

Unit 5, 13-15 Stokes St
Lane Cove North NSW 2066
scribepj@bigpond.com 0434 715.861

Evidence Facts Sheet Thirty-Two Questions Directed at Three Financial Services Regulators and Supporting Evidence Two Exceedingly Costly Interest Charging Practices Defined Terms and Documents

26 September 2022

Confidential

Mr Alan Kirkland
CHOICE Australian Consumers' Association
57 Carrington Road,
Marrickville NSW 2204

media@choice.com.au 0430 172 669

Dear Mr Kirkland

The long awaited 'Review of the Reserve Bank' does not include examining the Payments System over the last 30 years, or analysing it at all. The Writer has submitted Three Questions to the Federal Treasurer concerning Australia's Principal Regulator of the Payments System's adherence to its Statutory Obligations to "best contribute to..... the economic prosperity and welfare of (ALL) the people of Australia" by application of the User Pays Principle to Credit Card Products

The RBA's past supervision of Credit Cards is not included in the current Review of the Reserve Bank of Australia.

"3. The Review will exclude the RBA's payments, financial infrastructure, banking, and banknotes functions".

On 7 Sept 2022 the **Writer** posted the below letter to the Federal Treasurer on **CD**, USB Stick and A4 paper that commenced by asking the Federal Treasurer three questions:

Letter to Dr. Jim Chalmers, Federal Treasurer dated 7 September 2022.

On 12 Sept 2022 the **Writer** sent **an email to the Federal Treasurer that detailed the aforementioned letter provided on CD, USB Stick and A4 posted 7 Sept 2022**. Receipt was acknowledged by the Treasurer's office by email sent to the **Writer** 12:10pm 12 Sept 2022.

1. The reason you have received this letter

Below is a pertinent extract from my **Annexure A** (to my Letter to the Federal Treasurer 7 Sept 2022). It lists why I selected you as one of 40+ **Interested Journalists, Financial Counsellors and Consumer Action Groups** that have expressed concerns over many years over *inter alia* **Predatory Advertising** of some **Credit Card Products**, often charging **Usurious Unsecured Interest Rates** that have overtly **Targeted Credit Cardholders with Low Financial Literacy Capacity - Uneducated And Vulnerable Australians**, invariably thereby suffering **Extreme Financial And Emotional Distress** largely due to the RBA not enforcing the

User Pays Principle to the **Retail Supply Side** of Credit Cards:

My job is to lead our fight to make markets fair, just and safe for Australian consumers"

\$6.3 billion stolen from the pockets of Australians by banks:" - June 2020

Aussie credit card customers ripped off \$6.3 bil in savings as banks withhold rate cut

2. The RBA has breached its Statutory Duty and its Fiduciary Duty to many Credit Cardholders with low Financial Literacy Capacity

My comprehensive aforementioned letter (12 Sept '22) asserts that

Australia's Principal Regulator of the Payments System, namely the RBA, with regard to Credit Cards, has breached its **Statutory Duty** and its **Fiduciary Duty** to **"best contribute to..... the economic prosperity and welfare of (ALL) the people of Australia"**. (The hundreds of embedded URL threads in my **Letter to the Federal Treasurer** are accessible by reading it from the USB Stick or a CD. The CD will auto-open in a Windows Operating System at this letter to you as noted in the accompanying CD and USB instructions A4 page.

Pursuant to **Section 11(1) of the Reserve Bank Act 1959**, the RBA should have recommended to the Commonwealth Govt. that it (RBA) be legally authorised to re-impose a maximum interest rate *Cap* on Credit Cards as far back as June 1992. **That maximum interest rate Cap on Credit Cards had stood at 18% until it was removed in April 1985** during a period of hyperinflation when the spread/margin between **Overnight Cash Rate** and that 18% interest rate *Cap* was less than 1%. A maximum interest rate *Cap* should have been re-imposed as far back as **June 1992 when the spread between the Overnight Cash Rate and the average Purchase interest rate exceeded 16%**, particularly as the RBA had advocated application of the **User Pays Principle** to Credit Cards in **Dec 2001**, albeit on the **Wholesale Supply Side**..

In Aug 2021 the spread between the **Overnight Cash Rate** and the **RBA determined annual Standard Credit Card Interest Rate** was an astonishing 19.84% (19.94% minus 0.10%). **Credit Card Issuers** could borrow money at 0.10% and charge it out at around 19.94%.

Less than two years ago the spread between the **Overnight Cash Rate** of 0.10% and the highest **Cash Advance** interest rate (Latitude Financial's Go MasterCard) approached 30%. Latitude Financial's Go MasterCard had a **Cash Advance** interest rate of **29.49% until March 2019**. **Presently it is 25.9%, but now incorporates a Cash Advance Fee of \$3 or 3% of the cash advance, whichever is greater = 28.9%**. **It also charges an explicit 'Late fee' of \$35 and \$8.95 monthly account service fee when outstanding balance is greater than \$10**.

