

# **Independent governance expert report**

## Australian banking industry: Package of initiatives

### Report 4

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Ian McPhee AO PSM

21 April 2017

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*This Report has been prepared for the Australian Bankers' Association in accordance with the engagement letter dated 19 May 2016 and available at <http://www.bankers.asn.au/media/media-releases/media-release-2016/letter-of-engagement>.*

*The information, statements, statistics, material and commentary (together the "Information") used in this Report have been prepared from publicly available material, from information provided by the Australian Bankers' Association and its member banks and from discussions held with, and information provided by, a range of other stakeholders and independent reviewers identified in Appendix C to the Report (collectively the 'other stakeholders'). I have relied upon the accuracy, currency and completeness of the Information provided by the Australian Bankers' Association, its member banks and other stakeholders and take no responsibility for the accuracy, currency, reliability or correctness of the Information and acknowledge that changes in circumstances after the time of publication may impact on the accuracy of the Information. The Information may change without notice and I am not in any way liable for the accuracy of any information used or relied upon by a third party.*

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# Executive summary

Twelve months ago the banking industry committed to a package of six initiatives to better protect consumer interests, increase transparency and accountability, and build trust and confidence in banks. This was in direct response to industry concerns about a growing gap between performance delivered by banks and that expected by customers in these key areas. The ongoing changes in the market which are seeing new entrants, new services and new delivery platforms will only add to the importance of a strong customer focus by the individual banks.

It was expected that it would take in the order of 18 months to complete this program of reforms. Accordingly, when allowance is made for the initial time required to establish governance arrangements, the industry is now about half-way through the time allowed for implementation of the program. While there have been some notable revisions to the industry's implementation plan, overall progress to date is largely consistent with that timeframe for those measures where the industry has control over design and implementation; however longer implementation periods are required for measures where there is reliance on statutory underpinnings.

One distinguishing element of the package of initiatives is the extent to which the industry has sought independent review of some critical industry components. In particular, the industry sought independent reviews of various remuneration arrangements (Initiative 1) and of the Code of Banking Practice (Initiative 5). With the completion of these significant independent reviews, the implementation status of the industry initiatives has improved considerably. These reviews have been extensive and based on broad consultation, laying solid foundations for the industry to consider changes to current practices.

Another distinguishing element of this program is that a number of components have some reliance on statutory underpinnings, as indicated above. The components particularly relate to Initiative 2 (Making it easier for customers when things go wrong) and Initiative 6 (Supporting ASIC as a strong regulator). This interdependence between industry initiatives, government policy and regulatory responsibilities has generated a number of learnings which the industry has reflected in its revised implementation plan. Accordingly, the ABA has amended the timelines for some actions to be "Government reliant" rather than to specify a particular date. This is a sound approach in the circumstances.

This fourth report in my capacity as independent reviewer of the industry's package of initiatives expands on these and related developments over the past three months. Throughout it is evident that the industry has retained a significant commitment to achieving the program objectives, with a structured and pragmatic approach to delivery of individual initiatives. The ABA has also advised that the industry is well positioned to monitor the various external reviews under way in order to incorporate findings into the initiatives, where appropriate.

As the industry measures are being developed, individual banks have also been gearing up to manage their policy response to the industry positions, and to keep customers, staff and other stakeholders informed of developments. Some banks have taken steps to adopt proposals that are aligned with the industry initiatives ahead of the industry announcing positions. Significantly, a number of banks have foreshadowed the need to revise their service commitment to customers in the light of the industry's initiatives. This will be a very tangible way for banks to exhibit the strength of their customer focus; and also provide customers some leverage to remind banks of their commitment to them, should this be required. It is also positive to see that some banks are already making use of information arising from

the initiatives to head off downstream problems, as well as extending the reach of some of the initiatives beyond their banking services because of the benefits that will accrue more broadly to other financial services that they may offer.

As mentioned in my previous report, the ABA advised that consumer research indicated that there was a low community awareness about the industry's actions to respond to customer concerns. Subsequently, the ABA has initiated a campaign to raise awareness with stakeholders and the wider community. It is also apparent that industry leaders have a key role in informing the community about the industry's progress with its initiatives and their ongoing commitment to delivering better outcomes for customers.

One point which I have emphasised from the outset is that it is the outcomes from the industry's initiatives that matter most. In this regard, the ABA in conjunction with the banks is developing a set of performance indicators to demonstrate the industry's performance in relation to the six initiatives. Progress on developing the performance indicators has not advanced as quickly as might have been expected, but it is the ABA's intention to confirm the approach for monitoring and measuring performance by the time my next report is published. In addition, agreement for individual banks to report on a set, subset, or proxy of the industry's performance indicators so as to inform customers and other stakeholders of the success of the measures adopted by each bank in pursuit of the industry's objectives, will be important to demonstrate real progress. The ABA has indicated it will consult with me further on the reporting framework.

The industry has continued to consult with stakeholder groups who have advised that they are generally supportive of the industry initiatives and continue to show a close interest in the development of particular measures. There has been considerable anticipation about the industry's response to the independent review of the Code of Banking Practice (Khoury Review), which has now been published by the ABA. There has also been considerable attention on the independent review of product sales commissions and product based payments (Sedgwick Review), which has been released this week, with support from the industry.<sup>1</sup> Another theme has been the importance of initiatives in relation to small and medium business, so that the program is balanced to include such initiatives in addition to those in relation to individual consumers.

