy differences between CBA and BWA caused problems	X	• CBA bought a second tier bank in the knowledge there would be lending policy differences. • Surely the appropriate solution is not to deliberately distress, constructively default and force insolvency on loans that are performing and not impaired?

Comment

The above tables summarise that, prior to the 2012 Senate Inquiry, the CBA and BWA have provided **twelve (12)** different bases / reasons for the sudden mass-impairment and insolvency action against over $8 billion of Bankwest **performing** commercial loans in a two-year period.

All twelve bases / reason previously raised **are entirely outside the control of customers** who were **servicing the financial obligations** of their loans until the banks unconscionably interfered.

When considered in conjunction with other submissions detailing research evidence around how the CBA-instigated mass-default scheme worked, it can be drawn that this was an elaborate cover-up of the true reasons for the extraordinary levels of foreclosures, and the true (sinister) reasons for the foreclosures.

More Recent Commentary
In early 2012, evidence began to surface supporting the proposition that the CBA had engaged in large-scale systemic misconduct towards Bankwest commercial loan customers.

This is the period where the CBA's narrative immediately became extremely inconsistent.

Mr. Ian Narev

"And specifically, Senator [Cormann], if we look at the way in which they [HBOS] did their business lending in Australia [at Bankwest] compared to the way we did it, there were significant policy differences which led in part to the difficulties."
(15/12/2010)

"…it [Bankwest - under HBOS ownership] had done a lot of lending which was not prudent lending and lending that the Commonwealth Bank certainly wouldn't have done and didn't do in those circumstances. That's one of the things that fuelled the growth of Bankwest."
(15/02/2012)

Mr. David Cohen

*"Those former customers find the truth as provided by CBA to the Inquiry inconvenient because it does not fit their myopic belief that **somebody other than themselves must be responsible for how events unfolded**. Inconvenient to those former customers as it may be, it is nevertheless the truth."*
(04/07/2013)

In 2013, Mr. Cohen's introduces the proposition that the customers are solely to blame!

In direct contrast, in earlier statements by CBA CEO Mr. Ian Narev, **HBOS lending standards** are blamed as contributing to 'part of the difficulties'. Mr. Narev's claim is more consistent with the 2010 CBA annual report which details how 1100 Bankwest (pre-acquisition) **performing** commercial loans were reviewed, 'found to be impaired' on the **basis of underlying security valuation** and had insolvency practitioners appointed. Former CBA CEO has made statements consistent with this view.

The (underlying security valuation) basis for the 1100 impairments reported by CBA fits with the allegations of mass-constructive defaults instructed by the CBA.

has also publicly stated that BWA (under HBOS) ownership **systemically inflated** underlying security values and dismissed two senior executives for this practice.

The wide variety of reasons / circumstances alleged were all entirely out of the control (and awareness) of commercial-loans customers. This casts serious doubt over the credibility of CBA's 2012 evidence.

Given the CBA did constructively default 1000+ performing commercial loans on the basis of underlying security / credit quality concerns, this leads directly to the question of what notice and / or opportunity were customers given by

BWA rectify the situation / ‘default’ prior to the appointment of receivers.

Affected former customers consistently state they were given no warning that they were impaired and the bank gave them no opportunity remedy the defaults. This is central to the case against the CBA.

The covert actions by CBA and BWA credit to arrive at a ‘proactive’ distressing and constructive default preceding appointment will also provide significant insight for the committee, calling into serious question all CBA evidence to the 2012 inquiry.

Close

Through suggesting that a mass of victims, spread across Australia, who do not know each other, could be co-ordinated to orchestrate a dishonest conspiracy against the bank is beyond absurd. It was this untenable argument which led to the critical analysis of the banks public statements from 2008.

Sometimes you can learn things from the way a person denies something. The choice of lies can be almost as helpful as the truth.

This analysis will assist the committee to understand the extent that **the most senior CBA executives and board members** have gone to in order to conceal this extensive, high-level crime. It also highlights the magnitude of the crime. The analysis will also assist the committee critically analyse further bank evidence and the tactics the CBA are likely to use.

The committee should also observe that no individual can successfully fight this bank. They are too aggressive and powerful to fight. This must be interrogated by looking at the collective ‘picture’ to address the actions of a rogue bank. A bank desperate to avoid the truth emerging around the largest corporate fraud in Australia’s history, with a horrendous human toll.

For the above reasons, a compelling argument is established for calling a Royal Commission.

Press Reports and Other Public Statements Reviewed

9/10/2008

Commonwealth got BankWest at a $2b 'bargain'
OCTOBER 09, 2008 12:00AM

ANALYSTS yesterday described Commonwealth Bank's $2 billion acquisition of BankWest as one of the "bargain buys" of Australian banking.
They said the deal ranked alongside the opportunistic plays executed by Colonial's Peter Smedley in the 1990s.

The formal announcement of the BankWest deal came amid heightened speculation that the Australian Prudential Regulation Authority and the British Financial Services Authority had helped to facilitate the deal.
APRA is believed to have been concerned that HBOS' ownership of BankWest had the potential to destabilise the Australian operations.
HBOS has been hard hit by the credit crisis and is now involved in a merger with Lloyds TSB that was engineered by the British Government.

Commonwealth Bank will pay troubled HBOS less than book value for the entire Bankwest franchise and the local operations of wealth management provider St Andrew's.

In addition, CBA is believed to have taken out insurance on any deterioration of the BankWest loan book between now and the end of January when the deal is expected to be completed.

HBOS has provided certain warranties to CBA if some BankWest loan assets become delinquent before the transaction date.

[2.1] "You'd have to say the risk of there being anything significantly awry in this deal for CBA is very slight," said EL&C Baillieu's head of research, Ivor Ries.
[2.2] "We're viewing this as an amazing deal, a real bargain."

[3.1]James Falkiner of Falkiner Global Investors acknowledged that CBA had probably snared a bargain but warned that the acquirer may be exposed to a suspect loan book.

[3.2] "BankWest has been growing its lending faster than anyone in the local market and that is usually the best indicator of future credit quality issues," he said.
"We don't know if it's cheap yet because we don't know the state of the book," Mr Falkiner said.

[3.3] "Intuitively, the preliminary indication is that BankWest is not a distressed lender."

[4] CBA chief executive rejected suggestions that Bankwest was suffering from a blowout in bad debts, saying the sale had been initiated by CBA.

[1] "The Commonwealth Bank regularly reviews acquisition opportunities but rarely have we seen a quality asset such as Bankwest become available on such attractive terms to us," he said.

"The strength of our current capital and funding position combined with the strategic value of this transaction makes this an attractive opportunity for the group and its shareholders."

The sale was characterised as "a matter of embarrassment" for HBOS which is believed to have received offers of more than $4 billion earlier this year to buy BankWest.

"Our decision to sell the business was not taken lightly, nevertheless, the capital and funding benefits for us are significant," said HBOS chairman Colin Matthew.

The chief executive of HBOS Australia David Willis said he expected CBA would institute "very little change for customers" and that they would continue to access BankWest products.

However, gave no undertaking that the BankWest brand would be preserved outside the Western Australian market.

CBA shares were suspended from trading yesterday after revealed that the company would raise $2 billion through an institutional placement to fund the purchase.

Market watchers are eagerly awaiting the release of the bank's cleansing statement associated with the placement to ascertain whether CBA has engaged in strategic talks with other potential takeover targets in recent weeks.

confirmed that CBA had a brief exploratory discussion with Suncorp recently but was not the party engaged in extended talks with the target bank.

http://www.news.com.au/news/cba-got-bank-at-2b-bargain/story-fna7dq6e-1111117701012

22/11/2008

How Commonwealth Bank picked up a bargain

HERALD SUN: GEORGE LEKAKIS NOVEMBER 22, 2008 12:00AM

IT WAS September 18 and Commonwealth Bank chief Ralph Norris had just landed in London to begin selling his company's record $4.8 billion annual profit to Britain's battered fund managers.

Soon after his Qantas jet touched down at Heathrow, Norris was told by one of his executives that Lloyds TSB and Halifax Bank of Scotland (HBOS) had unveiled a government-inspired plan to merge.

It was a critical time for the CBA boss to arrive in London.

The announcement of the British mega-merger - prompted by the capital crisis within HBOS and the ensuing collapse of its share price - revived Norris' hopes for winning control of BankWest.

The desperate capital position of HBOS and its merger partner's recent withdrawal from the Australian and New Zealand financial markets opened the door for Norris to lob a low-ball bid to a stressed seller.

CBA's serious pitch for BankWest began in May when Norris' London-based advisers from Credit Suisse first engaged in "on-again, off-again" talks with HBOS.

As the irregular talks on BankWest unfolded, HBOS came under intense pressure on various fronts from investors, regulators and short-sellers.

The pressure culminated in July with a botched capital raising that forced a broking house underwriting the program to become the bank's biggest shareholder.

By August HBOS had unravelled into a stressed seller in search of big licks of cash to appease Britain's increasingly nervous banking regulators.

HBOS' bad debt headaches and capital problems also drew the attention of the Australian Prudential Regulation Authority.

APRA officials made it their business to be in regular contact with Britain's Financial Services Authority on the HBOS situation.

The Australian regulator was worried that $14 billion of deposits belonging to BankWest's 900,000 customers were being placed at increased risk due to the parent company's problems in its home market.

As the regulators conferred, CBA came close on at least two occasions to buying BankWest, but each proposal fell over because CBA could not meet HBOS' demand that it also acquire the Australian wholesale banking arm trading as BOS International Australia.

Norris' primary object was always the BankWest franchise.

While he gave serious thought to the offer to bring HBOS' Australian wholesale loan book on to the CBA balance sheet, he ultimately baulked at the prospect.

Amid worsening conditions in global credit markets, Norris knew that investors would savage his scrip if he took on the responsibility to fund a further $10 billion worth of corporate loans.

But by the middle of September Norris suspected that another opportunity to snare BankWest was on the horizon.

As the negative news on HBOS flowed through the Australian press, BankWest customers were actively moving their deposits to CBA and the three other major banks.

Recently-published APRA data shows that BankWest lost $530 million of deposits to other banks in September.

The BankWest business was haemorrhaging and Norris knew that the decline in the deposit base of the target company was eroding its enterprise value.

This gave the CBA the upper hand when it was told in the last week of September that Lloyds TSB and HBOS would be prepared to offload BankWest free of the requirement to also buy the wholesale banking arm.

With the other potential acquirer, National Australia Bank, out of the running due to its $1 billion writedown of US debt securities, Lloyds TSB was swiftly cast in the role of a price-taker.

CBA paid $2.1 billion for BankWest and the St Andrews life insurance arm. This equated to only 80 per cent of the book value of the two businesses.

Not since former Colonial boss Peter Smedley's outrageous acquisition of the State Bank of New South Wales (later rebranded Colonial State Bank) in the 1990s has a leading Australian banking franchise been sold at a discount to net assets.

While the price tag put wide smiles on the faces of Norris and his chief beancounter, it was received with envy and horror by CBA's rivals.

A former Westpac chief executive said the deal was so good for CBA that he thought the seller had failed to act rationally on the transaction.

"I'd describe this deal as ill-negotiated and nothing short of highway robbery," the respected former banker says.

The pricing dynamics were not lost on David Willis, the chief executive of HBOS Australia.

When asked to comment on why the business was sold at such a deep discount, Willis told*BusinessDaily*: "Well, the good and the bad news is that I was not involved in the sale. This was something that was initiated out of the UK.

"I would say that the sale price was a reflection of the times and challenges that were being faced by HBOS at the time.

"I think it's a fantastic deal, it's an amazing deal for CBA. I think CBA thinks its a fantastic deal, as well."

Willis dismisses suggestions the deal sets a benchmark for future banking transactions in the Australian market.

"This was a pretty extraordinary set of circumstances," he says.

Under Willis' leadership, BankWest has been striving to transform itself into the fifth pillar of Australian banking.

FOLLOWING market research in 2004, HBOS concluded that it would be cheaper to build a national branch network rather than to acquire rival businesses such as St George or Suncorp Metway.

Norris has already signalled that the BankWest expansion into Victoria, NSW and Queensland will be curtailed once CBA takes formal control early next year.

While this will be a purely economic decision for CBA, it will also mark the end of a vision that Willis started when he took over the reins of HBOS Australia in July 2004.

"I'm personally disappointed that the macroeconomic situation is such that it is not possible for us to complete a bold vision," he says.

"We have a parent company who owned 100 per cent of the business and on whom we were dependent and they were extremely challenged, as have many other banks in the UK environment."

http://www.heraldsun.com.au/news/inside-the-cbas-bankwest-coup/story-e6frf7jo-1111118106397

30/04/2009

CBA Press Release - Bankwest acquisition update
Sydney 30 April 2009.

Bankwest, a wholly owned subsidiary of the Commonwealth Bank of Australia ("the Group"), which was acquired by the Group on 19 December 2008, has today announced a loss of $139 million for the financial year ended 31 December 2008. A copy of the Bankwest announcement is attached.

A 32.4 per cent improvement in Net Operating Income was offset by an increase in the Loan impairment expense which rose to $825.3 million.

At 31 December 2008, Bankwest's total provisions were $895 million, approximately 1.5 per cent of gross loans and acceptances ("GLAs"). Collective provisions were $494 million, approximately 1.9 per cent of non housing GLAs.

As advised at the time of the acquisition of Bankwest, the Group is purchasing a bank which is appropriately capitalised and provisioned.

The final purchase price for Bankwest will be determined over the next two months taking into account its capital position and provisions for bad and doubtful debts.

Commenting on the Bankwest announcement Group CEO Ralph Norris said: "We are pleased with the progress that has been made since we acquired Bankwest on 19 December 2008 and performance in the March quarter has been good.

We have identified many opportunities to improve the performance of Bankwest and we remain confident that this acquisition will create significant value for the Group."

ENDS

https://www.commbank.com.au/about-us/shareholders/pdfs/2009-asx/Bankwest_Aquisition_Update_30_April_2009.pdf

30/04/2009

BANKWEST MEDIA RELEASE
30 April 2009
Bankwest records 2008 loss, now trading profitably
Bankwest today announced a $139.0 million loss for the full year to 31 December 2008.

The results largely relate to the period before the Commonwealth Bank of Australia acquired Bankwest from HBOS plc on 19 December 2008.

Loan impairment expense, including specific and collective provisions, reached $825.3 million, up from $87.8 million in 2007.

[6.1] The two primary reasons for the increase were the deteriorating external operating environment, and the need to be fully and appropriately provisioned in these difficult and uncertain times.

Since Commonwealth Bank assumed ownership, Bankwest has returned to profitability.

The increase in specific provisions was driven by a small number of large property exposures in New South Wales and Queensland, [6.2] together with a [large] number of small [≈$8m each – See Magellan] exposures across business lending.

To position Bankwest for sustained future growth, Managing Director Jon Sutton said steps had been taken to implement more prudent credit controls. "Bankwest had previously been focussed on market share growth," Mr Sutton said.

"Since CBA acquired Bankwest, we have improved our credit underwriting standards in business and retail banking and have a strong focus on prudent and responsible lending."

Bankwest has a AA credit rating, through its parent the Commonwealth Bank of Australia, one of only eight banks worldwide with this high investment grade rating.

Operating Profit before loan impairments and tax was $597.0 million, up 62.1 per cent from $368.3 million for the corresponding 2007 period.

Operating costs were up 18.2 per cent from $769.0 million to $908.6 million driven in part by costs associated with the bank's east coast expansion strategy.

Mr Sutton said the purchase by the Commonwealth Bank of Bankwest had provided the iconic Western Australian financial institution with a secure future.

"Since the Commonwealth Bank's acquisition of Bankwest was announced, our performance has been strong with 38,000 new customers joining Bankwest," Mr Sutton said.

"Bankwest is committed to servicing its customers with market leading home loans and deposit products."

https://www.commbank.com.au/about-us/shareholders/pdfs/2009-asx/Bankwest_Aquisition_Update_30_April_2009.pdf

1/05/2009

CBA seeks a refund on BankWest purchase

Date: May 1, 2009 Danny John

COMMONWEALTH Bank is seeking to cut the $2.1 billion price it paid to buy BankWest four months ago when it emerged yesterday its new subsidiary had greatly raised its level of impairment charges to cover increasing bad debts.

The country's biggest lender, which picked up the growing regional lender as a direct consequence of the financial problems experienced by BankWest's former British parent, HBOS, has activated a clause in the sale agreement to have the original price independently reviewed.

[7] It triggered the arbitration arrangements after BankWest had to top up its total provisions for bad and souring debts following the completion of its annual accounts by CBA's auditors.

It is believed that an independent expert will now review the claims from both sides, with about $200 million believed to be at stake in the process.

CBA's claim is now against Lloyds Banking Group, which took over HBOS as part of a rescue of the deeply troubled bank orchestrated by the British Government. Lloyds subsequently increased the provisioning within HBOS once its own auditors had combed its loan books.

BankWest yesterday said its charge for impaired loans had risen to $825 million for the year to December 31, 2008, which caused the West Australian-based institution to record an overall loss of $139 million.

But that was markedly different to the figures released by HBOS in its most recent set of accounts, which said impairment charges and losses for its entire Australian division that included BankWest had totalled £345 million ($A709 million) over the same period.

It also did not align with the earnings made by the Australian business, according to HBOS's own figures.

BankWest and the St Andrews insurance business, which CBA also snapped up as part of same deal, turned in a profit of £90 million out of total Australian divisional net earnings of £206 million.

However, in the statement CBA made yesterday, BankWest suffered a $324 million turnaround as a result of the review of its financial performance by the group's auditors.

It said that a 32 per cent improvement in BankWest's net operating income was offset by a near 10-times increase in its bad debt charge since 2007.

That jumped from $87.8 million to $825.3 million as CBA sought to bring up BankWest's level of provisioning to that of its own position.

Total provisions for the year were $895 million, of which $494 million was set aside for its collective charge and the rest made against specific loans.

The increase in the latter case was driven by a small number of large property exposures in NSW and Queensland as well as loans made to businesses that had turned sour, BankWest said in its statement.

It had also set aside more money to ensure a "need to be fully and appropriately provisioned in these difficult and uncertain times".