Little wonder that **Credit Cardholders** with low **Financial Literacy Capacity** (independently classified by the Productivity Commission, ABS and ASIC) get lured into applying for a **Latitude Financial GO Mastercard because of deceptively offering 'Enjoy now. Pay later. Interest Free'**.

"The Reserve Bank of Australia review, set to be announced by Treasurer Jim Chalmers on Wednesday, will also look at its culture, operations, governance and other aspects of monetary policy. Chalmers said it was part of his government's commitment to a broad review of monetary policy in Australia and aimed at "ensuring we have the world's best and most effective central bank into the future".

“Dr Jim Chalmers says the review is all about ensuring the bank makes the right decisions into the future.”

3. Deficiencies in the Review's 'Terms of Reference'

If the Commonwealth Govt. wants the RBA Board to “...**make the right decisions in the future**”, the Commonwealth Govt should familiarise itself with the **Reserve Bank Act 1959** and the **Payment Systems (Regulation) Act 1998** and the RBA's ‘**Our Role**’ document that includes to “**best contribute to..... the economic prosperity and welfare of the people of Australia**”.

There doesn't seem to be a Review Commissioner, say a retired High Court or Federal Court Judge that holds ultimate carriage over this review to be provided to the Federal Treasurer no later than 31 March 2023. Up to 18 months from its announcement seems a long time to complete a review, particularly as its **Terms of Reference** are so limited. Although Clause 2.1. **"Its performance in meeting its objectives"** seems to require the Commonwealth Govt to review the RBA's performance in meeting its objectives in regulating Credit Card Products since the 1990s.

Have periodic reviews of the performance of The Bank of England or the U.S. Federal Reserve adopted a similar structure of “**A panel of three experts two from Australia and one from overseas**”?

Why have Australians not been invited to make a submission to this *once-in-a-long-while* review which is seemingly some 30+ years since a previous review?

4. Same letter and associated CD, USB and A4 have today been posted to three finance journalists

I have today posted the same letter (as this) and the associated CD, USB and A4 to three finance journalists (**Ross Greenwood**, **David Koch** and **Paul Clitheroe**) that were questioned about Credit Cards by an **Economic References Committee chairman, Labor's Sam Dastyari**, and **Liberal Sean Edwards**, at the **Senate Inquiry in Sydney on Sept 1, 2015** and were vocal in their criticism of **Predatory Marketing** and **Balance Transfer** offers for ruining the lives of many Australians with low **Financial Literacy**.

Sam Dastyari @samdastyari "It is run like a secret society. No one can explain why this is a function retained by the RBA," he said. "The Payment Systems Board is the least transparent, most secretive and poorly understood government body that is responsible for every transaction that takes place in this country."

"Liberal senator, Sean Edwards, told Mr Sadaat that the benefits of credit cards including rewards programs and interest-free days were “all a fudge because behind it all was this insidious interest rate.” Liberal senator and references committee deputy chairman, Sean Edwards, said the credit card issue was “massive”.

Some people like using a CD which auto opens at this page (in a Windows Operating System), whereas others prefer to use a USB Stick and navigate to open this page.

By following the written instructions in the accompanying A4 page a 'constitutional lawyer' will be able to appraise the veracity of my allegations and questions to regulators herein.

5. **Would you seek a 'constitutional lawyer' to opine on my serious allegations against the RBA?**

I make serious detrimental allegations against the RBA in my recent [Letter to the Federal Treasurer](#). Therefore, would you copy (from the USB Stick to your hard drive) the welter of files in my folder titled 'Credit Cards'? Would you then provide the CD and/or USB Stick, and one of the enclosed two A4 hardcopy to a 'constitutional lawyer' to opine on my -

- A. allegations against the RBA in my recent [Letter to the Federal Treasurer](#);
- B. [Thirty-Two Questions Directed at Three Financial Services Regulators, or a Royal Commissioner, and Supporting Evidence](#) that I prepared to warrant each question being asked in a Second Wave of the Royal Commission into Financial Services that targeted specifically at Credit Cards, because Credit Cards was largely avoided by Commissioner Kenneth Hayne; and
- C. *my easy to appraise* [Evidence Facts Sheet](#)?

Re B. above, in Feb. 2019 this Writer made a large submission to the Royal Commission into Financial Services. However, because this Writer personally did not suffer a financial loss his submission seemingly was dismissed.