Twelve months into the industry's package of initiatives, it is clear that many in the community still need to be persuaded about the commitment of the banks to make real change and move the dial on protecting consumer interests, increasing transparency and accountability, and ultimately building trust and confidence in banks. The continued focus by participant banks on working with the ABA and government to progress measures and implement tangible improvements will be important, as will committing to performance indicators that demonstrate the effectiveness of the package of initiatives. Positively though, real progress is evident in the development of the various measures and in the attitudes of individual banks in progressing changes in bank policies and approaches.

Consultations, in this past quarter, with a range of bank Chief Executive Officers have shown a high level of commitment to seeing the industry initiatives delivered because they are good for customers and also good for business. The bank Chief Executive Officers continue to play a vital role in not only publicly promoting the good work being undertaken by their individual institutions, but also supporting the steps being taken by the industry as a whole, as the industry moves into a critical phase in making or advancing the changes required to win back community trust.

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<sup>1</sup> Announced in the ABA media release on 19 April 2017 and available at <http://www.bankers.asn.au/media/media-releases/media-release-2017/banks-to-change-the-way-they-pay-their-staff>

The industry's six initiatives represent a golden opportunity to bring about better outcomes for customers and the industry. All of the signs are that the industry understands this and is investing in the changes required to bring about the desired end-goals. This will require ongoing commitment and application by the industry as a whole, and by individual banks, to not only complete the package of initiatives but also embed the reforms into the way banks do business.

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# 1 Introduction

## 1.1 Industry initiatives to strengthen community trust

Twelve months ago the banking industry announced a package of six initiatives to protect consumer interests, increase transparency and accountability, and build trust and confidence in banks.<sup>2</sup> The initiatives were adopted to respond to community expectations that the behaviour of banks meet high ethical standards, and to build confidence in the manner in which the industry delivers products and services to its customers.

The initiatives, and their associated objectives, are as follows:

**Initiative 1:** Reviewing product sales commissions and product based payments.

*Objective* – Strengthen the alignment of remuneration and incentives and customer outcomes.

**Initiative 2:** Making it easier for customers when things go wrong.

*Objective* – Ensure retail and small business customers have a voice and problems are resolved more efficiently. Ensure complaints are escalated and responded to within specified timeframes.

**Initiative 3:** Reaffirming support for employees who ‘blow the whistle’ on inappropriate conduct.

*Objective:* Promote highest standards of whistleblower protections and ensure a robust and trusted framework for whistleblowing.

**Initiative 4:** Removing individuals from the industry for poor conduct.

*Objective:* Demonstrate banks’ commitment to improve practice and implement an industry register or other mechanism<sup>3</sup> to identify poor conduct across all bank employees, including customer facing and non-customer facing roles, and promote good conduct and ethical behaviour.

**Initiative 5:** Strengthening the commitment to customers in the Code of Banking Practice.

*Objective:* Ensure the Code of Banking Practice adequately covers expected standards for banks and the relationship with customers, including standards for engagement between both parties.

**Initiative 6:** Supporting ASIC as a strong regulator.

*Objective:* Demonstrate banks’ commitment to a well-regulated banking and financial services industry.

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<sup>2</sup> Announced in the ABA media release on 21 April 2016 and available at <http://www.bankers.asn.au/media/media-releases/media-release-2016/banks-act-to-strengthen-community-trust>

<sup>3</sup> Amendment to the objective for Initiative 4 was made as part of the ABA’s revision to the implementation plan. Refer to Section 2.2.1.

The ABA has advised that the overall program objectives specifically acknowledge there is a ‘trust gap’ in consumer expectations of banks. Moreover, the industry must, and wants to, close the gap between performance delivered by banks and expected by customers.

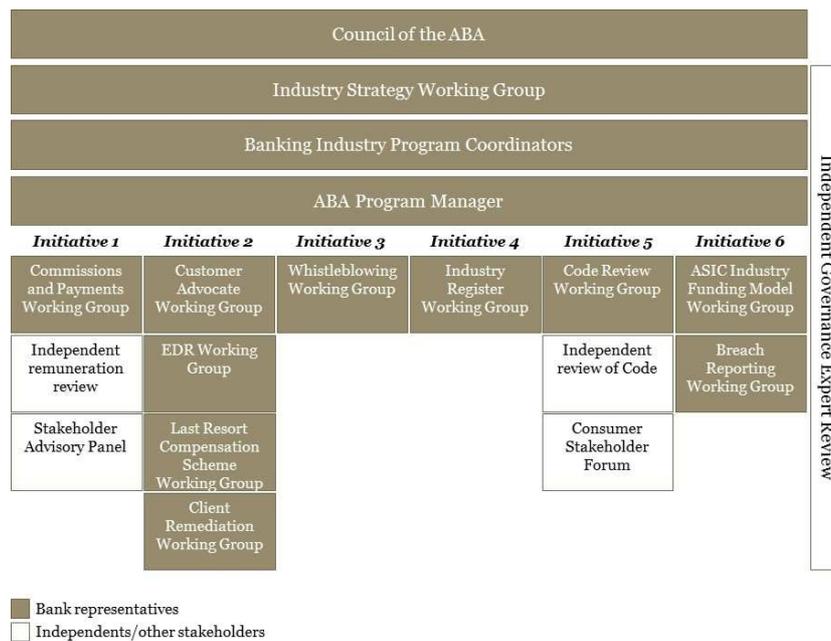
Under each of the industry’s initiatives a number of more detailed measures have been developed, together with milestones for completion. In the last quarter, as foreshadowed, the ABA has undertaken a review of its implementation plan for these measures, which is further discussed in Chapter 2, and the revised implementation plan is included in Appendix A.