BankWest added that it had since returned to profitability under CBA's ownership.

http://www.smh.com.au/business/cba-seeks-a-refund-on-bankwest-purchase-20090430-aoxo.html#ixzz3iCSx5V00

1/05/2009

Bad debt provisions crush BankWest result

THE AUSTRALIAN MAY 01, 2009 12:00AM Scott Murdoch

COMMONWEALTH Bank will claim almost $400 million back from the Halifax Bank of Scotland after the Australian bank was forced to increase the bad debt provisions 10 times for recent purchase BankWest.

The West Australian-based BankWest revealed yesterday it had booked one of the worst performances in recent banking history with a $139 million loss in the full-year of 2008.

Performance was crippled by CBA ordering that BankWest's provisions be increased from $87.8 million to $825.3 million, on the back of troubled exposure to commercial property in NSW and Queensland.

In the $2.1 billion sale deal struck last year, CBA retained an agreement that BankWest had to be appropriately provisioned when the WA institution came under its ownership. It is understood the new provisioning level is split evenly between collective and individual provisions.

CBA is expected to claim about $400 million, the individual provision amount, from HBOS.

The process is to go to an arbitration hearing, and most analysts expect the full-year loss and provision spike to reduce the total sale amount that is yet to be paid by CBA.

CBA had agreed to pay 0.8 per cent of the BankWest book value.

CBA chief executive Ralph Norris said he believed BankWest remained a solid asset, which had turned around its profit performance in the past three months.

The bank has tightened its credit criteria and is in the process of sacking 400 staff on top of slowing its roll-out of BankWest branches along the east coast.

"We have identified many opportunities to improve the performance of BankWest and we remain confident that this acquisition will create significant value for the CBA group," Mr Norris said.

Most of the new provisions are understood to relate to east coast commercial property loans that have soured in the past six months amid the national economic downturn.

In the eastern states, Bank-West became an aggressive competitor for medium-sized business lending and raised concerns among some bankers by pricing business loans at the same level as residential lending.

The bank's new chief executive, Jon Sutton, who headed CBA's agribusiness lending, said the bank's conservative $87.8 million previous provision level had been set under the previous ownership.

"I think that's a question that you would need to ask HBOS," Mr Sutton said. "We think we are now adequately provisioned for what are tough times.

"What we have done now is make sure that BankWest is positioned for growth in the future. It's important to have a strong bank."

The final transaction price will be calculated in the next two months. Most analysts expect the price tag to be cut significantly.

CBA will not be able to claim the collective provision value -- about $400 million -- to be claimed back from the embattled Scottish bank.

"We have seen the bad debts issues over the past two days with NAB and ANZ. We are in one of the most difficult economic times that we have seen," Mr Sutton said. "It is appropriate that we are provisioned adequately."

Mr Sutton said that since the bank came under the ownership of CBA, it had attracted 34,000 new retail customers and 4000 new business customers as it fixed focus on those two sectors of the lending market.

The bank, he said, would not move into corporate lending -- the area that has caused the greatest pain for the top four banks that have been hit with the rush of corporate collapses.

"BankWest has a high exposure to commercial property on the east coast in NSW and Queensland, we have since made adjustments around the credit criteria in response to the market," Mr Sutton said.

"The bank does not play in the institutional lending space and going forward we will be a lender to commercial small business, we have no aspirations to play in that institutional space."

http://www.theaustralian.com.au/business/bad-debt-crushes-bankwest/story-e6frg8zx-1225705532461

4/05/2009

BankWest – What is the Story?

4 May, 2009 in Banks, Credit Risk, Opinion, Risk Management

The recently released announcement of losses within BankWest really makes very little sense to me. The entire loss is attributable (according to the release) to costs arising from the East Coast expansion strategy (which will presumably now be stopped) and, more importantly, loan impairments – up from $88m to $825m.

This is a huge jump – and one I simply cannot understand. As they were foreign owned and never had to produce a single Pillar III release under Basel II I cannot work off any real numbers, but looking to a peer comparison they must have been doing something seriously wrong under the old management for them to have had such a jump.

Not a single one of their competitors has reported anything like this increase in impairment provisions over the last year. Not one. The worst (incidentally, CBA) had them roughly triple in the September to December 2008 period – probably the worst of it. Considering the size of BWA's retail book in WA (certainly better performing than the East Coast) to me at least this would mean that the losses over East must have been astronomical.

I just can't see it. Feel free to correct me in comments, though.

http://ozrisk.net/2009/05/04/bankwest-wat-is-the-story/

14/05/2009

Bid to get cash back

AFR Vesna Poljak 15/05/2009

The $2.1 billion Bankwest acquisition was a standout at the Commonwealth Bank of Australia's trading update yesterday, with management conceding that the West Australian lender was inadequately provisioned when it bought the group last year.

CBA has since lodged a statement of claim with HBOS through it's new owner, Lloyds TSB, to recover some of the purchase price, relying on claw-back provisions that were in the purchase agreement.

Talking publicly for the first time about the negotiations, chief executive Ralph Norris said he was confident that CBA would have grounds for a return of funds.

"In the sale and purchase agreement that we agreed at the time of the purchase of Bankwest there was an arrangement in place around warranties in regard to capital and in regard to provisioning," he said.

The bank is waiting on a response to its claim through arbitration expected to be completed by June 30.

"We're confident of our position." Mr Norris said.

[8] CBA also revealed it had applied its lending standards to Bankwest's books, similar to what Westpac Banking Corp has done with its St George Bank integration.

"From our perspective, the book there is a pretty good book."

Pressed about the probability of rising unemployment on the west coast hurting its bottom line, Mr Norris said CBA did not have much unsecured credit.

"When you get into unemployment situations, the area looking back through history where you have the greatest impact is one unsecured lending," he said.

There was not a big amount of unsecured lending by CBA or Bankwest and "certainly if you look at the home lending portfolios there's a pretty similar shape to the profile in both those books. We're very comfortable with the provisioning there".

14/05/2009

COMMONWEALTH Bank chief Ralph Norris conceded for the first time yesterday that deposit customers had been leaving Bankwest since the business was acquired last December.

Mr Norris told an analysts' briefing that CBA had effectively let some Bankwest customers go after it lowered rates on term deposits.

Data published by the Australian Prudential Regulation Authority shows that Bankwest's share of the household deposits market has fallen dramatically since it joined CBA.

The APRA statistics show that Bankwest's retail deposit base fell 5.6 per cent or $821 million to $13.62 billion in the March quarter.

And since CBA announced it was taking over Bankwest in October, the subsidiary's retail deposits have fallen almost $1.1 billion.

Despite the sharp decline in deposits, Mr Norris reiterated the CBA's claim that Bankwest had acquired 38,000 new customers since it entered the group.

Most of that growth appears to be through Bankwest's credit card business, believed to be the fastest-growing player in the market.

CBA yesterday fell into line with its rivals on dividends, signalling that its second-half payment will be slashed 25 per cent. That final dividend is expected to be about $1.15 a share.

Mr Norris revealed the bad news for investors after confirming that CBA had generated unaudited cash earnings of $1.15 billion for the March quarter.

CBA is now on track to generate a 15 per cent return on equity, which would likely make it the most profitable bank in the country ahead of Westpac.

The two Sydney-based banks are outperforming their Melbourne rivals on most profitability measures.

[9.1] But Mr Norris warned that bad debts were continuing to rise, particularly in lending to medium-sized companies and in consumer finance.

"There was an increase in consumer arrears through the March quarter, consistent with the economic slowdown and rising unemployment," he said.

[9.2] "Commercial credit quality remains sound, although the small and medium business portfolio and some sectors such as mining services, inbound tourism and export-oriented industries are showing signs of deterioration."

Provisioning for loan defaults was boosted by more than $470 million in the March quarter.

Chief financial officer David Craig said CBA had fully provisioned for its loan exposures to forestry investment provider Timbercorp, which went into administration last month.

Mr Norris was grilled by analysts over the bank's exposure to borrowers who had lost money on investments owing to the collapse of Storm Financial.

In response to suggestions that CBA may have understated the level of non-performing loans relating to Storm Financial, Mr Norris said it was managing its obligations to borrowers appropriately.

CBA scrip yesterday outperformed most bank stocks, rising 14 to $36.74.

http://www.heraldsun.com.au/businessold/admission-by-cba-on-bankwest/story-e6frfh4f-1225711964599

5/06/2009

Commonwealth Bank boss Norris has no BankWest regrets
JUNE 05, 2009 12:00AM

COMMONWEALTH Bank chief executive Ralph Norris has hit back at the competition regulator's regrets over the BankWest takeover, saying it would have been "absolutely disastrous" for the domestic banking system if the West Australian bank had been allowed to fail.

Australian Competition and Consumer Commission chief Graeme Samuel has responded in recent weeks to concern about the growing market power of the Big Four banks by indicating that, under different circumstances, he would have opposed last year's $2.1 billion BankWest takeover.

However, based on advice from the Reserve Bank and the Australian Prudential Regulation Authority about the precarious state of BankWest's British parent HBOS, the merger had been given the green light.

Mr Samuel said the advice from APRA, the RBA and HBOS was such that "we could see BankWest severely contracting -- not imploding but severely contracting -- and becoming a virtual non-existent force in terms of competition".

Mr Norris, in an exclusive interview with The Australian, raised the stakes, arguing that BankWest was close to collapse with $17 billion in inter-group funding to roll over.

"I have seen the comments (by Mr Samuel), but I think at the time we made the offer there weren't too many options for BankWest; it was failure or being taken over," the CBA chief said.

"It had an owner that was incapable of supporting $17 billion in funding that had to be rolled over. So competition issues, I think, had to be pushed to one side, because it would have been absolutely disastrous for the domestic banking system to have a bank fail.

"Confidence in the Australian banking system would have been significantly damaged."

Even at the time it approved the BankWest takeover in December, the ACCC indicated it was unhappy about losing a disruptive competitor such as BankWest in an industry now characterised -- in Mr Samuel's words -- by "comfortable competition".

The regulator was far more accommodating about Westpac's $12 billion absorption of a more benign competitor in St George Bank, even though it was a much more substantial operation than BankWest.

In its competition assessment for the CBA-BankWest deal, the ACCC accepted that the target had played an important role in driving national price competition and innovation.

The regulator put forward as one example the Rate Tracker home loan, which offered a rate 1percent lower than the average Big Four standard variable rate for two years.

Both CBA-BankWest and Westpac-St George have expanded their market power since the mergers.

The Australian revealed last month that the duo took a combined 85 per cent share of big four mortgage growth in the March quarter and held 68 per cent of big four retail deposits.

Mr Norris said the BankWest takeover was not anti-competitive on any of the relevant measures of market concentration.

"We have four large competitors in the domestic market, as well as a range of regional banks," he said. "It's a reasonably diverse market, and BankWest has separate management and sets its own pricing, so we regard it as an independent business unit."

The CBA chief also backed the call on Wednesday by his ANZ counterpart, Mike Smith, for co-ordinated global removal of the wholesale funding guarantee.

Mr Smith, who is in Asia on an investor roadshow, said Canberra would be reluctant to act unilaterally but should lobby for the withdrawal of the guarantee through a global forum like the G20.

Mr Norris agreed. Policymakers should start looking at a "transition process" to a world without sovereign credit enhancement for banks, he said.

"If the G20 took the guarantee away, you'd find that investors would accept it very quickly because, effectively, the G20 would be saying the financial system has stabilised," he said.

"We could borrow money offshore now without the guarantee because there's plenty of liquidity out there, but the problem is it's very expensive."

However, Finance Minister Lindsay Tanner told Lateline Business that at some point the guarantee "will no longer be necessary ... but we're certainly not at that stage now".

http://www.news.com.au/news/commonwealth-bank-boss-norris-has-no-bankwest-regrets/story-fna7dq6e-1225721951196

15/06/2009

The interest rates honeymoon is over: Gottliebsen
Monday, 15 June 2009 0:07
ROBERT GOTTLIEBSEN
Kevin Rudd and Wayne Swan need to recognise that their housing honeymoon is over and increasingly the building industry will need to rely on the government's education spending to maintain momentum.

Last week's interest rate rise by the Commonwealth Bank is part of a much wider reversal of the strategies that the Commonwealth adopted earlier this year and late last year to please the Government.

These government-pleasing decisions were never sustainable and, in the current six months and perhaps in later years, there will be some scars from those politically motivated decisions.

On the other hand, Commonwealth Bank shareholders should recognise in the light of Graeme Samuel's amazing revelation that the Commonwealth's acquisition of BankWest is looking much better.

On the interest rate front, earlier in the year CBA was under considerable political pressure to follow the Reserve Bank cash rate down even though its actual borrowing costs had not fallen by the amount of the Reserve Bank rate fall because of higher overseas borrowing costs which are a huge chunk of the Commonwealth cost base.

CBA received accolades from the Treasurer, but the other three big banks were not prepared to slash margins and did not follow it down. So the Commonwealth standard variable interest rate prior to the latest 0.1% rate rise was 5.64% compared to 5.81% with ANZ and Westpac and 5.74% with NAB.

But the Commonwealth Bank did much more than just cut interest rates to please the politicians. It also enabled the Government's first home buyers' grant to be an enormous stimulus to the economy by backing the low interest rate loans with aggressive lending.

CBA was not alone in this aggression but it was the main player. In many cases it was possible to get a loan from the Commonwealth with little more deposit than the first home buyers' grant. And CBA's most aggressive operators were in BankWest.

The combination of lower rates, aggressive lending and the purchase of some of Aussie Home Loans' assets caused an enormous rise in Commonwealth Bank's market share. On the other hand, margins were lower and so, in traditional terms, it has been 'buying' market share. It is likely that some of those aggressive loans to assist the first home buyers' grant program will come back to bite the bank and the loan insurance companies that took some of the risk.

In recent times CBA has tightened its lending criteria and you now have to have a significant deposit over and above the first home buyers' grant. Other banks have also tightened, as have the loan insurers, so we are going to see a lot less housing activity.

When the Commonwealth bought BankWest from HBOS, the UK bank was in deep trouble. CBA paid around $2 billion for the BankWest assets but also repaid some $17 billion that BankWest owed its parent. Without that deal, HBOS would have been in even deeper trouble.

The Commonwealth bought some $66 billion worth of loans as part of the BankWest acquisition. Under the deal there was provision to assess the assets that had been purchased and claw back some of the consideration if the loans did not stack up. CBA has assessed that there is $900 million to be provided against the loans as part of the deal. Some of that $900 million was incorporated in the original consideration, and the Commonwealth is claiming some of it from Lloyds which acquired HBOS. Lloyds is counter-claiming that they should get additional consideration and the matter is being assessed by Ernst and Young.

There are two other levels of provision against losses from BankWest. The first is a set of provisions which brought the Bank West provisions up to the same standard as CBA. The second is a 'sweeper' style balance sheet entry. The bank, in its half-year accounts, assessed that on the basis of fair value adjustments the worth of BankWest assets was $547 million more than CBA paid. But this was an interim assessment. A final assessment will be made at the June 30 balance date and the bank would have to set aside additional provisions of more than $547 million before BankWest became worth less than CBA paid for it.

While anything is possible, the Commonwealth expects to be able to report a continued BankWest surplus at June 30.

Of course the strategic value of the chase is another story, particularly as Commonwealth CEO Ralph Norris and his board would simply not be allowed to buy the bank today. Opportunities like that come along rarely.

http://www.smartcompany.com.au/finance/9470-20090615-the-interest-rates-honeymoon-is-over-gottliebsen.html

12/05/2010
Commonwealth Bank of Australia
March Quarter Trading Update

Sydney, 12 May 2010: The Commonwealth Bank ("the Group") today advised that its unaudited cash earnings for the three months ended 31 March 2010 ("the quarter") were approximately $1.5 billion. Key outcomes over the quarter are summarised below.

Key Outcomes

• Good volume growth in key markets, particularly deposits;
• Stable customer margins, with volatility evident in other elements of Group NIM;
• Softer Other Banking Income, including the impact of reductions made to retail exception fees in late 2009;
• Continued gains in Customer Satisfaction levels;
• Credit quality trends continuing to move in line with expectations;
[10] • Impairment Expense of approximately $500m in the quarter, with improvements in CBA Institutional and SME segments balanced by the continued work-through of legacy issues in the Bankwest commercial book;
• Strong balance sheet provisioning and coverage ratios maintained, with the ratio of Total Provisions to Credit Risk Weighted Assets improved to 2.17 percent;
• The Group's Tier 1 capital ratio strengthened to 9.2 percent;
• Liquid asset balances maintained at $89 billion; and
• Strong funding position maintained, with the Group fully-funded for FY10 and an average duration on new term debt issuance of approximately 5 years.

Business Commentary
Australia – Retail

The Retail Bank continued to perform strongly, highlighted by solid volume growth, further improvements in customer satisfaction levels and ongoing efficiency gains.
Consumer arrears remain stable, with the number of customers in assistance declining across the retail portfolios. Deposit growth was relatively strong in a competitive market.
An important milestone was achieved in March, with the successful migration of Term Deposits to the new Core Banking platform.

Bankwest continued to achieve good volume growth, highlighted by retail customer numbers surpassing 1 million in the quarter, together with further improvements in customer satisfaction levels.

Australia – Commercial

There was a stabilisation of balances within Institutional Banking & Markets (IB&M) through the quarter, as market conditions showed signs of improvement. Focus remains on proactive management of existing customer relationships. Whilst repricing for risk has continued in the loan book, spreads have narrowed from their previous highs. Impairment expense trended lower.

Business and Private Banking (BPB) continued to perform well in all segments,
with good growth maintained in core deposit and lending products and an improving trend in impairment expense. CommSec maintained its strong market share position.

Impairment expense in the Bankwest commercial book remains at elevated levels, reflecting the continued work-through of legacy issues related to the Bank's pre-acquisition expansion in the East Coast property development sector.

Wealth Management and Insurance
Both Funds under Administration and Funds under Management were slightly lower in the quarter, impacted by outflows from short term wholesale cash mandates.
FirstChoice continued to attract strong retail flows, with net inflows of just over $700m in the quarter. Inforce premiums increased by 3.1 percent to $1.5 billion. General Insurance operating margins were impacted by claims associated with major weather events in Melbourne and Perth during the quarter. The impact was limited by reinsurance and is not material to Group profits. Investment experience has trended in line with investment markets which have been relatively flat over the quarter.

