

8 November 2022

Mr. Andy Schmulow
School of Law, University of Wollongong
Northfields Ave
Wollongong, NSW 2522

andyschmulow@icloud.com _ andys@uow.edu.au

Dear Mr. Schmulow

The long awaited 'Review of the Reserve Bank' does not include examining the Payments System over the last 30 years, or even analysing it of late. Recently the Writer 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. So that all Credit Cardholders that enjoy the convenience of retail Lines of Credit and Tap-and-Go Contribute to Credit Card Issuers' Gross Revenue for the benefits they enjoy. Presently one third of Credit Cardholders (referred to by the RBA as Revolvers) pay the provisioning costs of the other two thirds (identified by the RBA as Transactors).

The RBA's past supervision of **Credit Card Products** is not included in the Australian Government commissioned 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 his 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 his aforementioned letter that the Writer provided on CD, USB Stick and A4 paper - posted 7 Sept 2022**. Receipt was acknowledged by the Treasurer's office by email sent to the **Writer** 12:10pm 12 Sept 2022.

On 26 Sept 2022 the **Writer** posted a separate letter on **CD**, USB Stick and A4 paper to **Alan Kirkland** (CHOICE) and three finance journalists (**Ross Greenwood**, **David Koch** and **Paul Clitheroe**) that were each -

- a) 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
- b) were vocal in their criticism of **Usurious Interest Rates Charged On Many Credit Cards**, **Predatory Marketing** and **Balance Transfer** offers **Targeting Credit Cardholders with Low Financial Literacy Capacity** too often suffering **Extreme Financial And Emotional Distress**.

None of the five aforementioned recipients have responded to me to date.

1. The reason you have received this letter

You -

- (A) investigated **Regulatory Capture**, in particular the performance of APRA and ASIC responsible for prudential soundness/market conduct and also consumer protection - **Fancy dress financial regulators ASIC and APRA must go** - SMH - 31 May 2016;
- (B) lobbied for the formation of the **Financial Regulator Assessment Authority**; and
- (C) know other legal, accounting and psychology associates that could opine on my allegations herein that **Australia's Principal Regulator of the Payments System**, with regard to **Credit Card Products**, has breached its **Statutory Duty** and its **Fiduciary Duty** to "**best contribute to..... the economic prosperity and welfare of (ALL) the people of Australia**" to the material financial and emotional detriment of **Credit Cardholders** with low **Financial Literacy Capacity** because of **Numeracy And Literacy Targeting**, not limited to **Latitude Financial (nee GE Capital)**.

Additionally, academics from University of Wollongong have published other contentious papers eg. **Labor and financial deregulation: the Hawke/Keating governments, banking and new labor** - Stephen Martin - Department of Economics and Department of History and Politics - 1999, **Debt as a source of financial stress in Australian households** - A. C. Worthington, School of Accounting and Finance - 2006 and your co-authored **Twin Peaks 2.0: Avoiding Influence Over an Australian Financial Regulator Assessment Authority** - 2021.

Annexure A (to my **Letter to the Federal Treasurer 7 Sept 2022** lists 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 or even a semblance of it.

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 to the Federal Treasurer (7 Sept '22) asserts that **Australia's Principal Regulator of the Payments System**, namely the RBA, with regard to the unnecessarily diverse/complex array of **Credit Card Products**, 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. As explained in the accompanying written instructions (on A4 page), the CD will auto-open in a Windows Operating System at this letter to you.

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 the **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%** (23% less 6.5%), particularly as the RBA had advocated application of the **User Pays Principle** to Credit Cards in **Dec 2001**, albeit on the **Wholesale Supply Side**. As recent as Aug 2021 the spread between the **Overnight Cash Rate** and the **RBA determined annual**

Standard Credit Card Purchase Interest Rate was an astonishing 19.84% (19.94% minus 0.10%). **Credit Card Issuers** could borrow money from the RBA or other major banks at 0.10% *circa* and charge it out at around 19.94% on **Purchases** and even higher on **Cash Advances** too often to the RBA labelled, **Persistent Revolvers**.

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 the 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.**”

Difficult to comprehend how the Federal Govt. is going to ensure that the RBA "**makes the right decisions into the future**", if the Review omits identifying/analysing **the wrong decisions in the past** that the RBA has made.