## 1.2 Industry governance arrangements

In a reform program of this kind, sound governance arrangements are key to ensure that appropriate progress is made in implementing the initiatives, and, in particular, to ensure that the industry’s stated objectives of protecting consumer interests, increasing transparency and accountability, and building trust and confidence in banks remain clearly in focus.

The governance structure is outlined in Figure 1 and further details on the composition and scope of each element of the governance framework is included in Appendix B.

**Figure 1: Banking industry package of initiatives – governance framework**



The ABA has advised that the banking industry initiatives were designed to improve consumer protections and raise banking standards for those banks with retail customers. Twenty-one of the ABA member banks have confirmed their active involvement in the package of initiatives and are listed in Appendix C.

In order to better promote the initiatives and provide a central repository for the industry’s actions including links to the respective independent review websites and more prominent information about independent governance and oversight, the ABA developed the Better Banking website.<sup>4</sup> Feedback from the public on the package of initiatives and my oversight role can be made via this website.

<sup>4</sup> [www.betterbanking.net.au](http://www.betterbanking.net.au)

## 1.3 Background to the independent review and summary of prior reports

The ABA appointed me as an independent governance expert to report quarterly on the progress of the industry in implementing its announced package of initiatives, while at the same time maintaining a focus on the industry objectives of protecting consumer interests, increasing transparency and accountability, and building trust and confidence in banks.

The terms of my engagement are available on the ABA website.<sup>5</sup> PwC Australia has agreed to support me in the execution of my responsibilities, including in the provision of secretariat functions, assistance in report preparation and with stakeholder consultation, and in the provision of senior banking industry expertise and advice in relation to industry practices and trends.

The independent governance expert review is not an audit. While I will be able to assess progress in development of the various measures, progress being made by banks will be advised by the banks or other stakeholders. Feedback provided to assist my preparation of the quarterly reports by the banks is made through the Chief Executive Officer of each bank.

My last report (Report 3) was issued on 20 January 2017<sup>6</sup> and noted that, overall, progress continues to be made in advancing the initiatives, all of which involve a range of complexities and require engagement with multiple stakeholders. However, when viewed in terms of the original schedule for individual initiatives, performance was mixed. The report observed that the signs of progress to date were most positive where the industry has control over the design and implementation of the measures that contribute to the initiatives. However, in circumstances where other parties carry the primary responsibility for progressing matters necessary to give effect to particular measures, it was evident that, despite consulting with third parties as part of agreeing timeframes, optimistic assessments were made in estimating the time required by those parties to advance consideration of the measures.

The report also observed that stakeholders were generally supportive of steps being taken but were quite reasonably withholding further judgement on the package of initiatives until greater clarity was obtained around industry positions and the solutions the banks intend to adopt to respond to existing concerns. However, it was coming time for their perspectives on the design of the various measures to be clearly understood, ahead of final industry positions being reached, so as to ensure that due weight can be given to those views, and the industry is clear that proposed solutions are addressing stakeholder concerns.

My previous reports are available on the Better Banking website.<sup>7</sup>

The next report of this review, Report 5, is scheduled to be issued by no later than 21 July 2017.

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<sup>5</sup> Available at <http://www.bankers.asn.au/media/media-releases/media-release-2016/letter-of-engagement>

<sup>6</sup> Available at [http://www.betterbanking.net.au/wp-content/uploads/2017/01/ABA-Report-3\\_Final\\_20-1-17.pdf](http://www.betterbanking.net.au/wp-content/uploads/2017/01/ABA-Report-3_Final_20-1-17.pdf)

<sup>7</sup> Report 1 available at [http://www.betterbanking.net.au/wp-content/uploads/2017/01/ABA-Report-1\\_Final\\_14-7-16.pdf](http://www.betterbanking.net.au/wp-content/uploads/2017/01/ABA-Report-1_Final_14-7-16.pdf), Report 2 available at <http://www.betterbanking.net.au/wp-content/uploads/2017/01/Ian-McPhee-Report-2-21-10-16.pdf>

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## **2 Industry implementation progress**

### **2.1 Introduction**

The package of initiatives is based on measures that involve the development of industry positions or otherwise require an industry-level response. Completion of these measures is required to develop the principles, policies and/or frameworks to guide the industry and individual banks in tailoring approaches to the achievement of the industry objectives. A strong focus on customer outcomes continues to be important, given past issues and continued developments in the market.

Publication of Report 4 marks one year from the announcement of the package of initiatives. Given the extent of developments and external reviews impacting the industry and the initiatives, along with the time required to progress statutory underpinning (either legislative or regulatory) for certain measures, the ABA has revisited the implementation plan milestones.

This chapter outlines the nature of the revisions to the implementation plan and reports on the status of the industry's program of work under each of the initiatives. Progress made by the industry in developing performance indicators, against which the success of the initiatives can be evaluated by banks, the industry and stakeholders, is also discussed.

### **2.2 Revisions to the implementation plan**

In Report 3, several initiatives were identified as being behind schedule due largely to an underestimation of the time required to progress measures which were reliant on third parties. The ABA and the banks have advised that they have carefully considered this feedback and sought to alleviate this concern by providing additional resources, identifying interim milestones, and suggesting changes to the implementation plan to more accurately reflect the status of these initiatives, explained in more detail below.