New Zealand
The New Zealand economy continued to show some signs of improvement, with ASB maintaining its strong relative market positioning in both home lending and deposits.
Price competition for retail deposits continued to have a negative impact on margins.

Conclusion
Commenting on the March quarter, Commonwealth Bank of Australia Chief Executive Officer Ralph Norris said: "Whilst the economic outlook has progressively improved over the past 12 months or so, operating conditions remain challenging. Credit growth remains muted, and margins continue to come under pressure from higher average funding costs and strong price competition. Whilst we have clearly passed the peak in the bad debt cycle, key credit quality indicators remain at elevated levels and we continue to expect gradual, rather than dramatic improvement."
"Against this background, the Group performed well through the quarter, with good volume growth, further improvements in customer satisfaction levels and disciplined cost control. The consistent delivery of our strategic agenda is driving good performance and customer outcomes in each of our businesses."
"Whilst the economic outlook is improving, short term risks and uncertainties remain.

Recovery from the Global Financial Crisis will take time and there will be challenges along the way, evidenced by the current sovereign debt issues in the European Union. Given this uncertainty, the Group is retaining its

conservative business settings, with capital, provisioning, funding and liquidity levels all remaining very strong." ENDS
https://www.commbank.com.au/about-us/shareholders/pdfs/2010-asx/Commonwealth_Bank_March_Quarter_2010_Trading_Update_Media_Release.pdf

12/08/2010
BankWest bad loans prove a headache
Date August 12, 2010 Eric Johnston

[12] AGGRESSIVE lending practices by BankWest during its east coast expansion have left its new owner, Commonwealth Bank, with a $212 million headache.

Commonwealth Bank has dismissed several BankWest executives, including a former risk officer, claiming the lender "systemically" inflated the credit quality of hundreds of commercial property loans and mortgages when it was owned by the British group HBOS.

Despite the losses, the Commonwealth Bank's chief executive, Ralph Norris, said the BankWest acquisition was something he would do "100 times over" if the opportunity arose again, given the strong growth outlook for the West Australian economy.

CBA bought BankWest at a deep discount in 2008 after HBOS ran into trouble. That deal saw CBA emerge as the biggest lender in Western Australia and inherit an aggressive east-coast franchise.

The original price of $2.1 billion represented just 0.8 times the book value of BankWest. [11] But after Commonwealth completed the deal and sent auditors in to review BankWest's loan book, it found the Perth-based lender was under-provisioned because of its exposure to the commercial property and business sectors. The price was then knocked down to 0.7 times.

A sudden surge in BankWest's bad loans in recent months led it to post a small second half loss.

[13] Commonwealth executives became alarmed when a number of BankWest loans were found to be impaired. Usually problem loans move through the bank's watch list, where several red flags are raised before the loans are classed as impaired. This was not happening in the BankWest portfolio, which prompted Commonwealth to review 1100 accounts.

"We found a situation where the loans were incorrectly rated as far as we were concerned from a credit-quality perspective, and also there were issues about the valuation of the underlying security," Mr Norris said.

After the review, CBA put more loans on its watch list and topped up its provisioning by $212 million.

Mr Norris said he was "not happy" with the situation, but comfortable that the loan book was well covered.

[14] He rejected suggestions that Commonwealth had overlooked exposures when it undertook due diligence. He said that at the time the loans were performing soundly. He acknowledged that the losses meant the final price tag had returned to 0.8 times book value.

http://www.smh.com.au/business/bankwest-bad-loans-prove-a-headache-20100811-11zrn.html#ixzz3i6Fxop5j

12/08/2010

BankWest gives CBA a bad debt headache

12 August 2010 7:16am Article By: John Kavanagh

Commonwealth Bank chief executive Ralph Norris defended the acquisition of BankWest in late 2008, despite unforseen problems with its loan portfolio.

Commonwealth added 12 basis points to its impairment expense and charged $212 million after-tax against its acquisition profit after conducting a legacy portfolio review at BankWest.This additional expense is recognised in CBA's full-year net profit on a statutory basis. However, it's excluded from the "cash profit".

The impairment expense to gross loans in the BankWest business banking division has jumped from 68 basis points in June 2009 to 248 basis points in December and 590 basis points in the latest half. Of the 590 basis points, 251 points were added as a result of the review.

Over the same period CBA Group impairment expense has moved from 61 basis points of gross loans in June last year to 55 basis points in December and 40 basis points in the latest half. Of the 40 basis points, 12 points were added as a result of the review.

Individual provisions of $956 million against BankWest loans made up the largest part of the bank's individual provisions for the June 2010 half.

Norris said he was not happy about the situation and had replaced the head of business banking and the chief risk officer at BankWest.

But he said the loan problems needed to be seen in context. When Commonwealth made its acquisition of BankWest in October 2008 it reported that it had paid 0.7 times book value and in last year's accounts it booked a gain of $612 million on the acquisition.

Norris said: "This takes the price back to 0.8 times book. It is still a very good buy. If you find any others at that price let me know."

Other metrics at BankWest were positive. Operating income rose 25 per cent to $1.7 billion in the year to June. Expenses were down three per cent. Customer numbers rose from 960,000 to 1.01 million over the same period.

[15] Norris said the loans in question were performing at the time of the acquisition and were still performing. The issue was that the loans had been written on unrealistic security valuations.

The review has covered 1100 individual files (66 per cent of the book). The average size is $8 million and the assets are predominantly east coast properties.

http://www.bankingday.com/nl06_news_selected.php?selkey=10313

15/08/2010

ABC Inside Business Program Alan Kohler

Commonwealth Bank makes record profit

ALAN KOHLER, PRESENTER: What's a poor banker supposed to do? Coming out of the worst global financial maelstrom in 80 years, the Commonwealth Bank this week delivered a record full year profit of $6.1 billion and an unexpectedly large jump in dividends... Up almost 50 per cent, and no one's happy.

Investors dumped the stock and the public called for a bank super profits tax.

I spoke to the Commonwealth's boss Ralph Norris after the dust from his results had started to settle.

Well Ralph Norris, you've had a big profit, a record profit - $6.1 billion - but it was all in the first half wasn't it? The second half wasn't so good.

RALPH NORRIS: There's no doubt that the second half has been more difficult. On two counts really. I mean the first count is that deposit pricing has been significantly more competitive in the second half, particularly in the first quarter of the second half.

And then as the half progressed we did see a slowing in demand. So there's been a softness in business conditions as well. So those two things together have put a bit of pressure on business during the second half.

ALAN KOHLER: Is that why you're quite cautious now about the outlook?

RALPH NORRIS: I think it's more about prevailing economic conditions and I think that if you talk to most people over the last couple of months there's no doubt there's been a softening, we've seen a reduction in the demand for mortgages and overall I think that there's been a lot of issues internationally that have obviously impacted upon local sentiment and business confidence is obviously down.

One of the things we do find a little hard to rationalise is the very strong consumer confidence but that's not really translating into expenditure or into house sales.

ALAN KOHLER: So is there also a structural overlay as well as the cycle - by which I mean, that households and businesses are reducing their debt, restructuring their balance sheets, at the same time as the economy is softening a bit - so there's two things going on at once.

RALPH NORRIS: I think we have a situation here where there are a couple of factors at play. I think that there's no doubt that we saw during the last year a significant pay down of debt by the bigger end of town.

There's no doubt that, you know, there were a lot of equity raisings which led to a lot of debt being repaid. Um, I think it's also fair to say that we have seen an improvement in the arrears rates on consumer loans, we have seen an increase in deposits - so there's no doubt that, I think, that people are being a bit more cautious in approach to personal balance sheets and I think small business and the like are taking a view that economic conditions are still somewhat uncertain and therefore are not embarking upon any major projects etc.

So I think there's a combination of factors there. But when we look at the underlying performance of the Australian economy, it is performing very well. Trade surpluses are very strong and all the leading indicators are that we would expect to see some improvement in the second half.

ALAN KOHLER: Yeah, but that's not particularly relevant to you if noone's borrowing any money.

RALPH NORRIS: Well I think we're going through this period where obviously there's been a lot of choppiness in the news out there and while I think that there is a degree of caution, looking at the forward economic forecasts by our economists here, they're still reasonably positive about, you know, the growth in the economy, growth in credit, but I think it's fair to say that we're going through a period of some caution.

ALAN KOHLER: And there's been a lot of unhappiness with the amount of money you made, six billion dollars or so; now you'd probably say, well you've got to relate that to assets and capital and so on, but in fact the number has got the politicians jumping along with everyone else.

RALPH NORRIS: Well I think, as I made the point at the results presentation, this is a very big business. It has assets, that is loans of approaching $650 billion, and if you look at what is regarded as the international benchmark for reasonable returns by banks, a one per cent return on those assets after tax is regarded as being reasonably appropriate.

And in our situation we're a little bit under that so I don't see that the profit is exorbitant in relation to the size of the business, the business is a very big business and as a result of that you'd expect to see a profit number that was of a comparative size.

ALAN KOHLER: Well of course you would say that, but I mean the government has shown a propensity to impose a super profits tax on the mining companies, do you have any concerns that they'll do that to the banks?

RALPH NORRIS: Well certainly as far as profits taxes on miners etc, I mean that was all about resources that are fundamentally owned by Australian citizens, and I think it's fair to say that the commentary that the Treasurer has made this week is that he would not see the necessity for placing a super tax on banks.

ALAN KOHLER: I guess the other question is, Bankwest, the acquisition - now you lost 10 per cent of their loan book, or at least 10 per cent of their loan book has disappeared. Now you mustn't be happy with that?

RALPH NORRIS: Well I think, I'm not happy about that obviously Alan, but I think it's fair to say that we bought that bank at a very good price so the price to book after the pre-acquisition or post-acquisition adjustments was 0.7 times book.

What this has done is effectively taken it back to the original offer price of 0.8 times book and while I'm not happy about that it's still a very good buy. And if I had the opportunity to buy more banks at that sort of price, even with the problems that we've obviously found inside Bankwest, I'd do it all over again.

ALAN KOHLER: Yeah, but are you sure you've found all the crook loans in Bankwest?

RALPH NORRIS: [17] I think it's fair to say that when I found out that we had problems there I indicated very directly that we needed to undertake an in-depth review of the whole book at Bankwest - all of the performing loans, and this is really a situation where we found that loans were inappropriately rated from a credit quality perspective, we've adjusted those ratings and the security supporting those loans in some respects was overvalued, [18] and I think it's fair to say that the people that have done that are a team that have gone from Sydney to Perth, we've used some external advisers as well through that process, because it was obviously a process that took some time and a lot of effort. And I have to say that I think the people that have undertaken that task have done a very rigorous review so I'm confident that have that pretty much nailed down.

ALAN KOHLER: Thanks for joining us Ralph Norris.

RALPH NORRIS: Thanks very much Alan.

http://www.abc.net.au/insidebusiness/content/2010/s2983219.htm

15/08/2010

Strong consumer confidence puzzles CBA

AAP 15/08/2010

Very strong consumer confidence is puzzling Commonwealth Bank of Australia Ltd (CBA), with chief executive Ralph Norris saying it has yet to lift consumer expenditure and house sales.
Mr Norris told ABC TV economic conditions softened in July, dampening demand for mortgages and weighing on business confidence amid concerns over the strength of the global economic recovery.

"One of the things we do find a little hard to rationalise is the very strong consumer confidence but that's not really translating into expenditure or into house sales," he said during an interview on Sunday.

Mr Norris was speaking four days after CBA unveiled a record $6.101 billion in full year cash earnings for the 12 months to June 30, up 42 per cent on the previous year.

Lower business and consumer confidence hurt underlying growth momentum in the second half of the year, eroding margins further and leading CBA to maintain a cautious outlook and predict the first half of 2010/11 will be softer.

"In my view the second half will be stronger," Mr Norris told analysts on Wednesday.

On Sunday he continued defending the jumbo profit, saying that the global benchmark for acceptable returns by banks was a one per cent return on assets after tax.

"In our situation we're a little bit under that so I don't see that the profit is exorbitant in relation to the size of the business," he said.

Australia's biggest lender has a loan book approaching $650 billion, 45,000 employees and in 2009/10 paid $2.9 billion in tax and spent another $4 billion on products and services provided by external companies.

CBA shareholders will pocket 74 per cent of the profit through its full year dividends totalling $2.90, up from $2.28 the year before.

Mr Norris also said he did not regret the $2.1 billion acquisition of BankWest from HBOS Australia in December 2008 despite a $304 million blow-out in non-cash loan impairments related to BankWest's pre-acquisition loan portfolio.

[16.1] The loans were performing when CBA conducted due diligence on BankWest in late 2008, but had been incorrectly.

"We bought that bank at a very good price so the price to book (ratio) after the pre-acquisition or post-acquisition adjustments was 0.7 times book," he said.

"What this has done is effectively taken it back to the original offer price of 0.8 times book.

[16.2] "If I had the opportunity to buy more banks at that sort of price, even with the problems that we've obviously found inside BankWest, I'd do it all over again."

[16.3] CBA has reviewed 77 per cent of the 1100 small loans made to businesses on the east coast of Australia and sacked some of BankWest's risk management executives over the blunder, Mr Norris said on Wednesday.

http://www.tradingroom.com.au/apps/view_article.ac?articleId=1779309

16/10/2010

Small is bountiful in the west
Australian Financial Review . Oct 16 2010 at 12:08 AM |
CBA
Jon Sutton was watching his son play rugby in Queensland on an October long weekend in 2008 when he received a call from his bank employer to get to Sydney as soon as possible.

The head of Commonwealth Bank of Australia 's agribusiness lending was to help run the ruler over Bankwest as CBA moved in on the West Australian asset controlled by the British Lloyd'sowned HBOS.

Two years after the due diligence process and subsequent acquisition, Sutton, who was appointed managing director, says the renewal of Bankwest is on track, even though a surge in bad debts showed up in its books.

[5] [19] "We went in with our eyes open because we knew that it was at the height of the financial crisis and it was reasonably well known that Bankwest was acquiring customers on the commercial loan book portfolio that you would normally not see at other financial institutions," Sutton says.

"That was all to do with the previous owner. Leading up to the acquisition there was significant growth in the east coast property book and all of those loans have taken a while to work through."

CBA chief executive Ralph Norris revealed at the bank's annual results meeting in August that a significant portfolio of east coast loans written by Bankwest had slipped to impaired status.

It was the second major impairment shock in as many years. Despite assurances by Sutton and others last year that the debts had been catered for, the true fallout from Bankwest's aggressive east coast expansion finally became known.

One analyst said it was hard to criticise CBA since it bought the WA bank cheaply in a rushed due diligence process. "They got it sub-book [value] and they had to make a quick decision," the analyst says. "But there is another view that maybe they should have done their due diligence a little more thoroughly."

Bankwest was purchased for a discount price equivalent to 0.8 times the book value of its assets, although that equation has changed since the real extent of the bad debts has become known.

Nonetheless, Norris said in August that he would do the Bankwest deal "a hundred times over" – a view shared by Sutton. "These sorts of transaction don't happen very often," Sutton says.

In fact, Australian Competition and Consumer Commission chairman Graeme

Samuel conceded that the competition regulator approved transactions during the crisis that it would not have endorsed in more normal financial market conditions.

Key people responsible for Bankwest's debts, such as its former chief risk officer and its former head of business lending, have moved on.

CBA has increased its provisions against bad debts by $304 million to reflect the 1100 problem Bankwest business loans, pushing the bank's gross impaired assets tally up 24 per cent to $5.2 billion.

CBA can't pursue HBOS for compensation because the loans were classed as "performing" when the deal was finalised in December 2008. Norris has consistently denied that due diligence had been insufficient.

The aggressive east coast business lending push by HBOS has not been all bad news for its new owner. Bankwest's retail expansion has not been hit by the same problems.

Speaking from his office overlooking the Swan River, Sutton says mergers usually have come unstuck when the "acquiring bank pulled down the signs of the acquired bank".

"This brand is not going to go away. This brand is going to be here for another 100 years," Sutton says. "West Australians are fiercely proud of their institutions."

Indeed, one of the first things Sutton noticed when he relocated to Perth was jibes about Bankwest being "the bank that used to live here".

"It's a fair summation that under the previous owners they had lost their way a little bit in terms of the bank's heritage and what the bank means to West Australians," says Sutton, who has been working in financial services for 16 years, including a decade in the dealing room in the global markets team.

He says Bankwest is intent on tapping into that parochialism, including almost blanket advertising at key sites such as Perth Airport.

Nonetheless, Nielsen research shows Bankwest is the only one of the 10 most heavily advertised finance brands to cut advertising budgets in the June half.

A case of cost-saving in the merged entity? "We compete fiercely for customers here," Sutton says. "CBA does its thing and we do our thing." Sutton describes the search for synergies as a "never-ending process", although it's unlikely that a CBA customer will be able to deposit a cheque into their account through Bankwest any time soon, because it will require the merging of their core banking platforms.

"That's one of the things that we won't be doing at this stage," Sutton says.

That’s not to say Bankwest won’t call on the considerable resources of its parent from time to time.

Bankwest aims to tap into the growth of its mineral-rich home state by hiring another 50-odd bankers focused on the small to medium-sized company (SME) sector in the next 12 to 18 months.
“I think over the next five, 10, 15 years, this state will be the engine of growth for Australia," Sutton says.

With the exception of a stalling property market, all economic indicators are going in the right direction in WA. Its forecast of 4.5 per cent growth this financial year is the highest of any state.

The resource-rich state enjoys the lowest unemployment rate in the country and boasts $86 billion of energy and mining projects in development, according to the Australian Bureau of Agricultural and Resource Economics.

“When CBA looked at acquiring Bankwest, it was about having exposure to a high beta economy in a market where perhaps it was a little underweight from the SME side of the business," Sutton says.

“This is a fast-growing economy and will be for the next 15 to 20 years, given what’s happening in China and India and those emerging economies."

It doesn’t hurt that with an average annual wage of $70,000 a year, WA also has more than its share of well-off banking customers, even if the state’s relatively small population does limit the size of its customer base.

The bank that was set up in 1895 to lend to the WA farming industry – and which is now headed by the former head of agribusiness lending at CBA – is intent on servicing mid-sized businesses, such as accounting, legal and engineering firms, that are tapping into the Asian markets.

“We don’t play in the institutional banking space, but we certainly play in the small business and SME sector," Sutton says.