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

If the Commonwealth Govt. wants the RBA Board to “....**make the right decisions into 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"**.

Payments System Board - Responsibilities and Powers asserts to "promoting competition in the market for payment services".

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 early 1990s when the **Cash Rate** began to plummet, but **Credit Card interest rates went higher**.

Questions

1. 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 their country and one from overseas**”?

2. 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. On 26 Sept 2022 the Writer posted the same letter and associated CD, USB and A4 to three finance journalists that were interviewed by a Labor Senator and a Liberal Senator in a Senate Enquiry in 2015

The three finance journalists ([Ross Greenwood](#), [David Koch](#) and [Paul Clitheroe](#)) were questioned about Credit Cards by an [Economic References Committee chairman, Labor's Sam Dastyari, and Liberal's Sean Edwards at the Senate Inquiry in Sydney on Sept 1, 2015](#). Each was vocal in his criticism of [Usurious Interest Rates](#), [Predatory Marketing](#) and [Balance Transfer](#) offers for ruining the lives of many Australians with low [Financial Literacy Capacity](#).

[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".

5. Would you seek a few lawyers with constitutional experience to opine on my allegations against the RBA because of Extreme Financial And Emotional Distress suffered by hundreds of thousands of Financially Uneducated And Vulnerable Australians since the 1990s?

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 interested readers will be able to appraise the veracity of my allegations and questions to regulators herein.

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 of this letter, as well as the A4 CD instructions, to a few other lawyers with 'constitutional' experience 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 the overly diverse array of [Credit Card Products](#), 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 ineligible.

6. The Writer had hoped that upon receipt of his [Letter to Alan Kirkland \(CHOICE\)](#) and the three financial journalists dated 26 Sept 2022 that they would then have expressed concern that the current Review of the RBA should examine the [Payments System](#), in particular the diverse array of [Credit Card Products](#) with a [Labyrinth of 'Concealed Spiders'](#)

The Writer had hoped that the four recipients of this letter ([Ross Greenwood](#), [David Koch](#), [Paul Clitheroe](#) and [Alan Kirkland](#)) would speak out against the current Review of the RBA not examining its regulation of the [Payments System](#), or at least the RBA's regulation of the primary retail payment product, namely [Credit Card Products](#). By opting to omit reviewing the [Payments System](#), the Federal 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 amidst burgeoning Credit Card interest rates by "[promoting competition in the market for payment services](#)".

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](#). [Maurice Blackburn](#) provided a two page response letter. 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 very low incidence of [Capital Punishment](#) (adopted in South Korea, Singapore, Thailand, Malaysia, Indonesia, Japan, USA *et al*) and cost-effective [Corporal Punishment](#) would evidence a material reduction in drug smuggling. It behooves [Australia's Criminal Justice System](#) to [Sentenced](#) the maximum possible [Punishment](#) for the most despicable type of murder being [Filicide](#) to provide as much discouragement as possible to an angry parent or step-parent from killing their child or children. 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 Voters understands associated issues and consequences.

9. This Writer will answer any written questions from you

I will respond to any written questions from you. **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**.

The only way to materially reduce exploitation of many 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 - after his detailed **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* seeking application of the **User Pays Principle** to the **Retail Supply Side**. But also to reduce the unnecessary and confusing diversity of **Credit Card Products** and to simplify the information provided and improve transparency.

Supporting Evidence re 18th Question chronicles *inter alia* that -

- * ANZ's '**CONDITIONS OF USE 20.06.2016 CONSUMER CREDIT CARDS**' is a 97 page booklet printed in 9 font. Cardholders are requested to read voluminous parts of it as well as their Credit Card Contract.; and
- * **CBA's 'Conditions of Use' credit card booklet** (dated 1 Nov 2017) is only **13 pages**, although it does refer to a "**Schedule of Credit Card particulars in your Offer Letter**".
CBA's 'Easy guide to credit card fees and charges' dated 23 March 2018 is only **two pages**.

Reviewing the **Australia's Principal Regulator of the Payments System** adherence to the **Reserve Bank Act 1959**, the **Payment Systems (Regulation) Act 1998** and the RBA's '**Our Role**' document would also establish a template for the USA and UK *et al* to adopt, although **legislation governing their 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