As is to be expected in a dynamic industry, some of the original elements in the implementation plan need to be adapted to address new information, issues arising from the development of particular measures, or external review recommendations. Against this background, the ABA has revisited the deliverables/milestone steps required for implementation, adjusted the objective of Initiative 4 as a consequence, and revised the timetable for completion of various measures associated with Initiatives 2, 5 and 6.

The revision of the implementation plan is timely and constructively addresses the issue highlighted in my previous report about the industry's implementation performance being mixed, particularly in circumstances when other parties carry the primary responsibility for progressing matters necessary to give effect to particular measures. It provides greater clarity with respect to the industry's expectations, particularly the measures for delivering the objectives of the various initiatives and the anticipated completion dates for key milestones.

For those measures where the industry has control over design and implementation, completion by December 2017 is still planned, except for implementation of the Code of Banking Practice by individual banks for which a completion date has not been set under the revised implementation plan or in the earlier plan.

The ABA has advised that implementation of the Code by the banks will extend beyond December 2017, while further work on the Code redraft needs to be progressed before a final timeframe can be set for completion of this industry measure. This has been flagged as a concern by the Australian Small Business and Family Enterprise Ombudsman (ASBFEO). The ABA has signalled to me that it is conscious of the significant interest in implementation of a new Code and is currently conducting initial consultations with key stakeholders to identify next steps, priority issues and processes for settling new positions with stakeholders, and therefore the timeframes required for the banks and stakeholders to complete these important steps.

### 2.2.1 Amendments to deliverables/milestone steps

The implementation of such a register is now generally understood to be contingent on some form of statutory underpinning, and therefore the period for its implementation will be outside of the timeframe originally proposed for this initiative. The ABA is looking to publish a new Conduct Background Check Protocol for bank employees in May 2017 as an interim step toward delivering on the objective of Initiative 4. This Protocol was foreshadowed in Report 3 and is aimed at improving sharing of information and more informed recruitment decisions. The industry is currently making some final amendments reflecting feedback from stakeholders.

As a result, the summary deliverables and milestone steps associated with Initiative 4 have been updated, with the following amendments to the implementation plan:

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#### Initiative 4: Strengthening our commitment to customers in the Code of Banking Practice

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**Measure 4.1:** Implement an industry register or mechanism to identify individuals who have breached the relevant law, codes of conduct, standards or policies, so that employers can make their own informed recruitment decisions

<i>Original summary deliverable</i>	<i>Revised summary deliverable</i>
Completion of position paper on an industry register	Completion of position paper on an industry register
Industry register established (*Contingent on model designed and whether legislative reform or regulatory change is required)	Implementation of Conduct Background Check Protocol Industry register established (*Contingent on introduction of supporting statutory underpinning by Government)
<i>Original milestone steps</i>	<i>Revised milestone steps</i>
a) Identification of possible model for industry register	a) Identification of possible model for industry register
b) Preparation of industry position	b) Preparation of industry position
c) Coordination of engagement and consensus building across stakeholders	c) Coordination of engagement and consensus building across stakeholders
d) Consensus support for implementation of register (or alternative)	d) Implementation of Conduct Background Check Protocol (from 1 July 2017 major banks and 1 October non major banks)
e) Identification of design parameters of solution	e) Demonstrate industry engagement with Federal Government in support of a statutory register (end Dec 2017)
f) Preparation of supportive documentation for implementation	f) Implement statutory register if introduced by Government (no end date)
g) Build solution IT/Consultant	
h) Implementation of industry register (or alternative)	

In addition to these revisions, the ABA has also amended the objective for Initiative 4 by adding “or mechanism”, so that it now reads “an industry register or mechanism to identify poor conduct across all bank employees”. I have sought and received assurances from the ABA that this amendment is not intended to diminish the original intention of this initiative, and that the industry remains committed to pursuing the establishment of a register, recognising this will require support through some form of statutory underpinning. In the interim, the Conduct Background Check Protocol is intended to provide a solution applicable to bank employees, but not more broadly across the financial services industry. The ABA has advised the industry is exploring options and working through different stakeholder views about the preferred model. The ABA has also clarified that the register is not intended to be a ‘black list’ or ‘banning register’ as has been reported in the media. A register is intended to provide information about previous conduct history to help improve recruitment practices and decisions.

### 2.2.2 Timetable revisions

A number of the original measures have a degree of reliance on statutory underpinning for implementation – this was not fully appreciated in some cases by the industry at the time the initiatives were framed. In addition, with completion of the independent review of the Code of Banking Practice, there is now a better understanding of the steps required to update and implement a new Code.

For those measures where the industry has completed all of its planned actions, and it is now clear that completion relies on legislation or other regulatory change outside of the industry’s control, this has been noted against the expected completion date in the implementation plan. The ABA has stated: “For initiatives which are reliant on legislative reform and statutory solutions, the industry will continue to support progress via advocacy and collaborative policy development.”