“This is undeniably a period where this state and this state’s people will see significant transformational change because of what’s happening in China. In China there will be 10 cities with 25 million or more people in the next few years. There will be none in Europe."

http://www.afr.com/business/small-is-bountiful-in-the-west-20101015-iunni

15/12/2010

Senator CORMANN—Have you made provision for that contingent liability in your budget, in your balance sheet?

Mr Norris—If you look at the assets and liability profiles of banks here in Australia, you certainly see a situation where the assets and deposits are such that you would end up with a work out. It is similar to the situation that we found ourselves in when we bought BankWest. BankWest was, to a large extent, a failing bank. It would have been a failing bank if we had not bought it, because it was owned by an organisation that had carried out lending practices that were highly, I believe, inappropriate.

Senator CORMANN—Which bank was that?

Mr Norris—BankWest. So we took that bank on and we have restructured it.

Senator McGAURAN—Were the lending practices carried out by the parent—

Mr Norris—Under them.

Senator McGAURAN—or by BankWest itself?

Mr Norris—By BankWest, but both. I think if you have a look at the other subsidiaries that were owned by HBOS, the quality of lending in all of those entities was of a poor quality.

Mr Narev—And specifically, Senator, if we look at the way in which they did their business ending in Australia compared to the way we did it, there were significant policy differences which led in part to the difficulties.

Senator CORMANN—I am going to run out of time in terms of my line of questioning and I have some points I want to get to here. What I hear you say is that there is no quantification of the potential exposure for a call to be made on ADIs to help out others in the event of a failure.

Mr Norris—Typically, banks fail mainly because of issues around liquidity. Normally, you are still able to collect on loans which the deposits are supporting. So I think the issue here is that these workouts take time. We have seen in the past that that happened with the State Bank of Victoria when Commonwealth Bank acquired that, which was a failing bank, back in the early part of the 1990s. So these sorts of problems and issues have been resolved before. At a point where a larger bank which has the ability to raise liquidity to support the liquidity needs of the failing institution it can be done.

Mr Ralph Norris, Chief Executive Officer, Mr Ian Narev Group Executive, Business and Private Banking, Commonwealth Bank of Australia, Committee Hansard, Competition Inquiry, 15 December 2011, p. 69.

15/12/2010

Senator McGAURAN—And you indicated today that basically it was a merciful takeover [of Bank-West] not a good investment at the time.

Mr Norris—It was always going to be a good investment at the right price.

Senator McGAURAN—Of course it was. From mythology it was a merciful takeover.

Mr Norris—To be fair, we have to provide $17 billion in funding which no other organisation
could have provided at that time in taking that organisation over.

Senator McGAURAN—Or it would have collapsed.

Mr Norris—Yes. Potentially it would have collapsed.

Mr Ralph Norris, Chief Executive Officer, Mr Ian Narev Commonwealth Bank of Australia, Committee Hansard, Competition Inquiry, 15 December 2011, p. 76

11/11/2010

Mr John Schubert:

In regard to the cost of the acquisition of Bankwest, we obviously signed a confidentiality agreement on the settlement process that we went into, post acquisition. It was an agreement in and around making sure that Bankwest was appropriately provisioned for bad and doubtful debts and there was also an issue around the appropriate level of fundamental capital within the Bankwest Group.

In that negotiation that followed, we went from a position, which I can talk about in ratios. We went from a cost of 0.8 times book to a cost of 0.7 times book, so I think you can take it from that

calculation that we paid a little less in value terms for the Bankwest Group.

In regard to impairment, there's no doubt that Bankwest had a significantly greater exposure to property loans and development loans and if we go back to June of 2008, Bankwest had provisioning for bad and doubtful debts of around $200 million. Through the acquisition process, through our process of diligence, we came to a view that we should increase that substantially. So as at 30 June 2009, Bankwest had provisions for bad and doubtful debts of around $1.6 billion. That has been charged off against the gain on acquisition and we are now of the view that Bankwest is appropriately provisioned.

2009 ANNUAL GENERAL MEETING EXTRACT OF SHAREHOLDER QUESTIONS ANSWERED AT THE MEETING https://www.commbank.com.au/about-us/shareholders/pdfs/agms/Extract_of_shareholder_questions_answered_at_the_2009_AGM.pdf

16/12/2010

Had Bankwest not been bought by CBA, it would have collapsed. Speaking at the Senate Inquiry into banking competition, CBA's chief executive Ralph Norris the bank was the only company that had the resources to buy Bankwest and keep it operational.

"We had to provide $17 billion in funding which no other organisation could have provided at that time in taking over that organisation," Mr Norris told the Senate. "I think we would have had difficulties even if we had a smaller bank fail, and I think there was a real risk of that back at the time the Government decided to put in the deposit guarantee," he said.

http://www.infochoice.com.au/news/cba-saved-bankwest-says-norris/38848/2/2

23/01/2012

Bankwest on track to cut legal ties with WA

Australians Financial Review 23/01/2012 Natalie Gerritsen

A looming Senate inquiry into Commonwealth Bank of Australia 's 2008 take-over of Bankwest will not deter the West Australian government from changing legislation governing the Perth-based bank's independence.

It is understood that WA Attorney-General Christian Porter may take the matter to cabinet as soon as this month, cutting one of the few remaining ties between Bankwest and its home state.

State legislation dictates that the bank maintain its own licence, but federal regulations require it to hand that back and operate under parent CBA's licence.

The Australian Prudential Regulation Authority has set a May deadline for the switch.

Bankwest has been lobbying the state government to change the legislation, designed to keep the bank in WA when it was privatised in the 1990s.

“We expect to be able to finalise these frameworks in the near future," said a Bankwest spokeswoman, noting that the licence change was needed to allow it to “grow through CBA's ownership".

“We would also be able to access the [CBA] funding we need to grow and to make funding available to WA customers," the spokeswoman said.

Under the current legislation, Bankwest must have its own board and retain WA as its headquarters.

An aggressive eastern states expansion under former owner HBOS left many West Australians feeling the bank had lost its local identity. Since the CBA takeover, Bankwest has moved to reassure customers it is still WA's own bank.

CBA bought Bankwest for a fire sale price during the credit crisis after HBOS could no longer support the local business.

But Bankwest's risky lending practices in the commercial property sector soon undermined the quality of its loan book.

The Australian Financial Review reported last week that Nationals senator John Williams was pushing for a Senate inquiry into Bankwest's actions after the acquisition.

He said he had been approached by a number of customers who felt their debts had been called in unfairly as CBA tried to rein in Bankwest's loan book.

Opposition finance spokesman Mathias Cormann and Greens leader Bob Brown said they were open to Senate scrutiny of the bank.

Mr Porter said a potential inquiry would not affect a decision about the licence.

"I am not aware of any customer complaints coming to my office but in any event this is a matter for the Commonwealth," he said.

http://www.afr.com/news/politics/national/bankwest-on-track-to-cut-legal-ties-with-wa-20120122-i41lm#ixzz3iCeadU00

15/02/2012

Extract of Interview with Ian Narev. ABC 'The Business' 15 February 2012

(4:10 min)

Ticky Fullerton

"Business Customers and in particular I'd Like to ask you about Bankwest, the acquisition which I think you drove back in two thousand and eight, concerns this week I the media about the audit that has been done 'project Magellan' revaluing loans of over a thousand commercial clients some by seventy-five percent. You've got a few angry customers there."

Ian Narev

"Yeah, it's important to understand the history that when we bought Bankwest, Bankwest was really struggling and it was struggling for a couple of reasons.

Number one, it didn't have a strong funding base. And number two,[20] it had done a lot of lending which was not prudent lending and lending that the Commonwealth Bank certainly wouldn't have done and didn't do in those circumstances. That's one of the things that fuelled the growth of Bankwest

Ticky Fullerton

"What about the aggressive growth after you bought it over in the east that occurred? Wasn't there still quite aggressive lending? After that time?"

Ian Narev

"I wouldn't characterise it as aggressive lending. I mean [21] most of the difficulties we have been working through over a period of time have been as a result of loans that were on the book when we bought the bank we have over time made sure that the lending standards and pricing have become prudent and as a result of that we've had to work through some difficult situations with some customers."

Ticky Fullerton

"And what about the court case over in the west, the potential class action around Luke Saraceni and the five hundred million dollar Raine Square project?"

Ian Narev

"I really can't comment on any individual cases with any individual customers"

Ticky Fullerton

"You've put in a new chief Rob De Luca at Bankwest, is that an acknowledgement that the strategy up until now wasn't working and you've got a big change coming?"

Ian Narev

No, on the contrary, Jon Sutton did a great job. John's been nearly three-years there and we had always said when he started it was going to be about three years. He moved his family across to Perth for the job. We are very pleased with the job he's done. The time has now come to have a new challenge, we've got another very talented executive who I think is going to do a fabulous job in the role. It is not a sign of a change of strategy and it is certainly not a sign we are not happy with the performance."

Source: https://www.youtube.com/watch?v=-nv2MsesCMw

9/08/2012

David Cohen

"The CBA is of the view that, because it replaced Bankwest's funding liabilities, 'the Australian economy was spared a potentially significant financial shock, because of CBA's ability to acquire Bankwest"

10/08/2012

“The sale agreement did not influence the way in which Bankwest dealt with its customers. There was no benefit either to Bankwest or to CBA in defaulting customers or causing losses to customers. In fact, any losses that arose were borne by Bankwest.“
De Luca

There have been comments to the inquiry that valuations were systematically decreased. This is incorrect. It makes no sense that valuations or sales prices would be purposely lowered. These assets are relied on to meet the bank's debt and selling these assets for a lower price would often result in a greater loss for the bank. When selling assets, insolvency practitioners have a legal obligation to achieve fair market value. Values were commissioned by the bank to provide a level of independence in the process. It is covered in some submissions by industry bodies; valuers abide with a significant level of professional obligations.
De Luca

There have also been suggestions that the bank dealt with customers on a global basis. This is untrue. The bank worked with customers individually through any financial difficulty they were experiencing. The Bankwest sale period coincided with the worst global economic downturn in 80 years. Unfortunately, some of our customers with industries and sectors were the most impacted. The majority of customers who have made submissions relate to property investment and development transactions. Most of the transactions of these customers were entered into between 2005 and 2007 and then encountered problems between 2008 and 2010. Their situation mirrors the broader property investment and development environment that went through an increase in activity followed by a contraction in the cycle during these periods.
De Luca

There has been a relatively small group of customers who have aired grievances and represent less than 0.01 per cent of our 1.1 million customers. Our overall customer satisfaction levels are high and have continued to rise. Our customer numbers also continue to grow.
De Luca

Between ourselves and the client we would obviously agree on criteria because, as you say, there are a number of different ways to value something. We would agree how and what criteria we were going to apply but then, having issued those instructions, we would be absolutely arms-length with the valuer. It is for them to come up with what they feel the value is.
Corfield

Throughout the course of any loan period there are a number of contracted dates at which we would undertake a further valuation because obviously over the period of time valuations change. That is in the contract with the customer up front so they understand that from the contractual documentation. But also obviously when customers unfortunately fall into difficulty at that point again we are taking a valuation of the business to understand what the value is at that moment.
Corfield

Mr De Luca: I am not sure which client you are talking about or which submission you are referring to. But, in general terms, again, during the global financial crisis valuations fell south quite significantly across a number of areas. Therefore if the insolvency firm was only able to achieve that price for the asset that was the market value.

Mr De Luca: Firstly, let me refer to my opening statement. The number of submissions we have got here is 0.01 per cent of our customer base, so it is important to put that in context. Secondly, it is in our interests for the customers to be viable and to be able to repay their debts. The last action we take is to appoint receivers. It means we have worked through a process with a customer and we have got to a position there that actually the best outcome is for the receivers to be appointed and work through the outcome.

Mr Corfield: It is absolutely not in our interests to be calling in loans. We always seek to try and work through with the customer to get to an end result that works for them and one for us, but unfortunately there are times when actually not acting can be worse if markets are falling. That is unfortunately the reality that we faced in the last financial crisis.

Mr Corfield: At that point it was the start of 2010 and obviously the financial crisis had hit and what we saw was that either a number of customers were obviously in difficulty, in terms of their payments, or the value of the businesses that they had had fallen significantly.
Senator WILLIAMS: Hence their LVRs went up? Correct?
Mr Corfield: Yes.

Senator WILLIAMS: And hence you took the appropriate action when the LVRs were at a level out of your control?
Mr Corfield: At that point, obviously, we tried to work —
Senator WILLIAMS: There was debt that you were not happy with?
Mr Corfield: We tried to work with the customers to see whether there was a way of getting through the position or whether or not actually the business was at a point where further action needed to be taken.

ECONOMICS REFERENCES COMMITTEE
Mr Corfield: We work with each customer individually to understand what the business can actually bear. As we have said a couple of times, it is absolutely not in our interests to be putting rates up and pushing the business out of business as a result. So we work with customers on an individual basis to understand what can be done.

Mr De Luca: It would not typically be solely for the LVR.
CHAIR: But you cannot rule out that that might have happened in some cases—solely?
Mr Corfield: It might well have done, because that would be a covenant within the contracts. What happened in this area during the financial crisis is that the market value of some of these businesses fell by between 50 and 80 per cent. In those cases, especially when the market is continuing to fall, it is very often in the best interests of the customer and the bank to act early rather than late.
CHAIR: That is a judgment call you make?
Mr Corfield: Yes, it is a judgment call.
CHAIR: And presumably you can make that without consultation with the customer to see whether they, too, think it is within their best interest?
Mr Corfield: No, in all instances we would have discussed those with the customer. Clearly, we may not be agreeing with each other but, yes, it is ultimately a judgment call. But a discussion with the customer has always been attempted.

Mr De Luca: Firstly, if it is only the LVR that has moved and the customer is making repayments, their account conduct has been fine and there are no issues with any other creditors, we obviously would be trying to work through the process with the customer.

Mr Corfield: Yes. Obviously over the course of the financial crisis valuations fell very dramatically.

Mr De Luca: Typically, the conversation and communication with the customer would be an ongoing process. If there were issues with the facilities and the arrangements and the customer was in default, then communication regarding that would happen over a period of time.

Mr Corfield: Absolutely. But I would say that we work extensively with our customers to try and remediate problems. We have a large and dedicated team that work with those customers. We would not be calling in a loan in 24 hours unless that was at the end of a very protracted period.
CHAIR: A protracted period of discussing the problems with the loan.
Mr Corfield: Absolutely—the problems, the issues, what we were going to do about it.
CHAIR: Would you discuss the potential for such a notice to be delivered if things were not resolved?
Mr Corfield: Yes.
Mr De Luca: Yes.

CHAIR: which then triggers it. You raise the issue of the so-called clawback or the warranty. I know it is primarily an issue for the Commonwealth Bank, but you raised it in your submission and in your opening statement. You say:
Any losses that Bankwest incurred in its dealings with customers post acquisition date were borne by Bankwest and could not be "clawed back".

That is consistent with the evidence we received from the Commonwealth Bank yesterday. Is that an absolute statement that there was no way in which, whether it be against the purchase price or in any other way, shape or form, losses or impaired loans that became apparent after the purchase date could be offset or claimed back from HBOS under any aspect of the agreement or the deal with HBOS?
Mr De Luca: That is certainly our understanding, and obviously Mr David Cohen discussed that yesterday.
CHAIR: He did, but I did not ask him that question quite that way. I just accepted what he said, which I still do—'This is the price and we had to pay an extra $26 million after doing what we did.' What I am trying to work out is whether there is something that we have missed, because there do seem to be a lot of issues raised.
Mr Corfield: I was working in the business at that point in time and there were absolutely no operating instructions that would have given you any other sense than what they would have said yesterday.

CHAIR: So, in relation to the $17 billion loan book that HBOS had arranged for Bankwest, there was no way of offsetting impaired loans against what might be repaid or how much the Commonwealth Bank would have paid to take over those?
Mr Corfield: Not on anything that became impaired after the contract date.

Senator WILLIAMS: On that $17 billion that the Commonwealth Bank had to come up with, do you know if that figure is right? That figure of $17 billion is thrown around as the amount HBOS had put into Bankwest. Did the Commonwealth Bank have to pay that $17 billion back to HBOS?
Mr Corfield: As I understood at the time—and obviously I was not in HBOS; I was in Bankwest—there was $17 billion of funding secured on wholesale markets by HBOS, and that was replaced at the time of acquisition by CBA treasury, who took $17 billion of funding from wholesale markets in their name.

Mr Corfield: It is very wide ranging, depending on which state you are in and which sector of the state. But what I would say is, again, some of those developments were not going to be worth anywhere near the value that the customers felt they were going to be worth when they set out on them.
Senator WILLIAMS: If they dropped 30 per cent in value, there was probably 30 per cent fat in the project. It could have come out square. Do you think Bankwest panicked on the development of the east coast in the action that it took?
Mr Corfield: I do not think

15/12/2012

Ian Narev- "Yeah, it's important to understand the history that when we bought Bankwest, Bankwest was really struggling and it was struggling for a couple of reasons. Number one, it didn't have a strong funding base. And number two, it had done a lot of lending which was not prudent lending and lending that the Commonwealth Bank certainly wouldn't have done and didn't do in those circumstances. That's one of the things that fuelled the growth of Bankwest

"…I mean most of the difficulties we have been working through over a period of time have been as a result of loans that were on the book when we bought the bank we have over time made sure that the lending standards and pricing have become prudent and as a result of that we've had to work through some difficult situations with some customers."

Extract of Interview with Ian Narev. ABC 'The Business' 15 February 2012

8/11/2013

Ian Narev
"There is not a single member of the management team that is indifferent to people's suffering when they struggle to pay back money."

"we do our best to do it [run the business] as ethically, as fairly as possible and all our processes are geared to that"

[25] "the line that we have somehow put [Bankwest commercial loan customers] people in hardship in order to have a gain for the Commonwealth Bank is categorically wrong."

Transcript of CBA 2013 AGM Shareholder Questions Relevant to Submission
https://www.youtube.com/watch?v=oo93PyhJQp4

10/08/2012

Bankwest 'insolvent' before sale

Shane Wright Economics Editor August 10, 2012, 4:00 am

Bankwest was "essentially insolvent" and had made high-risk investments through the global financial risk era before it was sold to the Commonwealth Bank, a Senate inquiry has been told.