6. **Hopefully the four recipients of this letter will express concern that the current Review of the RBA does not examine the Payments System, in particular Credit Cards**

I am hopeful that the four recipients of this letter ([Ross Greenwood](#), [David Koch](#), [Paul Clitheroe](#) and yourself) will speak out against the current Review of the RBA not examining regulation of the [Payments System](#), or at least the RBA's regulation of the primary payment product, namely Credit Cards. By opting to omit reviewing the Payments System, the Labor Govt seems to have sold out many of its *rusted on* supporters that have paid a lot of [Interest and Penalty Fees](#) over many years, too often levied by unscrupulous Credit Card Issuers. As noted above Clause 2.1. [Terms of Reference](#) "Its performance in meeting its objectives." seems to require the Commonwealth Govt. to review the RBA's performance in meeting its objectives in regulating Credit Card Products since the 1990s.

7. **The Federal Labour Govt. has ignored hundreds of thousands of *rusted on* Labor voters that have each paid many thousands of dollars in Interest And Penalty Fees due to *inter alia* Predatory Marketing**

My [Submissions to Maurice Blackburn dated 8 May 2017](#) and [25 June 2017](#) sought a [Class Action](#) representing 400,000 *circa* [Eligible Persistent Revolver Plaintiffs](#) that *inter alia* had paid in excess of \$20,000 in [Interest and Penalty Fees](#) (that were charged at [Usurious Interest Rates](#)) to [Credit Card Issuers](#) over a continuous (ave) nine years period at an average [Comparison Rate Over 18% Per Annum](#). My recent letter to the [Federal Treasurer](#) asserts "Since the early 1990s hundreds of thousands of Labor's *loyal to the core* 'rusted on' voters too often with low [Financial Literacy Capacity](#), generally through no fault of their own, have paid over \$20,000 each in [Interest and Penalty Fees](#) on [Credit Card Products](#)."

8. **It may be necessary to launch a Petition on Change.org demanding the current review include the RBA's regulatory treatment of Credit Cards**

My draft [Petition](#) could involve up to Ten Questions for interested 'voters' to answer. One of the failings of many Petitions is that responders are asked one question only such as. "Do you support re-introduction of Capital Punishment?" Most Australians would likely vote *No*, unless an [Anita](#)

Cobby style gang rape and brutal murder had recently occurred. I have expended several hundred hours researching the re-introduction of both **Capital Punishment** and **Corporal Punishment** that were both regularly **Sentenced** until the early 20th Century. My **Discussion Paper *Thinking Outside the Cell*** (explained at www.AustraliaSlowlearner.world) asserts that re-introducing **Punishment Deterrents Sentenced** by our **Forefather Governors** will achieve a material reduction **across Level 1 to Level 6 of the Penalty Scale** and a commensurate decrease in the \$19.7 billion expended in 2019-20 on net operating annual expenditure on Corrective Services [table CA.1]. Re-introducing a low incidence of **Capital Punishment** (adopted in South Korea, Japan, USA *et al*) and cost-effective **Corporal Punishment** would evidence a material reduction in drug smuggling. Locking over 40,000 felons into tiny steel cages across Australia within **The University of Crime** is a futile and exceedingly costly **Punishment** that fails to effectively **Deter** committing crimes **across Level 1 to Level 6 of the Penalty Scale**. Hence, any Petition requires several questions to evidence that the Voter understands associated issues and consequences.

9. This Writer will answer any written questions if your research personnel expend at least 10 hours reading webpages herein

I will respond to any written questions from you provided your research associates/friends have expended at least 10 hours reading more consequential webpages provided in my **Letter to Dr. Jim Chalmers, Federal Treasurer dated 7 Sept 2022** and this letter. **Credit Card Products** are the most widely used and differentiated retail borrowing instrument in both 'variety of types' and 'quantum of providers' in the Western World - *by a country mile*. If the 2018 Royal Commission into Financial Services had *kicked-off* by investigating **Unconscionable Conduct** by many **Credit Card Issuers** that manifested since the early 1990s, Commissioner Hayne could have expended all of 2018 *cleaning up* only one banking product, such has been the breadth and depth of **Predatory Marketing** ostensibly targeted at **Financially Uneducated And Vulnerable Australians; Credit Cardholders** with low **Financial Literacy**.

Hence, the only way to materially reduce exploitation of Credit Cardholders with low **Financial Literacy** is for concerned citizens to read and comprehend a variety of legislation and reports in **Defined Terms and Documents** that has taken the **Writer** several years to assemble, particularly after his **Submission to the RBA dated 8 Dec 2011** was ignored.. The current review of the RBA offers a one-off opportunity to not only eliminate **Predatory Marketing**, **Balance Transfer** luring of the most lucrative Credit Cardholders (away from other Credit Card Issuers) and charging **Usurious Interest Rates** by *inter alia* now seeking application of the **User Pays Principle** to the **Retail Supply Side**. But also to establish a template for the USA and UK *et al* to adopt, although **legislation governing those two 'central banks' does not entail the same level of obligation to "the economic prosperity and welfare of its people.**

Yours sincerely



Phil Johnston aka **Bank Teller**
0434 715.861