The implementation plan has been updated to reflect this as follows:

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#### Initiative 2: Making it easier for customers when things go wrong

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**Measure 2.2:** Support a broadening of external dispute resolution (EDR) schemes. Support the Government’s announcement to conduct a review into EDR, including the Financial Ombudsman Service (FOS) conducting a review of its terms of reference with a view to increasing eligibility thresholds for retail and small business customers

*Original completion date*

*Revised completion date*

June 2017

Government reliant <sup>8</sup>

**Measure 2.4:** Evaluate establishment of an industry wide, mandatory last resort compensation scheme covering financial advisers. Support a prospective scheme being introduced where consumers of financial products who receive a FOS determination in their favour would have access to capped compensation where an adviser’s professional indemnity insurance is insufficient to meet claims

*Original completion date*

*Revised completion date*

September 2017

Government reliant <sup>8</sup>

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<sup>8</sup> The Government’s review into the financial system’s external dispute resolution and complaints framework (Ramsay Review) is due to hand its report on the EDR system to the Government at the end of March 2017, and its report covering a last resort compensation scheme at the end of June 2017.

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**Initiative 6: Supporting ASIC as a strong regulator**

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**Measure 6.1:** Work with the Government and ASIC to implement a 'user pays' industry funding model to enhance the ability for ASIC to investigate matters brought to its attention

<i>Original completion date</i>	<i>Revised completion date</i>
June 2017	Government reliant <sup>9</sup>

**Measure 6.2:** Work with ASIC to enhance the current breach reporting framework

<i>Original completion date</i>	<i>Revised completion date</i>
December 2016	Government reliant <sup>9</sup>

While the industry has developed policy positions on these matters, it appreciates that the introduction of legislation or regulations to support the measures mentioned above is a matter for decision by government and/or regulators.

Following completion of the independent review of the Code of Banking Practice, the ABA has advised that it has commenced consultations with key stakeholders and once completed and next steps and transitional arrangements are better understood will update the timetable for measures associated with Initiative 5 (Review of the Code of Banking Practice). As indicated above, the completion date is not yet specified.

The ABA has indicated it is aware there is significant interest in the industry redrafting the Code and also that some stakeholders are frustrated the industry is not able to make a firm commitment to a timeframe. The process will involve a number of stakeholders, and the industry is currently conducting consultations with key stakeholders on the recommendations, the industry's response, other issues, and the process for the redraft. Until this stage is completed with the needs of stakeholders better understood, the ABA believes it is not appropriate to set a timeframe of end December in the reporting framework.

In all this, I am satisfied that, in addition to the importance of timeliness, the industry is equally aware that it is important to get the redrafted Code right, not to rush it. The new Code is seen by the industry as an important part of the reform program to demonstrate to all stakeholders the industry is serious about change and making sure the Code reflects the evolving needs of customers, stakeholders and the wider community.

The ABA has advised that the industry's response on the review of the Code was published due to the significant public interest, indicating that there is further work to be completed by the banks and in consultation with stakeholders in order to settle industry positions on all the recommendations. It is anticipated the industry will be in a better position to confirm timeframes by Report 5.

The ABA has also indicated that it will be working with the Australian Securities and Investments Commission (ASIC) on approval of the Code and the Code Compliance Monitoring Committee (CCMC) on new governance arrangements for the Code. These processes are planned to be conducted in parallel with the development of the new Code.

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<sup>9</sup> The Government's review of the enforcement regime of ASIC is due to run through 2017.

<b>Initiative 5: Strengthening our commitment to customers in the Code of Banking Practice</b>	
<b>Measure 5.2:</b> Work with banks to implement changes to improve the operation of the Code of Banking Practice within their individual organisations	
<i>Original planning date</i>	<i>Revised planning date</i>
Unspecified	June 17
<i>Original agreement of principles date</i>	<i>Revised agreement of principles date</i>
Unspecified	Unspecified
<i>Original completion date</i>	<i>Revised completion date</i>
Unspecified	Unspecified

The implementation plan at Appendix A has been updated for the changes outlined above.

## 2.3 Update on progress of initiatives

Since the announcement of the package of initiatives, significant reviews commissioned by the ABA have been completed and, as a consequence, more contemporary information is now available to assist the industry and individual banks in further progressing the reform measures. The current phase of the implementation plan sees the focus shifting from industry-level responses to progress by individual banks in implementing measures that collectively are expected to deliver on the objectives of the initiatives. Nevertheless there remains a significant body of work for the industry to progress. The ABA has advised that during this quarter there has been a focus on making sure the reform program is agile and responsive to the need for the industry to continue to progress the initiatives and deliver against its objectives, as well as to adapt to the changing internal and external environment.

Report 3 noted that the ABA's consumer research indicated that there was a low community awareness about the industry's actions to lift its performance on the path to addressing customer concerns and building trust and confidence in banks. Subsequently the ABA initiated a campaign to raise awareness with stakeholders and the wider community, which was the first time the industry has conducted co-branded advertising. It nevertheless remains apparent that key industry leaders have an ongoing role to inform the community about the industry's progress with its reform program and their ongoing commitment to delivering better outcomes for customers. The early signs here are positive, with industry leaders underlining measures being taken to put customers at the centre of their bank's business strategies.

The ABA has also advised of its intention to publish an annual report to supplement the release of this report (Report 4), which will include background about the construction of the package of initiatives, outline a number of themes which have gained public attention, and respond to calls for further information about the package of initiatives and greater transparency from the industry about progress and implementation of the measures.

The ABA has advised that it has continued broad discussions on the progress of the package of initiatives with stakeholder groups. As part of my review I have continued to seek formal feedback from stakeholders, and have received responses from the ASBFEO and The Banking and Finance Oath. This feedback is in addition to stakeholder participation in a consumer stakeholder forum held in March 2017. A number of comments were also received from community members via the Better Banking website.

Key stakeholder groups have commented that they are generally supportive of the industry initiatives and the level of consultation by the ABA. However, they have expressed some concern that the effectiveness of overall reforms may be diminished if the array of external reviews is not able to be brought together to achieve cohesive outcomes.