The inquiry, into the post-GFC banking outlook, was also told claims the Commonwealth deliberately sought to liquidate Bankwest customers to cut the purchase price were "absolutely wrong".

The Commonwealth bought WA-based Bankwest in October 2008 from beleaguered Scottish bank HBOS for $2.1 billion.

Complaints were later made that the Commonwealth unfairly terminated Bankwest loans and liquidated customers' assets though their businesses could have been saved.

Commonwealth Bank officials were under fire at yesterday's hearing, with WA Liberal senator Alan Eggleston saying it appeared the CBA engaged in a "brutal, systemic" approach to its customers.

WA Labor senator Mark Bishop said it was clear the Commonwealth was aware of some of the problems inherent with Bankwest before it bought it.

"It's not unremarkable that CBA initiated a root and branch review of the loan portfolio," he said. "I would find it remarkable if you did not after buying a business that was essentially insolvent to the extent you paid half the going price."

But CBA senior officer David Cohen said a review of Bankwest loans after it was bought showed it was at particular risk going into the global financial crisis.

"What we do know from history is that typically, in economic downturns, sectors such as commercial property, hospitality and tourism often suffer most," he said.

"Bankwest's commercial loan portfolio was heavily weighted towards those sectors."

The Commonwealth came under fire for its handling of complaints from the public. But Mr Cohen said suggestions it wrote off loans for little reason were not true.

He said there was no commercial advantage to put borrowers in default because both parties lost.

There have been claims that the Commonwealth had a "clawback" deal with HBOS which reduced the purchase price by putting Bankwest commercial loans into default.

Mr Cohen said any loans that became distressed after the purchase became a liability for Bankwest and CBA had no right to recoup related losses from HBOS.

Bankwest will present evidence to the committee today.

https://au.news.yahoo.com/thewest/wa/a/14513165/bankwest-insolvent-before-sale/

No conspiracy: Commonwealth Bank denies allegations it liquidated Bankwest customers at Senate inquiry

Friday, 10 August 2012 2:14 CARA WATERS

The Commonwealth Bank appeared before a **senate inquiry into the banking sector** yesterday to deny that it had sought to liquidate Bankwest customers to reduce the purchase price paid for Bankwest.

The inquiry was told that Bankwest was "essentially insolvent" and made high-risk investments before it was sold to Commonwealth Bank.

The CBA bought Bankwest from HBOS for $2.1 billion in 2008.

Complaints were later made that the CBA unfairly terminated Bankwest loans and liquidated customers' assets even though their businesses could have been saved.

WA Liberal Senator Alan Eggleston told the Senate inquiry yesterday it appeared the CBA engaged in a "brutal, systemic" approach to its customers.

The founder of lobby group Unhappy Banking, Geoff Shannon, had lobbied for the Senate inquiry and said yesterday that business collapses including the **recent receivership of The Sando hotel in Sydney** were victims of the CBA's approach.

"It is very complicated, but effectively we believe Commonwealth Bank reviewed the Bankwest commercial loan book to clear over 1,000 loans that were outside Commonwealth's lending guidelines.

"They didn't just shift the goalposts, they took them away."

However, David Cohen, group general counsel at the CBA, told the inquiry he could say "categorically" that CBA had not gained a commercial benefit from putting some Bankwest commercial loans into default, allowing CBA to recoup subsequent losses from HBOS.

"I would like to strongly refute a misconception, held by some parties and reported in the media, that CBA stood to benefit from 'clawback' provisions in the Bankwest purchase arrangements with HBOS," Cohen said.

He said the "so-called" clawback arrangements were "straightforward" and, put simply, the purchase price paid by the CBA could increase or decrease depending on the number of distressed loans at the time it completed the acquisition on December 18, 2008.

"CBA could only reduce the purchase price for loans that were distressed at the time of sale at December 18, 2008," Cohen told the inquiry.

"Any loans that became distressed after the purchase date became a liability for Bankwest and CBA had no right to recoup related losses from HBOS."

Bankwest is presenting evidence to the committee today.

A Bankwest spokesperson told *SmartCompany* the bank had not acted inappropriately.

[22] “The situation of individual customers who have lodged submissions is unfortunate and the bank does not wish to downplay the impact that financial difficulty has had on them. However, we maintain that the cause of the difficulties experienced by a limited number of customers arose from a combination of economic factors and was not as a result of any inappropriate actions of the bank,” she said.

“When customers do sometimes face financial difficulties, the bank’s overriding priority is to work closely with them on a case-by-case basis.

“As the inquiry is ongoing, it would be inappropriate to comment further.”

http://www.smartcompany.com.au/finance/27318-no-conspiracy-commonwealth-bank-denies-allegations-it-liquidated-bankwest-customers-at-senate-inquiry.html

4/07/2013

Commonwealth Bank Group

Commonwealth Bank of Australia

ABN: 48 123 123 124

Commonwealth Bank

Tower 1 Darling Park

201 Sussex Street

SYDNEY NSW 2000

Reply

GPO Box 2719

SYDNEY NSW 2001

04 July 2013 3068013 : 10340719_1 4-Jul-13 18:13:00

Mr Tim Bryant Committee Secretary

Senate Economics Legislation Committee

PO Box 6100 Parliament House

CANBERRA ACT 2600

BY EMAIL

Dear Mr Bryant

Document tabled during 4 June 2013 budget estimates hearing

I refer to your letter to me of 24 June 2013 in which you informed me that the Senate Economics

Legislation Committee had published a document entitled Tabled Document No. 9 - 'Understanding

CBA/Bankwest Benefits' on its website (Document). The author of the Document is not named.

Issues of concern

The Document is [23] a continuation of conspiracy claims made by various former customers of Bankwest raised at, and dealt with by, the Senate Economics References Committee Inquiry into the Post-GFC

Banking Sector in August 2012 (Inquiry). It is surprising that the Senate Economics Legislation Committee, comprising as it does the same members as the Senate Economics References Committee, saw fit to accept the Document given the same subject matter was considered, and dealt with by the Senate Economics References Committee in its report.

The author of the Document and certain former Bankwest customers claim in essence that Commonwealth Bank of Australia (CBA) received a benefit in the form of a reduced purchase price for Bankwest as a result of Bankwest defaulting commercial loans. CBA provided a detailed written submission and gave evidence at the Inquiry to the effect that the purchase price adjustment mechanism agreed between CBA and HBOS, the seller of Bankwest, contemplated, among other things, the level of provisions for loan impairments in Bankwest's accounts at the date CBA acquired Bankwest (ie 19 December 2008). I gave evidence at the Inquiry that the level of provisions for loan impairments recognised in Bankwest's accounts at 19 December 2008 was such that CBA paid an additional $26 million in purchase price to HBOS. I also gave evidence to the effect that any loans not considered impaired at 19 December 2008 did not trigger an adjustment to the purchase price and in fact resulted in Bankwest, and therefore ultimately CBA, bearing the loss associated with the impaired loan. I fully stand by that evidence.

This evidence was surprising to some members of the Committee who had been led to believe otherwise by the inaccurate and misleading material provided by former Bankwest customers organised under the banner of Unhappy Banking. [24] Those former customers find the truth as provided by CBA to the Inquiry inconvenient because it does not fit their myopic belief that somebody other than themselves must be responsible for how events unfolded. Inconvenient to those former customers as it may be, it is nevertheless the truth.

The Document attempts to counter the inconvenient truth through constructing an elaborate façade of reasoning. As is shown in this response below, the Document contains critical errors of logic and factual inaccuracies and demonstrates the unknown author's ignorance of basic principles concerning impairments, accounting and regulatory capital.

The Document's misdescription of events, its gossamer of reasoning and its fictional assertions are highly misleading. It is sadly ironic that the unnamed author of the Document falsely accuses me of intentionally misleading the

Committee and then purports to support this baseless allegation by putting forward material that is itself misleading in the extreme.

I refute absolutely the claim in the Document that I intentionally misled the Senate through statements I made at the Inquiry. That claim is highly defamatory and it is extremely regrettable that the anonymous author has used a venerable institution such as the Senate and the shield of parliamentary privilege to pursue these unfounded, misleading and dishonest claims.

I request that this response be made a public document.

Critical flaws with the claims set out in the Document

Set out in the Document are a number of wildly incorrect assertions concerning matters that occurred prior to or after the acquisition of Bankwest by CBA. Two central erroneous assertions contained in the Document are effectively that CBA[1]

· was 'over extending [itself] financially to purchase Bankwest and its funding obligations'; and

· the 'purchase was only made possible by defaulting large numbers of productive customers'.

CBA categorically denies these assertions. The author of the Document attempts to support the erroneous assertions through a patchwork of guesswork and speculation. Examples of egregious errors in logic and in fact in this context are set out below.

1. Error #1 – The purchase price of Bankwest was based on a carrying value of $4.25b

The Document claims that the carrying value of Bankwest on HBOS plc's financial statements at the time that CBA acquired Bankwest was $4.25b.[2]

It then goes on to assert that the purported carrying value of $4.25b was used to calculate the purchase price of Bankwest, namely that the carrying value of $4.25b was discounted by an amount of $2.153b to arrive at

a purchase price of $2.1b.

3 *The statements in the Document do not remotely accurately describe how the purchase price for Bankwest was calculated. The discount theory described above is fallacious. The fact is*

[1]*. See page 1 of the Document.*

[2]. See page 6 of the Document.

***3**. See page 15 of the Document. Note also the $3m error in this calculation. that the purchase price for Bankwest was calculated based on the actual book value of Bankwest by reference to its own accounts (not the carrying value on HBOS plc's accounts).*

In a merger and acquisition context it is not uncommon for a vendor of an asset to have a carrying value in its accounts which is not the same or even remotely similar to the price for which the asset is actually sold. The author of the Document has no knowledge of carrying values in the context of asset sales or, if he or she does, has chosen to adopt the most unlikely value for Bankwest in order to support the speculative assertions in the Document.

2. Error #2 – A discount of $2.153b represented a pre-agreed level of impairments

The argument in the Document is that the $2.153b represented a level of pre-agreed impairments.

***4** In respect to Bankwest, the Document argues that it actually impaired $1.286b worth of customer loans in order to conceal its alleged insolvency.5*

A crucial flaw in this logic is that the impairment of loans and the raising of provisions actually reduces the profit of an entity or increases its loss (as the case may be). Accordingly, impairment of loans would facilitate the onset of insolvency or exacerbate insolvency; it would not assist in concealing it.

In respect to CBA, the Document argues that it determined prior to completion of the acquisition to impair $867m worth of Bankwest customer loans. The argument seems to be that CBA would benefit by doing this as it would have a commensurate reduction in the purchase price (ie, the argument suggests that $867m together with the $1.286b of impairments mentioned in the preceding paragraph were factored into a so-called upfront 'discount' to the purchase price for Bankwest

6). Allegedly, it was then up to CBA to ensure that it impaired customer loans of a value equal to $867m in order to ensure that it would not have to fund those loans and could also obtain tax and other benefits by doing so. This argument fails to take into account the fact that impairment of a loan does not impact the funding obligations of an acquiring bank in this context. The impairment provisions or expenses that existed at 19 December 2008 or at any time after that date had absolutely no impact whatsoever on the funding obligations that CBA assumed under the share sale agreement. This is due to the fact that the funding had already been injected into Bankwest by HBOS and it was therefore incumbent on CBA to repay that amount (unaffected in any way by impairments) to HBOS.

A further critical flaw relating to the so-called 'discount amount' relates to the manner in which the $2.153b figure is calculated. A table setting out how the author of the Document asserts the figure is calculated is set out below:[7]

[4] *See page 15 of the Document.*

[5] *See page 15 of the Document.*

[6] *See pages 3 and 15 of the Document.*

[7] *See page 14 of the Document.*

The amount of $770m listed in the first row of the column entitled 'Impaired Amount' is incorrectly described as an impairment amount. The figure of $770m is the amount of acquired Gross Impaired Assets (ie, the headline value of all loans which had some level of impairment at the balance date).

The actual sum of all acquired provisions for the total Bankwest portfolio (including the impaired loans) at the relevant date was $630m. The amounts of $212m and $304m listed in the second and third rows of the same column relate to the same impairment expense reported for the June 2010 financial year; $212m is the after tax figure and $304m is the pre-tax figure. By including both amounts in the table, the author of the Document is either deliberately double counting or is unable to recognise pre and post tax amounts. After incorporating the above corrections, the aggregate amount that should be shown in the table above is $1.801b, not $2.153b. While this error discredits the 'discount theory' put forward in the Document, other factual matters are also fatal to the arguments embraced by the author.

The concept that Bankwest and CBA 'pre agreed' impairments prior to completion so that they could use these to set off against a $2.153b impairment provision given effect to through an alleged agreed discount mechanism requires a suspension of belief. The share sale agreement which gave effect to CBA's acquisition of Bankwest limited CBA's ability to recover

any impairment expenses from HBOS. Such impairment expenses could only be recovered if:

· those impairment expenses had crystallised as at 19 December 2008; and

· the relevant impairment expense had not actually been reflected in the draft

completion balance sheets for Bankwest.

Any loan impairment expense that CBA or Bankwest recognised during the balance of FY2009 or in any subsequent financial year did not have any potential whatsoever to influence any adjustment to the purchase price. All *such impairment expenses created after 19 December 2008 (eg, the $304m, $113m and $754m specified in the Document, as set out in the table above) had a direct negative impact on Bankwest's and CBA's profitability.*

Therefore Bankwest and CBA had no financial incentive to impair loans.

Indeed, the parties engaged an independent expert in order to assist the parties determine the correct level of impairment provisions that should be recognised as at 19 December 2008.

The outcome of that process was an upwards adjustment of the initial purchase price by an amount of $26m. The determination of the independent expert conclusively finalised loan impairment matters in this context. While the determination was delivered in July 2009, the impact of it was included in the accounts for FY2009.

For completeness, CBA categorically denies that any form of separate or collateral financial benefit was advanced to CBA prior to acquisition that would compensate it for any post acquisition impairments.

Viewed in this light, the 'discounting theory' and the 'pre-agreed impairment theory' lack any foundation. This is so because they are premised on being able to link the carrying value of $4.25b on HBOS plc's accounts to the actual purchase price which is simply not the case.

3. Error #3 – Purchase price adjustment provisioning misunderstanding

The Document also contains speculation about a provision appearing in CBA's half yearly profit announcement made in February 2009. The reason why this speculation is erroneous is explained below.

HBOS and CBA agreed in October 2008 that the initial purchase price would be $2.1b. They also agreed that the price could be adjusted upwards or downwards depending on the capital position of Bankwest as at 19 December 2008. The capital position of Bankwest at that date would be reflected in the final completion balance accounts which were to be settled mid-2009. In its half yearly profit announcement of February 2009 CBA made an estimate of the total consideration it may have to pay HBOS for Bankwest. It had to make the estimate of this amount because the final completion balance sheets for Bankwest (as at 19 December 2008) were not available when it prepared its half yearly profit announcement. CBA's estimate was based on unaudited, draft management accounts for Bankwest which indicated that a provision of $328m should be made. However, the final completion accounts settled by an independent expert reflected a much less favourable capital position than the unaudited, draft management accounts had provisionally indicated. Consequently, the ultimate adjustment to the purchase price was much less than would have been the case if the management accounts had been an *accurate reflection of the capital position. The conjecture set out on pages 7-9 of the Document concerning the provision of $328m is completely wrong.*

4. Error #4 – Misunderstanding concerning goodwill

The Document notes that HBOS plc reduced the value of goodwill in its accounts by £240m post-acquisition of Bankwest by CBA.8

It then proposes the sensational theory that this goodwill reduction 'is another price adjustment mechanism to hide the allowance given for future induced impairment CBA would later create through manufactured defaults.' The author of the Document is led into error by confusing HBOS plc's reduction of goodwill in its own accounts with the value of goodwill reflected in the separate Bankwest accounts. These two values are independent of each other. They do not need to match and in any parent subsidiary relationship there is a multitude of accounting reasons why they would not match.

5. Error #5 – The Commonwealth Bank, Bankwest or any other prudentially regulated entity can arbitrarily impair performing loans

The Document incorrectly alleges that prudentially regulated authorised deposit-taking institutions such as CBA can arbitrarily impair loan assets.9

As an authorised deposit-taking institution CBA is subject to various prudential standards which govern how it recognises impairments. Its policies also reinforce these standards.

For example, CBA was required to comply with APRA's Prudential Standard APS 220 – Credit Quality (January 2008) and related Guidance Notes set out when a loan is to be considered impaired. The following extracts from APS 220 Guidance Notes outline APRA's expectations and requirements (for the relevant period) concerning impaired asset identification and reporting:

Guidance Note AGN 220.1 Jan 2008

The appropriate recognition and measurement of impaired facilities (e.g. assets) are key elements in the accurate reporting of an ADI's risk profile, in the assessment of the adequacy of an ADI's provisioning and reserving policies and, most importantly, in the assessment of its capital adequacy.

AGN 220.1 Paragraph 7

A facility must be classified as impaired regardless of whether it is 90 days or more past due, when there is doubt as to whether the full amounts due, including interest and other payments due, will be achieved in a timely manner.

AGN 220.1 Paragraph 4

Factors that affect the collectibility of facilities include, but are not limited to:

(a) indications of significant financial difficulty of a party to a facility; or

(b) breach of contract, such as a default or delinquency in interest or principal; or

(c) likelihood of bankruptcy or other financial reorganisation of a party to a facility; or

[8] *See page 7 of the Document.*

[9] *See for example pages 2 and 15 of the Document.*

(d) concessions in terms of a facility (e.g. interest or principal payments) granted to a party to a facility relating to such a party's financial difficulties; or

(e) changes or trends in default rates on categories of facilities which might be assessed for impairment on a collective basis; or

(f) any identified changes in the value of collateral or other sources of security which might bear on the collectibility of facilities; or

(g) disappearance of an active market in assets (including derivatives) held by an ADI relating to a given counterparty; or

(h) any other matter which might reasonably suggest to an ADI that a party to a facility may be unlikely to meet their contractual obligations.

In addition, a corporation such as CBA must by law also comply with accounting standards such as AASB 139 - Financial Instruments - Recognition and Measurement in relation to the recognition of impairment and the related provisions. Further, the financial statements which reflect impairment expenses and provisions contain are audited which means there is independent oversight of the items actually reported in the applicable financial statements.