The ABA has also acknowledged that possible disparate findings of various government and regulatory processes is a risk to the overall program that needs to be managed. To address this, the ABA is monitoring the various external reviews and contributing industry positions in order to incorporate findings into the initiatives where appropriate and help drive an integrated industry response.

### ***Initiative 1: Reviewing product sales commissions and product based payments***

The independent review of product sales commissions and product based payments was initiated to inform the development of industry policies to strengthen the alignment of remuneration and incentives with customer outcomes, and encompassed remuneration structures and practices for retail banking employees and their supervisors and managers, as well as the associated compliance and governance arrangements, and third parties, such as mortgage brokers.

Mr Stephen Sedgwick AO published the findings of his independent review on 19 April 2017.<sup>10</sup> The review was extensive in the information sought from banks and in its consultations with other significant stakeholders, including ASIC. It has shed considerably more light on remuneration practices in the industry than has previously been available.

Significantly, Mr Sedgwick concluded that “It remains my view that there is not sufficient evidence of significant *systemic* risks of poor outcomes for customers to support an outright ban on all product based payments in retail banking.” That said, Mr Sedgwick also commented that “some current practices carry an unacceptable risk of promoting behaviour that is inconsistent with the interests of customers and should therefore be changed. Some of these relate to management practices that may reduce the effectiveness of the bank’s risk mitigation strategies. Other practices relate to the way incentives and remuneration are structured.”<sup>11</sup>

The findings of the Sedgwick Review provide the industry with direction on how to improve current remuneration practices to address concerns with the way bank staff are paid and to align remuneration and incentives with customer outcomes. For example, while different banks will need to consider the findings as they may be relevant for their remuneration practices, it is generally anticipated that banks will need to modify their approaches, including ‘balanced scorecards’, used to manage and reward performance. The Sedgwick Review has recommended that all banks begin to adopt the review’s recommendations as quickly as systems and other changes can be introduced, with full implementation to be achieved by no later than the performance year that begins in 2020.

The findings also cover third parties, such as mortgage brokers. The ABA has advised that it is likely that regulatory approvals will be needed to implement these recommendations. The ABA media release also published on 19 April 2017 stated: “Individual banks would take action to make changes to their businesses, but the

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<sup>10</sup> Available at [http://retailbankingremreview.com.au/wp-content/uploads/2017/04/FINAL\\_Rem-Review-Report.pdf](http://retailbankingremreview.com.au/wp-content/uploads/2017/04/FINAL_Rem-Review-Report.pdf)

<sup>11</sup> Stephen Sedgwick AO, Retail Banking Remuneration Report, 19 April 2017

industry had competition and other legal obligations to consider. The ABA will seek guidance from the Australian Securities and Investments Commission and liaise with the Australian Competition and Consumer Commission (ACCC) as appropriate, in particular around changing payments to third parties, like mortgage brokers. Mortgage brokers play an important role in supporting competition in the home loan lending market. The industry wants to ensure competition is preserved and customer choice is maintained.”<sup>12</sup>

The findings of the Sedgwick Review have common ground with the findings and recommendations of the recent review by ASIC of mortgage broker remuneration.<sup>13</sup> Amongst other findings, ASIC noted:

- The standard commission model of upfront and trail commissions could encourage brokers to place consumers in larger loans, even when this may not be in the interests of the consumer. To reduce the risk of this occurring, ASIC proposes that lenders change their standard commission arrangements so that brokers are not incentivised purely on the size of the loan;
- While bonus commissions and bonus payments do not necessarily cause poor consumer outcomes, they are a form of remuneration structure that creates a higher risk that brokers will place consumers with lenders for the wrong reasons. Similar concerns were expressed in relation to soft dollar benefits (e.g., loyalty programmes, travel and hospitality-related benefits), bonus commissions and bonus payments. ASIC is looking to the banking industry to address this; and
- To reduce the risk that remuneration structures may result in poor consumer outcomes and inhibit competition, there is a need for all industry participants to place greater importance on fostering a consumer-centric culture and take more care in the design and monitoring of remuneration structures. ASIC expects lenders, aggregators and broker businesses to embed the principle of obtaining good consumer outcomes as a guiding factor in the design of their remuneration arrangements both in the broker channel and in relation to their own staff.

The ABA plans to liaise with the mortgage broking industry, and ASIC and the ACCC as required, on how changes could be made to implement the recommendations. The findings in the Sedgwick Review provide some suggestions on how the ASIC findings and recommendations could be implemented, but it will require consultation across the banking and mortgage broking industries.

The findings of both reviews will also inform the industry and individual banks in their development of, or refinement to, overarching principles on remuneration and incentives to support good customer outcomes and sound banking practices, with this work planned for completion by December 2017.

## ***Initiative 2: Making it easier for customers when things go wrong***

Initiative 2 comprises the following measures: establishing a customer advocate in each bank; supporting the broadening of external dispute resolution schemes; working with ASIC to expand customer remediation programs; and evaluating the establishment of an industry-wide mandatory last resort compensation scheme.

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<sup>12</sup> Available at <http://www.bankers.asn.au/media/media-releases/media-release-2017/banks-to-change-the-way-they-pay-their-staff>

<sup>13</sup> Refer to <http://asic.gov.au/regulatory-resources/find-a-document/reports/rep-516-review-of-mortgage-broker-remuneration/>

With the immediate work on expansion of customer remediation programs now complete, the status of the remaining measures is as follows.