Further, identifying an account as impaired is a reporting requirement for both regulatory and financial purposes. The recognition of a loan as impaired cannot of itself determine the action taken with the customer. This is determined by the contractual agreements between a bank and the customer. In this vein, Bankwest confirmed in its submission to the Senate Economics Committee Inquiry into Post–GFC Banking Sector that the share sale agreement and the purchase price adjustment process did not have any *impact on Bankwest's approach to dealing with its customers. It also stated that the acquisition did not cause any change to existing contractual arrangements between Bankwest and its customers and that it was not in Bankwest's interests, and it makes no commercial sense, to 'manufacture' defaults or to cause or increase impairment losses.10*

6. Error #6 - Commonwealth Bank could improve its regulatory capital position by defaulting customers

The Document claims that CBA could benefit from a regulatory capital perspective by defaulting customers.11

All individual provisions for individually impaired assets within Bankwest must be booked in Bankwest's books. The raising of a provision within Bankwest results in a reduction in net profit for the applicable year which has flow on effects to equity and therefore capital.

Bankwest and therefore CBA incurred substantial impairment expense on Bankwest loans since the acquisition of Bankwest over a number of financial years. Contrary to the author's contention set out in the Document, these impairment expenses reduced (not improved, as the author misleadingly suggests) the Group's profitability and therefore capital levels.

Conclusion

Thank you for the opportunity to respond to the allegations contained in the Document.

Yours sincerely,

David Cohen

Group General Counsel

Commonwealth Bank of Australia

[10] *Bankwest submission dated 12 June 2012.*

[11] *For example see pages 3 and 18 of the Document.*

30/11/2013

CBA rebuts claims it 'forced' defaults
THE AUSTRALIAN RICHARD GLUYAS THE AUSTRALIAN NOVEMBER 30, 2013 12:00AM

COMMONWEALTH Bank has exposed the entrails of its controversial, $2.1 billion Bankwest deal, seeking to rebut allegations ahead of a planned class action next year that it benefited by engineering Bankwest loan defaults.

Responding to extracts of the 2008 Bankwest share-sale deed, obtained by The Weekend Australian, CBA group general counsel David Cohen detailed the impact of key items in the agreement, including vendor warranties and a price adjustment mechanism to lower or raise the purchase price depending on impairments identified during intensive, post-acquisition due diligence.

Mr Cohen revealed that, contrary to CBA reaping a windfall gain by foreclosing on Bankwest commercial customers and then invoking the adjustment provisions, the financial impact of changes made after the deal's December 19, 2008 completion was insignificant.

The price adjustment mechanism resulted in a $26 million increase in the Bankwest purchase price, while the warranty claims resulted in a payment to CBA of "less than $6m".

"If a class action does emerge, CBA will confidently defend its position," Mr Cohen told The Weekend Australian.

At the height of the financial crisis, after three days of rushed due diligence, CBA snared Bankwest from its distressed parent, British-based HBOS, at the knockdown price of 0.8 times 2007 book value -- far less than Westpac's purchase of St George Bank at 2.7 times book value.

The acquisition team was led by Ian Narev, since promoted to CBA chief executive, with Mr Cohen drafting the terms and conditions of the Bankwest share-sale deed.

While the deal enabled CBA to consolidate its position as the nation's leading home lender, the bank has become dogged by allegations that it unfairly foreclosed on some of Bankwest's commercial customers.

Among the claims, consistently rejected by CBA, is that it "manufactured" defaults -- for example, by pressuring valuers to undervalue properties -- so it could lower the Bankwest purchase price under the "claw back" arrangements with HBOS.

The claims were aired in a federal Senate inquiry last year, and the founder of the Unhappy Banking lobby group Geoff Shannon has said they will form the core of a class action next year potentially worth "billions of dollars".
Individual borrowers lik developer of the $282m Whisper Bay

luxury resort in the Whitsundays, have also taken private litigation. has launched a $512m cross-claim against Bankwest, alleging unconscionable conduct by the bank in terminating his loans.

The developer has spoken of a "clandestine" internal strategy, called Project Magellan, to trash a number of large and fundamentally viable Bankwest loans, saying CBA was "in a rush to trigger the required impairments to maximise the clawback discount before the prescribed time limit".
CBA has persistently denied the allegations, saying it gains no benefit from foreclosing on customers.

In a strongly worded Senate submission in July, Mr Cohen said any loan impairment expense recognised by CBA or Bankwest during the balance of the 2009 financial year, or in any subsequent financial year, had no potential "whatsoever" to influence the Bankwest purchase price.

The bank has now gone further in its response to The Weekend Australian.
It said the price adjustment mechanism was unremarkable, and applied to the Bankwest loan book as it was on the last day under HBOS ownership -- December 18, 2008. With CBA only able to do limited due diligence before effectively agreeing to a bailout, the bank conducted a detailed stocktake after Bankwest served up a draft completion balance sheet. CBA, however, had to undertake the review based on its understanding of Bankwest's lending and impairment standards, not its own.

According to a document seen by The Weekend Australian, Mr Cohen dispatched a dispute notice to his HBOS counterpart in April 2009 in relation to the Bankwest draft completion balance sheet.

The notice culminated in a dispute resolution process, with accounting firm Ernst & Young appointed as the final arbiter.

While CBA had some "wins" on its view of impaired Bankwest loans, HBOS emerged in front overall, with E&Y ruling that the purchase price should be lifted by $26m under the price adjustment mechanism in the share-sale deed.

The ruling was made in July, but its impact was included in CBA's accounts for the June 2009 financial year. The warranties, covering a laundry list of items ranging from tax liabilities and ownership of the Bankwest shares to assets such as leases, were another matter altogether -- quite separate from the impairments.

As the extract shows, the maximum amount recoverable under the warranty claims was the initial purchase price; that is, $2.1bn.

Apart from the seven-year period in which to make a claim under the tax warranty, all other warranty claims had to be lodged within a year of the December 19, 2009 completion date.

CBA is believed to have made only two warranty claims, resulting in a payment of less than $6m from HBOS. "No price adjustment for impaired loans could be made through the warranty regime, and none was made," Mr Cohen reiterated.

"There was only a minor level of warranty claims, for matters unrelated to impaired loans, of less than than $6m." As to the price adjustment mechanism, it could only be invoked for loans up to the last day of HBOS's ownership of Bankwest, which was December 18, 2008.

"So CBA's subsequent ownership had no influence on the level of impaired loans that could result in a price adjustment for Bankwest," Mr Cohen said.
At the CBA annual meeting earlier this month, chairman David Turner did his best to bury the whole Bankwest issue. He acknowledged there was a perception among some Bankwest customers that CBA had "a long period" after it bought the bank in which it could "foreclose on debts and then reclaim from HBOS". "That is absolutely not right," the chairman said. "Once the deal was completed and we had the bank, that was the end of that."
If nothing else, the aggrieved Bankwest customers are focused and resilient.

They are unlikely to be deterred by Mr Turner's emphatic response.

http://www.theaustralian.com.au/business/financial-services/cba-rebuts-claims-it-forceddefaults/

26/03/2014

CBA accused of defaulting customers to fix BankWest books

SMH Date March 26, 2014 James Eyers

Bankwest has been accused of improperly defaulting clients.

In an extraordinary late night speech to parliament, Liberal Party Senator Alan Eggleston has accused the Commonwealth Bank of Australia of improperly defaulting various business customers of Bankwest - which CBA bought during the financial crisis - to claw back the acquisition price and prevent its funding costs from rising due to global banking rules.

Senator Eggleston said he was in possession of information provided by a victim of a CBA forced sale that may lead a court to "conclude that CBA had a predetermined outcome it needed to achieve, and it opportunistically capitalised on Bankwest's dire financial situation by manufacturing defaults on certain customers to engineer the result that it wanted".

Allegations of aggressive conduct by CBA and Bankwest during the financial crisis are long-running and the Senate investigated the claims in 2012. Several customers told the economics committee they had never missed interest repayments and CBA and Bankwest took possession of their businesses in 2009 without proper due process.

CBA and Bankwest have consistently and strenuously denied any misconduct. The CBA takeover of Bankwest was led by CBA's then-head of strategy Ian Narev, who is now chief executive, and was supported by Australia's financial regulators and federal government. The banks told the 2012 inquiry foreclosure typically incurred substantial costs.

However, Senator Eggleston said a victim of a forced sale had recently suggested to him that the capital provisions of the global banking rules known as the Basel Accords could provide an explanation for the behaviour of CBA and Bankwest, and he called for a new inquiry to establish the facts.

"It was very much in CBA's interests to impair otherwise viable loans," Senator Eggleston told the Senate late on Tuesday night. "The implications of this conduct are profoundly serious, and it has been suggested the matter can only be resolved by establishing a public inquiry to establish the facts as to whether or not the foreclosures on Bankwest clients were driven by Basel Accord requirements and whether [borrowers] need greater legislative protection."

'Continuation of conspiracy claims'

The Basel Accords are global banking rules which have been implemented nationally by the Australia Prudential Regulation Authority. Rules regarding capital adequacy require banks to hold capital relative to their risk weighted assets. The ratio feeds through to a bank's credit rating and the price they pay for funds. The Senator suggested CBA had an incentive to remove certain Bankwest assets from its books to improve the ratio. He said at the time, CBA had progressed to Basel II advanced accreditation and was applying for US Federal Reserve holding status, which both required higher levels of capital.

"If the incorporation of Bankwest's capital and risk weighted assets put downward pressure on Commonwealth Bank's Basel ratio, then it was put to me that it would be in the Commonwealth Bank's commercial interest to remove certain customers from the balance sheet rather than risk a drop in the Basel ratio," Senator Eggleston said.

"Such a drop would decrease Commonwealth Bank's profitability across all products through an increase in capital costs, among other things."

A response to the Senator's speech was being sought from CBA.

Senator Eggleston also said CBA was motivated to default customers to "claw back" the amount paid to Bankwest's former owner, HBOS of the UK. He said the clawback price reduction mechanism allowed CBA to offset $302 million of the original $2.428 billion purchase price.

Claims of clawback have been made previously but never been proved.

CBA general counsel David Cohen told the Senate last year that allegations about clawback were a "continuation of conspiracy claims made by various former customers of Bankwest".

"CBA categorically denies that any form of separate or collateral financial benefit was advanced to CBA prior to acquisition that would compensate it for any post acquisition impairments."

http://www.smh.com.au/business/banking-and-finance/cba-accused-of-defaulting-customers-to-fix-bankwest-books-20140326-35htg.html#ixzz3iCQVYkoo zz/

Psychological Narrative Analysis of CBA 2012 Evidence

Background

Significant research has been conducted into allegations that Commonwealth Bank of Australia (CBA) and Bankwest (BWA) acted unconscionably on a mass-scale towards commercial loan customers immediately after the CBA acquisition was announced by the CBA in October 2008.

A separate, detailed submission will demonstrate the mechanisms, motives and extent of criminal and unconscionable misconduct by the CBA.

Extent of Deception

A key challenge to fully understanding the extent of CBA's conduct has been to 'unpick' the CBA's true actions relating to Bankwest commercial loans customers from the volumes of deceptive public statements and false / misleading evidence provided by the CBA and Bankwest witnesses in relation to allegations of systemic serious misconduct.

This was made particularly difficult by the carefully crafted, grossly misleading narrative by the CBA. Of particular concern, is the fact that very senior CBA and BWA executives misled the government in evidence at the 2012 Senate Inquiry into Post GFC Banking Practices?

At that time, little was known beyond the fact that an inordinate number of victims had come forward detailing patterns of misconduct at the hands of Bankwest resulting in significant losses and (in most cases) bankruptcy.

CBA's Unchallenged Evidence

The Senate Committee took CBA and BWA evidence in good faith without taking steps to verify the accuracy of the evidence. Consequently the secretariat was unable to conclude misconduct had taken place, despite the disturbing allegations raised by victims.

Significant new evidence has come to light, which serves to highlights the extent to which the CBA misled the previous inquiry. This new documents and evidence led the call and informed the decision to establish the current PJC inquiry.

Evidence Analysis

This submission provides a brief summary and commentary from the comprehensive analysis of Mr. Cohen's evidence in the 2012 Senate Inquiry.

The analysis is useful, not only to highlight the extent of the dishonesty, but to provide the committee a lens, with which to critically consider the obfuscating tactics and tricks of language often used by the CBA to avoid saying anything meaningful, whilst the committee undertakes a line of inquiry.

Such analysis is informed by Psychological Narrative Analysis, a technique used by FBI investigators in establishing the veracity of witness evidence resulting from protracted interrogation.

CBA's evidence does not withstand critical analysis. Consequently it is strongly suggested that the CBA be required to provide comprehensive documentary evidence to support any oral or written evidence, as not one page was provided by eth CBA at the last inquiry.

The CBA could have easily provided the committee with a copy of the Share Sale Deed and Draft Completion Balance Sheet, both prepared by Mr. Cohen.

The only barrier to the bank doing so, was that these documents directly contradicted their evidence to the inquiry.

Those documents have subsequently been obtained by other means of discovery and will be submitted to the committee.

Mr. Cohen's Role in the Deception
To assist committee members understand the extent of misleading evidence, this document provides a brief commentary around key evidence provided by Mr. David Cohen on behalf of the CBA to the 2012 Senate Committee inquiry, demonstrating that his evidence was deliberately misleading, obfuscatory and dishonest.

Mr. Cohen was clearly aware of the consequences of consciously choosing to engage in dishonesty and deception before the inquiry. In one of his submissions, Mr. Cohen noted the senate was a 'venerable institution'. The committee should consider referring Mr. Cohen to the Privileges Committee for making a mockery of the Senate Committee members (and wasting taxpayer resources and dollars) through his deliberate, blatant and ongoing campaign of dishonesty before the committee.

Further, the committee should consider the protracted delay Mr. Cohen's false evidence caused victims in obtaining redress. His false evidence has had the effect of delaying further inquiry into the matter for over three years.

His conduct should also trigger consideration as to whether Mr Cohen has breached solicitor's rules in NSW. In particular:

> ***Solicitors' Rules - 5 - Dishonest and disreputable conduct***
> *5.1 A solicitor must not engage in conduct, in the course of practice or otherwise, which demonstrates that the solicitor is not a fit and proper person to practise law, or which is likely to a material degree to:*
>
> *5.1.1 be prejudicial to, or diminish the public confidence in, the administration of justice; or*

5.1.2 bring the profession into disrepute.

Why the Deception By The CBA?
To have a bank officer (who is also an officer of the court) at this level seriously misleading the Commonwealth Government investigating allegations of serious criminal misconduct must trigger alarm bells.

Why would a bank with the size and 'repute' of the CBA, engineer and endorse a course of comprehensive course of dishonest and misleading evidence, if it had not engaged (intentionally or otherwise) in any untoward or illegal conduct?

If the committee was not provided with honest evidence from the CBA, surely this alone supports the strongest argument to move immediately to a Royal Commission.

Overview - Critical Analysis of CBA Witness David Cohen's Oral Evidence

Post GFC Senate Inquiry - 09/08/2012

> ***Mr. Cohen:*** *That acquisition proved significant in maintaining public and investor confidence in the stability of the Australian financial system. While some commentators pointed to the acquisition price of approximately $2 billion as a bargain, what is less well recognised is that CBA also had to source around $17 billion to replace Bankwest's funding liabilities. In essence, the Australian economy was spared a potentially significant financial shock, because of CBA's ability to acquire Bankwest.*

Comment

Once fully understood, the actions of the CBA towards commercial loans customers following the acquisition will horrify the public and investors.

If not addressed, the CBA's criminal actions will likely **severely damage public and investor confidence** in the stability of the Australian Banking system.

CBA only provided $14.5 billion in wholesale funding at the completion date, not $17 billion as Mr. Cohen states in his evidence.

The CBA abused concessions made by the Australian government in good faith when approving the sale. They subsequently destroyed thousands of lives in what equates to the biggest and most serious corporate crime in Australia's history.

*

> ***Mr. Cohen:*** *Before closing, I would like to refute a misconception that has been widely held and spread by some parties, and reported in the media, that CBA stood to benefit from claw-back provisions in the Bankwest purchase arrangements with HBOS. It has been suggested that CBA gained a commercial benefit from putting some Bankwest commercial loans into default which then allowed CBA to recoup subsequent losses from HBOS. Let me say categorically that that suggestion is simply untrue. The so-called 'claw-back' arrangement is straightforward. Simply put, the purchase price paid by CBA could increase or decrease, depending on the number of distressed loans at the time CBA completed the acquisition on 18 December 2008. CBA could only reduce the purchase price for loans that were distressed at the time of sale on 18 December 2008. Any loans that became distressed after that purchase date became a liability that Bankwest and CBA had to bear. CBA had no right to recoup any of those losses from HBOS. I would be happy to expand on this point during questions, if that would assist the committee.*

<u>Comment</u>
This evidence is misleading and untrue. The committee will be provided with clear evidence that the CBA <u>was motivated</u> to unconscionably mass-impair performing loans.
*

> ***Senator WILLIAMS:*** *Was that the final price? When you went through the loan book, did you find that there were impaired loans there, obviously not in good shape? You had a warranty claim then and you could actually go back to Lloyds and reduce that off that price—is that correct?*
> ***Mr. Cohen:*** *The way it worked was that we settled the sale on 18 December 2008—*
> ***Senator WILLIAMS:*** *For how much?*
> ***Mr. Cohen:*** *For $2.1 billion. Then there was a period during which we and HBOS inspected the loans in Bankwest, and then adjustments would be made based on that inspection. That inspection looked at the status of loans as at 18 December 2008. The process took about three months to work through. Each side made submissions. We had an independent expert, one of the large accounting firms, actually adjudicate on it, and it looked through each loan. At the end of the day, we paid about a further $26 million.*
> ***Senator WILLIAMS:*** *You got that off the price?*
> ***Mr. Cohen:*** *No. We paid it additionally.*
> ***Senator WILLIAMS:*** *So you paid $2.1 billion for it, and, when you went to the loan book, there was $26 million worth more value because of the loans. Was there an estimation first of some impaired loans, a percentage or something? How did you have to pay an extra $26 million?*
> ***Mr. Cohen:*** *We purchased the assets on a certain price basis, and that was simply applied to the value of the assets that existed as a result of that examination.*

<u>Comment</u>
The senate committee will be presented with evidence as to how this contractual arrangement actually worked and how the CBA mass-impaired performing commercial loans to try & reduce the purchase price to $1,8 billion.

Mr. Cohen is lying using Millers Law and misleading by way of both obfuscation and by omission.
*

> ***Senator WILLIAMS:*** *So there was no clawback? You are saying there was no reason to go and make loans look bad?*
> ***Mr. Cohen:*** *Absolutely none. In fact, we were not in control of Bankwest as at 18 December 2008. So loans were impaired according to Bankwest's own classification as at that date. No classification by CBA was able to be made.*

<u>Comment</u>
The committee will hear evidence as to how this evidence is a carefully crafted deception to avoid the intent of the question.

The CBA did have reason to make good loans look bad. And they did so dishonestly interfere with and engineer a process of constructive defaults to over 1000 performing loans.
*

> ***Senator EGGLESTON:*** *What was the date that the Commonwealth Bank took over Bankwest?*
> ***Mr. Cohen:*** *The acquisition was completed on 18 December 2008.*
> ***Senator EGGLESTON:*** *What was your relationship thereafter with Bankwest?*
> ***Mr. Cohen:*** *Bankwest was, from that point on, a 100 per cent subsidiary wholly owned by the Commonwealth Bank. However, because it has its own banking licence, Bankwest continue to have its own board, its own audit committee, its own risk committee, its own management committee, its own pricing committee et cetera, but it was from that point on 100 per cent owned by the bank.*
> ***Senator EGGLESTON:*** *To what degree did the Commonwealth Bank influence the activities of Bankwest? That is the key question, I think.*
> ***Mr. Cohen:*** *We have been very clear from the outset that Bankwest should operate autonomously. It has a well-known brand, particularly in Western Australia. It was important for us to allow Bankwest to continue to operate autonomously, to take advantage of its brand and its market, particularly Western Australia. We were obviously aware of what was happening in Bankwest at a management and board level. We would get regular reports from Bankwest. We seconded some of our people into Bankwest. One of the things that we had to do as a result of the acquisition—and this was mandated by APRA—is move towards surrendering Bankwest's banking licence so that Bankwest would operate under CBA's banking licence. As result, there is quite a need to integrate systems and integrate processes in the lead-up to that consolidation, which should occur on 1 October this year.*

<u>Comment</u>
The committee will be provided with evidence the **CBA staff did review individual Bankwest loans**. CBA staff were clearly (and unconscionably) instructing BWA staff to re-rate loans on a worst-case scenario. **This was nothing about 'integrating systems and processes'.**

It was about dishonestly excising the at least 1100 Bankwest commercial loans in the commercial loans portfolio from the business.
*

> ***Senator EGGLESTON:*** *Did you provide direction as to what Bankwest should be doing in terms of realising the value of properties that they may have had mortgages on, and suchlike?*
> ***Mr. Cohen:*** *No. We did not give direction as to how Bankwest should deal with a particular loan, for example, or give direction as to what price a particular security property should be sold for.*

Comment
CBA staff instructed BWA staff in relation to the ongoing downward re-rating of BWA commercial loan risk grading to the point of insolvency.

CBA staff also instructed BWA staff around other mechanisms to **deliberately distress** (monetary) and **constructively default** (non-monetary) performing commercial loans.
*

> ***Senator EGGLESTON:*** *So you are saying Bankwest operated completely independently in terms of the way it sought to recover finance from loans given for various properties and businesses?*
> ***Mr. Cohen:*** *That is right. CBA's awareness was at a high-level, a managerial level, but we did not delve into individual cases.*

Comment
This statement is entirely untrue. Documents will be presented to the committee proving that a team CBA credit staff reviewed individual BWA loans, directly contradicting Mr. Cohen's evidence.

Former CEO Ralph Norris publicly stated in 2010 that a team of CBA staff flew to Perth to review BWA commercial loans, under his instruction.
*

> ***Mr. Cohen:*** *What I can say at a general level is, as I have said before, there is absolutely no commercial advantage and therefore no incentive whatsoever for Bankwest or the Commonwealth Bank to put borrowers in default. Both parties lose out. There is no incentive there. There is always an incentive to try and help the customer to work through difficulties, whether it is through extensions of loan, reduced interest rates, reduced payments or capitalising interest. Whatever the case may be, we do try and get to that point first and foremost. That is always to the advantage of both parties. I cannot help you on the specific examples and this is not the appropriate place to do it.*

Comment
This is an absolutely false statement. The committee will hear evidence that **there was commercial advantage to the CBA to put borrowers in default**. Further, the CBA carefully orchestrated the plan with BWA so ruthlessly, that customers were entirely unaware that the bank was planning and actively causing their demise.

The bank made no such attempts to try & help customers to 'work through' difficulties. To the contrary, the bank not only 'set the building on fire', they 'locked the fire escape'.

Banking customers in Australia never considered for a minute that a bank such as the CBA would act in any way nefariously against them.

This gross breach of trust only elevates the extent of misconduct.
*

> ***Mr. Cohen:*** *To your point about whether the Bankwest board would have had detailed knowledge of the workings of each individual case, the answer to that is no. The Bankwest board would have been aware at a high level of the level of recovery actions, for example, but, as you can probably imagine, at board we do not go into every single case and every single fact around every single case.*

<u>Comment</u>
Evidence will be provided to the committee pointing to this also being another direct lie. Senior CBA staff, including and , were clearly directing Bankwest staff to act inappropriately towards BWA loan holders, with the view to constructively impairing them.

It will be imperative for the committee to discover what information the BWA and CBA boards and Risk Committees were provided (and by whom) to 'justify' the 'legitimacy' of the extraordinary increase in impairments.

This is not a case the bank can place blame on a few, 'low-level', 'rogue employees'. The board was (or should reasonably have bee) aware of this strategy to mass-constructively default BWA customers illegitimately.

> ***Mr. Cohen:*** *In terms of CBA's role, as I have explained to you, we take a very considered approach to customers in difficulty and, from our experience, so does Bankwest. I think we have to be very careful about taking for granted the facts as they appear in individual submissions. The Insolvency Practitioners Association in its submission to this committee pointed out very clearly that its members experience on a regular basis business owners who have completely unrealistic expectations around the value of their properties or business and who are often in denial about the problems that they have contributed to. So there are two sides to the story.*

<u>Comment</u>
This answer is misleading and dishonest.

The committee will be presented with evidence that BWA credit staff instructed valuers using valuation methodologies, which would result in a constructive default.

Worse, the bank would deliberately distress the business by delaying / withholding payments to otherwise performing commercial loan customers.

BWA would then appoint investigative accountants (who were also receivers) to 'review' and declare the loan insolvent, based on BWA's unconscionable covert strategy and actions. The receivers would 'find' monetary and non-monetary defaults and recommend that they (themselves) be appointed. A clear conflict of interest exists here.

No attempts were made to workout the bank-caused defaults. The insolvency industry raped and pillaged these businesses as co-conspirators Receivers benefitted greatly through charging exorbitant fees, draining equity from the loan-holders.

This strongly suggests the industry's complicity in the CBA's dishonest scheme.

The bank engineered artificially low valuations. It an **offensive and abhorrent pathological lie** for Mr. Cohen to give evidence that business owners had '*unrealistic expectations'* and were in '*denial about the problems that they have contributed to*'.

Such sincere and audacious dishonesty used attempting to cover-up the CBA's crime points to the highest-level of CBA management who have and continues to mislead the regulators, media, government, courts, victims and public in relation to their actual conduct.

> ***Senator MARK BISHOP:*** *Effectively, the operative date for purchase of Bankwest was 18 December 2008.*
> ***Mr Cohen:*** *That is right.*
> ***Senator MARK BISHOP:*** *You then moved to do an immediate root and branch examination of their loan portfolio.*
> ***Mr Cohen:*** *Bankwest did—yes.*

<u>Comment</u>
Commonwealth Bank credit staff also reviewed and downgraded risk grading of the entire BWA loan book, including performing loans.
*

> ***Senator MARK BISHOP:*** *The Commonwealth Bank did?*
> ***Mr Cohen:*** *No, Bankwest did.*

<u>Comment</u>
This answer is categorically wrong. Senator Bishop had already picked up on the dishonesty in this answer, as evidenced by the following exchange:

> ***Senator MARK BISHOP:*** *The Commonwealth Bank released a statement in 2010, attached to its annual report, and it said that the CBA initiated a review of the Bankwest portfolio after the acquisition; CBA's 2009-10 results presentation describe the legacy book review as comprehensive and*

> *in-depth; and, by the end of June 2010, around 1,100 loans had been reviewed, with the review observing issues predominantly with loans on the east coast due to 'unrealistic security valuations'. On the business banking portfolio the CBA said:*
> *… identified pre-acquisition loans reflecting poor asset quality, high loan to value ratios and insufficient covenant coverage.*
> *It goes on to talk about risk impairment and write-offs over successive years. There is a whole set of statements in your annual reports. It was the Commonwealth Bank, according to its own statement here, that initiated the review of the loan portfolio.*
> ***Mr Cohen:** I think we have to be careful that there is a very clear distinction between two issues. One is the review that any new business owner takes out when they acquire a business and go into that business, to understand the business thoroughly.*
> ***Senator MARK BISHOP:** Of course.*
> ***Mr Cohen:** That was a review that the bank did over a period of time. The second element I would point out is the actual review of the commercial property loan portfolio in Bankwest, which is what I am referring to as the Bankwest initiated review so that Bankwest could understand the status of those loans better—and, for that matter, so could CBA. So there is no doubt CBA had an interest in the review being carried out.*

<u>Comment</u>
CBA's has personally stated that **he initiated the review**. How can CBA's Mr. Cohen honestly assert that Bankwest initiated this review? He can't, this answer is blatantly dishonest.
*

> ***Senator Mark Bishop:** why are you trying to distinguish between the parent organisation having full knowledge after investigation of the loan review, by saying that it was Bankwest officers that initiated the review and had the knowledge?*
> ***Mr. Cohen:** I am not trying to draw a distinction between what we knew versus what Bankwest knew. You are absolutely right in the sense that when we acquired Bankwest we had a certain amount of knowledge. As I mentioned before, we had the benefit of three days due diligence. So our detailed knowledge was absolutely scant. So, as a prudent business owner would do, having acquired a business, we undertook a general review to get to know that business much, much better. In the course of that review it became clear to us that there were some questions around the quality of the commercial property loan book in particular, but commercial loans in general. We had a new managing director of Bankwest appointed—Jon Sutton—who was from CBA. Jon led a project within Bankwest to thoroughly review the commercial loan book. That was a particular detail that we got into via Bankwest. Bankwest did carry that out. The distinction that I am drawing is that it was not a team of CBA people who were flown in from the east to pore through the books. That was not the case at all.*

Comment
Mr. Cohen is caught here telling a bold-faced lie. CBA states in an interview with Alan Kohler that he initiated the review and flew a team over from Sydney to do that.

Mr. Cohen did not want to tell the truth, because he knows CBA interfered illegally in BWA by directing the mass-impairment and constructive default of within the BWA commercial loan book.

He did not want the committee to know this.
*

> ***Senator MARK BISHOP:*** *So the fact that he was appointed by the board of CBA to oversee the investigation—but perhaps it was done by a range of line officers employed by Bankwest—is neither here nor there. He received the report and he reported, appropriately, up the line to both the board of CBA and to appropriate senior management as to the status of the loan book.*
> ***Mr Cohen:*** *That is correct.*
> ***Senator MARK BISHOP:*** *And if he had not done so he would have been derelict in his duties and the expectations of his board.*
> ***Mr Cohen:*** *And he did so report.*

Comment
The committee will be presented with evidence that the review was clearly an exercise in deliberately mass-distressing and constructively defaulting in preparation for receivership.

In giving this answer, the CBA's Mr. Cohen has directly implicated the CBA board in this conduct.
*

> ***Senator MARK BISHOP:*** *So, to the extent that you had purchased an organisation that was either essentially insolvent or close to bankruptcy, and the fact that the bank organised a team of officers to properly examine the loan book, the fact that you found a whole range of loans that were of dubious quality, and the fact that you had to write off hundreds of millions of dollars in successive years, is neither here nor there, is it?*
> ***Mr Cohen:*** *It is what happened. Those were the facts.* ***Senator MARK BISHOP:*** *It was normally and customary business practice?*
> ***Mr Cohen:*** *Absolutely.*

Comment
Here, it could be understood that Mr. Cohen is characterising mass unconscionable and likely criminal conduct as customary business practice. When CBA's conduct in Storm, Financial Planning and CommInsure scandals is considered, this may be a rare case of Mr. Cohen inadvertently admitting the truth.

That CBA's new 'normal' conduct is large-scale unconscionable conduct, to the extreme cost of victims.

This highlights the need and importance of the committee to stand up to this banks systemic misconduct and extensive syndicated crime against customers by recommending a Royal Commission
*

> ***Senator WILLIAMS:*** *You are saying that Bankwest, when you took them over on 18 December 2008, just ran their operation after that and you did not have any role. Did you set any lending criteria? Did you change the LVRs? Did you change the regulations in any way which may have caused Bankwest to act as they did with the pulling out of so many businesses they had financed prior to your takeover?*
> ***Mr Cohen:*** *CBA did not mandate changes. What did happen, however, was that Bankwest reviewed its operations, particularly its willingness to lend in certain sectors. What we know from history is that typically in economic downturns sectors such as commercial property, hospitality and tourism often suffer most. Bankwest's commercial loan portfolio was heavily weighted towards those sectors, so when Bankwest carried out a review we had also looked at its exposure to those sectors and its willingness to lend at the same risk appetite levels going forward.*

<u>Comment</u>
CBA / BWA unilaterally decided to terminate those customer loans on a mass scale and devised a plan to use forced insolvency as an exit strategy. This process was inflicted upon customers who were entirely solvent and making all payments on their loans, despite the difficult economic environment of the GFC.
*

> ***Mr. Cohen:*** *The valuations are carried out by valuation professionals who have their own rules. Kelly can speak to the valuation practices that we undertake to give you a sense of the independence and the lack of influence.*

<u>Comment</u>
This is an entirely misleading and dishonest answer.

Bankwest mastered the art of **inappropriate influence** using their (non-independent) panel valuers to constructively default loans through instructing valuers to use a methodology that would result in a lower valuation that the method used to secure the loan.
*

> ***Mr Cohen:*** *Generally that would be the case. I cannot comment on that particular Bankwest case that you have raised but, generally speaking, if customers are maintaining their payments and they are keeping their other covenants under their loan agreement then there would not be a need for action.*

<u>Comment</u>
The CBA instructed Bankwest to mass-impair and force over 1100 performing loans into insolvency. Few missed payment until CBA dishonestly interfered with their loans.
*
<u>Close</u>

The committee must ask why a senior bank executive and officer of the court is going to such extremes to mislead the government into evidence-based allegations of large scale, serious misconduct.

I would be willing to assist the inquiry further in any capacity required.

NB: A fully referenced version of evidence used in this analysis can be provided to the committee upon request should this be useful.

Overview - Critical Analysis of Bankwest Witness Oral Evidence

Post GFC Senate Inquiry - 10/08/2012

> ***Mr. De Luca:*** *"The sale agreement did not influence the way in which Bankwest dealt with its customers. There was no benefit either to Bankwest or to CBA in defaulting customers or causing losses to customers. In fact, any losses that arose were borne by Bankwest."*

Comment
Mr. De Luca was not at Bankwest at the relevant time. So who informed Mr. De Luca of this? Who prepared Mr. De Luca's statement? It is probable his evidence was carefully crafted and scripted **by the CBA** to support the deceptive written and oral evidence provided to the committee.

Contrary to Mr. De Luca's above statement, other submissions will demonstrate how the sale agreement and other contractual mechanisms were designed to allow the CBA to exit the Bankwest commercial loan book in the unconscionable manner alleged.
*

> ***Mr. De Luca:*** *There have been comments to the inquiry that valuations were systematically decreased. This is incorrect. It makes no sense that valuations or sales prices would be purposely lowered.*

Comment
Evidence will be presented to the inquiry of Bankwest Panel (i.e. far from independent) Valuers being pressured by Bankwest credit staff to reduce valuations. Further evidence will be presented of Bankwest going to alternative valuers and instructing lower valuations based upon different valuation methodologies designed to achieve a lower valuation for Bankwest, when ethical valuers refused to agree to instructions to lower current valuations.
*

> ***Mr. De Luca:*** *Values were commissioned by the bank to provide a level of independence in the process. It is covered in some submissions by industry bodies; valuers abide with a significant level of professional obligations.*

This is obfuscatory and misleading. It misleads the committee through suggesting Bankwest cannot manipulate an outcome because of the valuers 'independence'.

Bankwest uses **panel valuers** (making them, by definition, **not 'independent'**) and bank officers instruct / brief valuers on the basis of specific methodologies – usually 'market value'.

However, differing valuation methodologies deliver widely varying results. Bankwest deliberately and systemically instructed valuers to use alternative methodologies, which differed from the methodology used to secure the loan. Importantly, Bankwest officers instructed methodologies **the officer knew would deliver a lower valuation figure**, often suggesting to the valuer a 'target (lower) price' that the bank officer knew would trigger a constructive (LVR) default.

Valuers often do not see the previous valuation, and therefore are not aware of the previous methodology used. Hence, the independent valuer cannot know he/she is providing a valuation on a different methodology.

Hence **Bankwest can clearly manipulate / influence this process using 'independent' valuers**. Evidence of this will be provided in a separate submission to the inquiry by way of internal BWA emails and case studies.
*

> ***Mr. Corfield:*** *Between ourselves and the client we would obviously agree on criteria because, as you say, there are a number of different ways to value something. We would agree how and what criteria we were going to apply but then, having issued those instructions, we would be absolutely arms-length with the valuer. It is for them to come up with what they feel the value is.*

<u>Comment</u>
Regardless of the above characterization of 'arms-length' and 'independent' valuers, evidence will be provided to the committee Bankwest aggressively, and **without the customer's knowledge**, instructed valuations on different bases with the sole purpose of **achieving a lower valuation** to trigger an LVR 'breach' (constructive default). BWA unconscionably instructed valuation methodologies (different to the methodology used to establish the loan) which bank officers knew would deliver the 'required' lower valuation figure to establish the breach.
*

> ***Mr. Corfield:*** *Throughout the course of any loan period there are a number of contracted dates at which we would undertake a further valuation because obviously over the period of time valuations change. That is in the contract with the customer up front so they understand that from the contractual documentation. But also obviously when customers unfortunately fall into difficulty at that point again we are taking a valuation of the business to understand what the value is at that moment.*

<u>Comment</u>
Once the process engineered by CBA & BWA is fully understood by the committee, it will evident that this evidence is highly misleading. Further, it is extremely offensive for Bankwest / CBA witnesses to suggest / characterise **customers that CBA / BWA deliberately forced into distress as 'unfortunately falling into difficulty'**. This is one of the most brazen and unconscionable lies nested within the complex web of deceit by CBA and BWA in their shameless attempt at covering up their massive fraud.