**a) *Establishing a customer advocate in each bank***

Following the release of its *Guiding Principles – Customer Advocate* on 30 September 2016, the ABA has continued to work with the participating banks to provide informal implementation guidance where questions have arisen in relation to the principles. This has primarily related to the requirement of achieving sufficient separation of the customer advocate from business units within the bank and how this can practically be done in the smaller participating banks to ensure the underlying intent is achieved and the needs of customers and the business are met. It is recognised that this is an implementation challenge for the smaller banks.

The Small Business Loans Inquiry being undertaken by the ASBFEO into the laws and practices governing financial lending to small business (the ‘Carnell Inquiry’) released its report on 6 February 2017.<sup>14</sup> This included a specific recommendation that customer advocates be established to consider small business complaints and disputes that may or may not have been subject to internal dispute resolution. The Guiding Principles are intended to cover small business customers as stated in clause 3.1, however, this may require further emphasis.

In light of the challenges faced by the smaller banks and the recommendations of the Carnell Inquiry, it is clear that there would be real benefit in further consideration of these matters by the ABA as they are not canvassed, or clearly and prominently stated, in the existing Guiding Principles. The ABA has indicated it will work with consumer stakeholders, and consult with me, on revising the Guiding Principles.

Further commentary on individual banks’ implementation status is included in Chapter 3.

**b) *Supporting the broadening of external dispute resolution schemes***

Both the Carnell Inquiry and Treasury’s ‘Review of the financial system external dispute resolution framework’ (Ramsay Review) impact this measure.

The Carnell Inquiry included recommendations for the Government relating to its consideration of EDR schemes. These recommendations were to:

- Establish an EDR one-stop shop with a dedicated small business unit that has appropriate expertise to consider disputes involving a credit facility limit of up to \$5 million; and
- Expand the relevant EDR scheme to include disputes with third parties, such as valuers, investigating accountants and receivers.

The ABA supports an expanded and simplified EDR system, with an integrated process so customers can easily access, navigate and understand how to have a dispute resolved. The expectation is that the model should provide an experience that is closer to a ‘one stop shop’.

The ABA has indicated it has concerns about the principle and practicality of expanding the EDR system to include disputes with third parties, especially if requirements are placed on banks to ensure the participation of those third parties. The industry has announced that it is working with relevant stakeholders on

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<sup>14</sup> Available at <http://www.asbfeo.gov.au/inquiries/small-business-loans-inquiry>

preparing industry guidelines on appointing receivers and investigative accountants and valuation practices.

The findings from the Carnell Inquiry were also submitted to the Ramsay Review for consideration. The Ramsay Review's final report in relation to EDR schemes was provided to the Government on 31 March 2017 but has not as yet been published.

In addition to the Carnell Inquiry and the Ramsay Review, the independent review of the Code of Banking Practice made a number of recommendations relating to external dispute resolution, including:<sup>15</sup>

- With respect to small business customers, signatory banks must consent to their EDR scheme having jurisdiction to decide disputes with such a customer, that has been the subject of mediation but has failed to be settled; and
- ABA and signatory banks should agree a money limit (at least \$1 million) up to which consent to banks EDR schemes having jurisdiction in relation to certain disputes.

Further to the above, the ABA has indicated that the industry supports creating a separate small business section in the new Code which includes an obligation requiring banks to provide information on the entitlement to dispute resolution, including where previous mediation has failed to settle. The ABA has also advised that the industry supports increasing the jurisdictional and monetary limits.

Specifically, the ABA submissions to the Ramsay Review set out that:

- Individuals and small businesses should be able to bring complaints up to the value of \$1 million, and
- The EDR scheme should be able to make awards up to \$1 million.

The original implementation plan had anticipated the adoption of the new EDR scheme by June 2017, which was made when the Government indicated the Ramsay Review would be completed by December 2016. The ABA has advised that it is unlikely the new EDR system will be implemented by this time.

Implementation is now reliant upon government processes and timing, with the immediate industry involvement in the Ramsay Review on this aspect now complete. This is reflected in the implementation plan revisions referred to earlier in Section 2.2.2.

### ***c) Evaluating the establishment of an industry wide mandatory last resort compensation scheme***

As outlined in Report 3, a research project was undertaken by Oliver Wyman and Co, commissioned by FOS and the ABA (funded by the major banks), into the design and structure of a last resort compensation scheme for financial advice claims. Based on this research, FOS has indicated support for quite a broad last resort compensation scheme. The ABA has advised that this scheme has a broader scope than the industry feels it can reasonably support. In coming to this view the ABA has identified the potential for an increase in a number of risks, including moral hazard, operational and financial risks, with likely consequences for prudential and capital requirements. On this basis, in the absence of a consensus with FOS, the ABA has decided not to support a joint proposal on a last resort compensation scheme being put forward to the Ramsay Review, with the ABA's individual members open to continue to advocate their respective positions.

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<sup>15</sup> Further details on the independent review of the Code of Banking Practice are included under Initiative 5 in this Chapter

The ABA has advised that it will re-evaluate this matter once the issues paper on a compensation scheme is released by the Ramsay Review, which is expected later this month. There continues to be a risk that the necessary statutory underpinning for the scheme will not be introduced by the planned date of September 2017, the date anticipated by the ABA in its original implementation plan.