The inquiry will be presented with detailed evidence of Bankwest engineering and executing a cold, callous, deliberate and secretive process to underhandedly force unwitting Performing Loan customers into default and insolvency.
*

> ***Mr. De Luca:*** *These assets are relied on to meet the bank's debt and selling these assets for a lower price would often result in a greater loss for the bank. When selling assets, insolvency practitioners have a legal obligation to achieve fair market value.*

<u>Comment</u>
The committee will observe many cases where receivers act in concert with the bank and legal practitioners to act entirely inconsistently with this assertion. A consistent and troubling theme throughout evidence to the committee is insolvency practitioners selling assets at levels **astoundingly below market value**
*

> ***Mr. De Luca****: The last action we take is to appoint receivers. It means we have worked through a process with a customer and we have got to a position there that actually the best outcome is for the receivers to be appointed and work through the outcome.*

Comment
The committee will hear evidence around how the appointment of receivers was part of the carefully orchestrated plan by CBA and Bankwest to ensure that customers could not fight the unilateral, fraudulent, unconscionable conduct of the bank.

In some cases receivers were working on 'secondment' at Bankwest and posing as Bankwest officers, complete with Bankwest job titles and email addresses. This represents a gross conflict of interest and is morally reprehensible.
*

> ***Mr. De Luca:*** *There have also been suggestions that the bank dealt with customers on a global basis. This is untrue.*

Comment
Evidence will show Mr. De Luca's statement to be categorically untrue. Behind the scenes, Bankwest & CBA staff were reviewing, actively distressing and constructively defaulting performing, non-impaired loans. Project Magellan was a global project across the Performing Commercial Loan book. Customers had no idea this process was occurring. None would have ever believed their bank would be acting in such an **aggressive and dishonest way against them without their knowledge.**
*

> ***Mr. De Luca:*** *The bank worked with customers individually through any financial difficulty they were experiencing.*
>
> ***Mr. Corfield:*** *It is absolutely not in our interests to be calling in loans. We always seek to try and work through with the customer to get to an end result that works for them and one for us, but unfortunately there are times when actually not acting can be worse if markets are falling. That is unfortunately the reality that we faced in the last financial crisis.*

Comment
These are scripted, statements clearly crafted to mislead the Senate Committee.

Evidence will be provided to the committee, which directly contradicts this statement. In most cases, no attempt was made by Bankwest to 'work with customers' (despite the banks obligations to do so.)

To the contrary, Bankwest, with the surprise and precision of a dawn raid, ambushed unwitting customers in an unconscionable, gross breach of trust. Such that the customers had no hope of fighting the bank.

In fact, the committee will hear examples of Bankwest **working directly against customers**, to ensure the customer cannot 'work out' the situation.

This is central to magnitude criminality and unconscionable conduct.
*

> ***Mr. De Luca:*** *The Bankwest sale period coincided with the worst global economic downturn in 80 years. Unfortunately, some of our customers with industries and sectors were the most impacted. The majority of customers who have made submissions relate to property investment and development transactions. Most of the transactions of these customers were entered into between 2005 and 2007 and then encountered problems between 2008 and 2010. Their situation mirrors the broader property investment and development environment that went through an increase in activity followed by a contraction in the cycle during these periods.*

<u>Comment</u>
The sale did not 'coincide' with the GFC. BankWest was purchased as a direct result of the GFC. **Australia emerged relatively unscathed**, with the exception of Bankwest commercial loan customers who were deliberately massacred by the CBA using the GFC as a perfect 'alibi'.

CBA went into the Bankwest purchase with their 'eyes open'.

The GFC only happened on any scale within the Bankwest commercial loan book, and does not 'mirror' the broader environment.

Relevant statistical analysis of insolvency data reveals that within other Australian banks, the rate of insolvency appointments remained relatively unchanged during the GFC at 0.98% of all loans. The exception is Bankwest, where insolvency appointments were at a staggering level of 44% during the relevant period of the GFC.
*

> ***Mr. De Luca****: There has been a relatively small group of customers who have aired grievances and represent less than 0.01 per cent of our 1.1 million customers. Our overall customer satisfaction levels are high and have continued to rise. Our customer numbers also continue to grow.*
>
> ***Mr. De Luca:*** *Firstly, let me refer to my opening statement. The number of submissions we have got here is 0.01 per cent of our customer base, so it is important to put that in context.*

<u>Comment</u>
These are carefully scripted in a woeful attempt to avoid necessary inquiry focus upon serious, criminal banking misconduct committed toward 1000 Bankwest **commercial loan customers**.

This is lying by restructuring contex.

The committee needs to ask Bankwest/ CBA:
- How many commercial loan customers were on the commercial book at acqusition?
- How many were 'impaired' and had insolvency practitioners appointed between 8 October 2008 (acquisition) and 30 June 2012.

The raising of customer satisfaction levels in the context of Bankwest's overall customer base is simply an absurd and irrelevant inclusion using junk statistics to deliberately mislead the inquiry. Carefully uses as a tactic of obfuscation. In context of the entire customer base, Bankwest are hiding the extreme dissatisfaction of 1000+ commercial loan customers within the (entirely irrelevant) total 1.1 million-customer base.

Further, Bankwest would not be measuring the satisfaction of ex-commercial loan customers deliberately foreclosed upon by the bank.

In the event Bankwest did track such a measure, Bankwest would likely record **low-levels** of satisfaction. In all probability, Bankwest **would experience record-high levels of <u>dis-satisfaction</u>.** Effectively, this inquiry is a study into the satisfaction of the relevant customer segment.

Perhaps the committee would be better informed in relation to this matter by Bankwest, if Mr. Deluca focused upon more relevant consumer metrics.

Brand reputation damage to CBA and Bankwest will become a more relevant measure, and may be irrecoverable as a result of this inquiry.

Shareholders should rightly feel aggrieved.
*

> ***Mr. De Luca:*** *Secondly, it is in our interests for the customers to be viable and to be able to repay their debts.*

<u>Comment:</u>
This is largely true, **except** when Bankwest's new parent (CBA) obtains a 'strategically undesirable' (but perfectly sound) commercial loan book as part of 'bargain buy' acquisition and has pre-planned an audacious, dishonest and unconscionable scheme to 'exit the book' of these loans at the expense of the vendor (HBOS plc) and the relevant customers.
*

> ***Mr. De Luca:*** *I am not sure which client you are talking about or which submission you are referring to. But, in general terms, again, during the global financial crisis valuations fell south quite significantly across a number of areas. Therefore if the insolvency firm was only able to achieve that price for the asset that was the market value.*

<u>Comment</u>
The bank forced insolvency upon customers using the GFC as the '(almost) perfect 'alibi', to hide their actions. Values didn't 'fall south'. They were cleverly manipulated by BankWest officers at the direction of CBA, as part of a fraudulent scheme to deliberately distress and default loans.

If anything, Bankwest and CBA have artificially caused a drop in values through unconscionable revaluing and selling properties for artificially low prices.
*

> ***Senator WILLIAMS:*** *What was Operation Magellan?*
> ***Mr. Corfield:*** *It was a review of our portfolio. We do regular reviews of our portfolio. I had just taken over running the business bank at that point and we had a look across our portfolio, which we do on a fairly regular basis and that is what that particular project was.*
> ***Senator WILLIAMS:*** *When you had a look at it what did you see?*
> ***Mr. Corfield:*** *At that point it was the start of 2010 and obviously the financial crisis had hit and what we saw was that either a number of customers were obviously in difficulty, in terms of their payments, or the value of the businesses that they had had fallen significantly.*
> ***Senator WILLIAMS:*** *Hence their LVRs went up? Correct?*
> ***Mr. Corfield:*** *Yes.*
> ***Senator WILLIAMS:*** *And hence you took the appropriate action when the LVRs were at a level out of your control?*
> ***Mr. Corfield:*** *At that point, obviously, we tried to work —*
> ***Senator WILLIAMS:*** *There was debt that you were not happy with?*
> ***Mr. Corfield:*** *We tried to work with the customers to see whether there was a way of getting through the position or whether or not actually the business was at a point where further action needed to be taken.*

Comment
CBA and Bankwest have made this claim ad infinitum. This evidence is irrefutably untrue.

The committee will hear evidence from performing loan (non-impaired) customers, who were the subject of Project Magellan, and had their fate unilaterally and catastrophically decided during this devious, covert operation.

Any attempted 'work through' of 'difficulties' ('difficulties' that were deliberately caused by the bank to deliberately distress loans and constructively default the loan) was a ruse.

Bankwest officers had already secretly instructed valuers and receivers behind the scenes to artificially distress and impair loans such that they could then deem them 'genuinely impaired' and appoint receivers.
*

> ***Mr. Corfield:*** *We work with each customer individually to understand what the business can actually bear. As we have said a couple of times, it is absolutely not in our interests to be putting rates up and pushing the business out of business as a result. So we work with customers on an individual basis to understand what can be done.*

Comment
How does a penalty interest rate of 19% assist those customers who are in genuine 'difficulty' '? Remembering that the bank dishonestly and deceptively forced most customers into a distressed position.

The bank also burdened customers with unscheduled Investigate Accountant reports (conducted by receivers who benefited through subsequent appointment) and the cost of unscheduled valuations.

In truth, the application of exorbitant penalty interest, combined with the above costs, was part of the scheme to drain further capital and equity from the affected loan-holder before appointment of receivers to ensure customer had no resources with which to fight the bank.
*

> ***Mr. De Luca:*** *It would not typically be solely for the LVR.*

Comment
Mr. De Luca's position is entirely untenable.

The CBA and Bankwest have repeatedly stated and reported that underlying security values of 1100 performing loans was the **sole basis** of appointing receivers.

The committee will hear evidence that this fact is clearly reported in the CBA 2010 annual report.
*

> ***CHAIR:*** *But you cannot rule out that that might have happened in some cases—solely?*
> ***Mr. Corfield:*** *It might well have done, because that would be a covenant within the contracts. What happened in this area during the financial crisis is that the market value of some of these businesses fell by between 50 and 80 per cent. In those cases, especially when the market is continuing to fall, it is very often in the best interests of the customer and the bank to act early rather than late.*

Comment
If we (wrongly) assume this to be true, why didn't every bank in Australia move upon every commercial loan customer? Such a dramatic drop in values would have seen all loans in the country in 'default'.

This (false) argument only serves to **further highlight** Bankwest's misconduct and elaborate but flawed dishonest argument to avoid proper scrutiny by the committee..

The true answer lies in the fact that no other Australian bank used the GFC as 'an alibi' to covertly and unconscionably crucify their commercial loan-book, in the manner that CBA / BWA did.
*

> ***CHAIR:*** *That is a judgment call you make?*
> ***Mr. Corfield:*** *Yes, it is a judgment call.*
> ***CHAIR:*** *And presumably you can make that without consultation with the customer to see whether they, too, think it is within their best interest?*
> ***Mr. Corfield****: No, in all instances we would have discussed those with the customer. Clearly, we may not be agreeing with each other but, yes, it is ultimately a judgment call. But a discussion with the customer has always been attempted.*

Comment
The committee will be presented of a number of case-studies, highlighting the evidence of Bankwest **making no attempt to communicate alleged LVR (or other) issues with customers**, let alone addressing or working through these alleged LVR concerns issues with them.

In fact, the LVR 'breaches' were as a result of secretly commissioned valuations, which were not disclosed to customers.

Only when evidence of the planned mass-impairments is considered, can the scale of criminal dishonesty be fully comprehended.
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> ***Mr. De Luca:*** *Firstly, if it is only the LVR that has moved and the customer is making repayments, their account conduct has been fine and there are no issues with any other creditors, we obviously would be trying to work through the process with the customer.*

Comment
The committee will be presented with a number of extraordinary cases, which point to this being categorically untrue. Bankwest did not even notify customers of the LVR 'issue' let alone attempt to work through the position.

To the contrary, Bankwest and CBA underhandedly 'set up' to 1000+ customers to fail.
*

> ***Mr. Corfield:*** *Yes. Obviously over the course of the financial crisis valuations fell very dramatically.*
>
> ***Mr. De Luca:*** *Typically, the conversation and communication with the customer would be an ongoing process. If there were issues with the facilities and the arrangements and the customer was in default, then communication regarding that would happen over a period of time.*
>
> ***Mr. Corfield:*** *Absolutely. But I would say that we work extensively with our customers to try and remediate problems. We have a large and dedicated team that work with those*

customers. We would not be calling in a loan in 24 hours unless that was at the end of a very protracted period.
CHAIR: *A protracted period of discussing the problems with the loan.*
Mr. Corfield: *Absolutely—the problems, the issues, what we were going to do about it.*
CHAIR: *Would you discuss the potential for such a notice to be delivered if things were not resolved?*
Mr. Corfield: *Yes.*
Mr. De Luca: *Yes.*

Comment
The Whisper Bay case study will provide evidence of the exact opposite. Chilling treatment at the hands of the bank with catastrophic financial and personal consequences.
*

CHAIR: *which then triggers it. You raise the issue of the so-called clawback or the warranty. I know it is primarily an issue for the Commonwealth Bank, but you raised it in your submission and in your opening statement. You say:*
Any losses that Bankwest incurred in its dealings with customers post acquisition date were borne by Bankwest and could not be "clawed back".
That is consistent with the evidence we received from the Commonwealth Bank yesterday. Is that an absolute statement that there was no way in which, whether it be against the purchase price or in any other way, shape or form, losses or impaired loans that became apparent after the purchase date could be offset or claimed back from HBOS under any aspect of the agreement or the deal with HBOS?
Mr. De Luca: *That is certainly our understanding, and obviously Mr. David Cohen discussed that yesterday.*

Comment
Mr. De Luca (deliberately and with dishonest intent) ldid not answer the question that was asked.

An orchestrated, 'on message', 'on strategy' flick pass back to CBA's Mr. Cohen and his collection of dishonest evidence.

The committee will hear evidence of the true nature of the Share Sale Deed contractual mechanisms, which the CBA enacted to the detriment of existing performing-loan customers.
*

CHAIR: *He did, but I did not ask him that question quite that way. I just accepted what he said, which I still do—'This is the price and we had to pay an extra $26 million after doing what we did.' What I am trying to work out is whether there is something that we have missed, because there do seem to be a lot of issues raised.*

Mr. Corfield: *I was working in the business at that point in time and there were absolutely no operating instructions that would have given you any other sense than what they would have said yesterday.*

Comment
Evidence of internal emails will be presented to the committee directly contradicting this evidence.

Either Mr. Corfield was not aware of the operating instructions, or he is lying about this.
*

> ***CHAIR:*** *So, in relation to the $17 billion loan book that HBOS had arranged for Bankwest, there was no way of offsetting impaired loans against what might be repaid or how much the Commonwealth Bank would have paid to take over those?*
> ***Mr. Corfield:*** *Not on anything that became impaired after the contract date.*

Comment
But CBA could **deem loans impaired post-purchase and apply the impairment date retrospectively**.

CBA had cleverly built into the contract a clever, additional bargaining chip against HBOS plc by short-paying the $17 billion wholesale funding.

By distressing impairing and provisioning against the Bankwest Commercial Loan Book Customers Loans the CBA reduced the wholesale funding debt outstanding to HBOS by amounts up to the Initial Purchase Price paid of $2.1 billion.

The CBA masterfully played HBOS and the British Government for fools. Through relying upon (and subsequently abusing) the reputation and trust of the integrity of the Australian banking system.
*

Close
Based upon this analysis, it is open for the Senate Committee to find that they were grossly misled by Bankwest witnesses at the 2012 inquiry.

The Bankwest witnesses were fully aware of their obligations to answer honestly before the Senate Committee have failed to do so in a bewilderingly brazen and exhaustingly complete display of crafted dishonesty.

It is in the public interest that witnesses be referred to the Privileges Committee, and face the consequences of appropriate sanctions.

This also demonstrates the absolute necessity to forensically interrogate all CBA and Bankwest evidence given before the upcoming PJC committee.

I would be willing to assist the committee in any capacity or forum as required.

Thank you for investigating this heinous crime.

> ***Senator WILLIAMS:*** *On that $17 billion that the Commonwealth Bank had to come up with, do you know if that figure is right? That figure of $17 billion is thrown around as the amount HBOS had put into Bankwest. Did the Commonwealth Bank have to pay that $17 billion back to HBOS?*
> ***Mr. Corfield:*** *As I understood at the time—and obviously I was not in HBOS; I was in Bankwest—there was $17 billion of funding secured on wholesale markets by HBOS, and that was replaced at the time of acquisition by CBA treasury, who took $17 billion of funding from wholesale markets in their name.*

This is categorically untrue. The committee will be presented with evidence that only $14.5 billion was paid by the CBA upon completion. The rest was loaned to CBA by HBOS in the form of vendor finance.

This loan was then was used to bohica HBOS.

Perhaps Mr. Corfield will claim his understanding was wrong. The question would be, how did he arrive at that understanding? Did the CBA provide that understanding? Who specifically at the CBA?
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> ***Mr. Corfield:*** *It is very wide ranging, depending on which state you are in and which sector of the state. But what I would say is, again, some of those developments were not going to be worth anywhere near the value that the customers felt they were going to be worth when they set out on them.*

So how did all other commercial loan projects/businesses in those regions (funded by all competing banks) survive this period? This was only really true for those loans that CBA / BWA constructively defaulted and dishonestly forced into insolvency, thus creating the substantial losses experienced by the customer.

When considered in context of market share, Bankwest instigated an extraordinary rate of insolvency actions.
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