### ***Initiative 3: Reaffirming support for employees who 'blow the whistle' on inappropriate conduct***

The industry-level measures in respect of this initiative have been completed, as noted in Report 3, although reviews by the Parliamentary Joint Committee on Corporations and Financial Services<sup>16</sup> and Treasury's Review of Tax and Corporate Whistleblowing Protections in Australia<sup>17</sup> are ongoing. The ABA made a submission to the inquiry and the consultation paper on 16 February 2017. The ABA has advised that it continues to monitor developments and will assess whether revisions to its *Guiding Principles – Improving Protections for Whistleblowers* (released on 21 December 2016)<sup>18</sup> are warranted.

Chapter 3 of this report outlines the status of the participating banks in implementing the remaining measures in order to complete this initiative.

### ***Initiative 4: Removing individuals from the industry for poor conduct***

The development of an industry register, as a mechanism to improve recruitment practices and decisions in the banking industry, is one of the more difficult measures to implement given the legal issues involved. It is now apparent that the implementation of such a register will be contingent on some form of statutory underpinning. As noted in Section 2.2.1, the implementation period for a statutory register will be outside of the timeframe originally proposed for this initiative.

Given these developments, the ABA and the banks have redirected resources into further advancing the development of a new Conduct Background Check Protocol for bank employees ("Protocol"). This new Protocol builds on the principles of the ABA's Reference Checking and Information Sharing Protocol for financial advisers, which was published on 20 September 2016.<sup>19</sup>

The ABA has noted that the Protocol aligns with the policy objective of the initiative as it will promote good conduct and ethical behaviours by formalising obligations for banks to ask a series of fact-based questions as part of the hiring process about whether the individual is subject to an ongoing investigation relating to defined categories of misconduct or was dismissed or resigned in specific circumstances relating to misconduct. Sharing of information will improve recruitment practices and help banks make their own informed recruitment decisions. The ABA has consulted with key stakeholders, including ASIC, the Finance Sector Union and the Office of the Australian Information Commissioner.

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<sup>16</sup> Parliamentary Joint Committee on Corporations and Financial Services inquiry: Whistleblower protections in the corporate, public and not-for-profit sectors

<sup>17</sup> Refer to consultation paper at <http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2016/Review-of-whistleblower-protections>

<sup>18</sup> Available at [http://www.betterbanking.net.au/wp-content/uploads/2017/01/Final\\_Whistleblower\\_Guiding\\_Principles-Dec-2016.pdf](http://www.betterbanking.net.au/wp-content/uploads/2017/01/Final_Whistleblower_Guiding_Principles-Dec-2016.pdf)

<sup>19</sup> Available at <http://www.bankers.asn.au/financial-advice>

The ABA has advised the industry is looking to publish the Protocol in May 2017 after some final amendments are settled reflecting feedback from stakeholders. It was intended that the Protocol would be published early April and three months in advance of the major banks' commitment to adopt the Protocol, however, stakeholders requested additional time to provide input and additional time was provided for follow up consultations.

The Protocol is intended to operate between subscribing banks, and encompasses all bank employees in Australia. Requests under the Protocol can be made in respect of individuals who were employees within five years of the date of the information request. The Protocol sets out the procedures for responding to reference checking requests and includes parameters defining the nature of misconduct to be reported. Similar to the ABA's Reference Checking and Information Sharing Protocol for financial advisers, the ABA will maintain contacts for subscribing banks to facilitate the operation of the Protocol.

The ABA has advised that the Protocol is intended to supplement existing processes for reference checking and is not intended to be used as a 'black list' or 'banning register'. In addition, mechanisms have been included in the Protocol to ensure procedural fairness to employees and reduce the risk associated with vexatious dealings by employers. The ABA has completed a privacy impact assessment for the Protocol. A post-implementation review is also planned to ensure any operational issues can be addressed.

The Protocol will require changes to policies, procedures and systems, with individual banks making plans for these changes as well as undertaking communications with their employees. The major banks are expected to adopt the Protocol by 1 July 2017, with the smaller banks expected to adopt the Protocol by 1 October 2017.

The ABA has advised that work on the register will continue to be progressed and will aim to manage certain limitations inherent in a protocol-based approach operational only in the banking industry. That said, recognising this limitation, the Protocol is an important development to deliver on the objective of the initiative.

### ***Initiative 5: Strengthening the commitment to customers in the Code of Banking Practice***

Completion of the independent review of the Code of Banking Practice by Mr Philip Khoury represents a substantial body of work which provides the industry with contemporary guidance for considering how to ensure the Code continues to reflect best practice and evolves to meet customer and community expectations.

Mr Khoury's report was published on 20 February 2017.<sup>20</sup> Among the 99 recommendations arising from the review, Mr Khoury proposes:

- ASIC approval of the Code of Banking Practice;
- The Code should oblige signatory banks to have in place practices to identify persistent issues that indicate revisions to systems or procedures are required, and to deliver on that continuous improvement;
- More robust Code governance, including better linkage with external dispute resolution schemes to identify instances of systemic conduct breaches by signatory banks;

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<sup>20</sup> Available at <http://cobpreview.crkhoury.com.au/2017/02/20/code-review-update-february-20-2017/>

- Redrafting the Code in ‘plain English’ to make it more accessible to consumer stakeholders;
- Consideration of small business customers and customers with special needs within the Code; and
- Addressing other operational areas including fees, financial difficulty, responsible lending, credit card lending, credit contracts and borrower default.

A number of the recommendations incorporated the findings from the Carnell Inquiry, particularly in relation to small business, Code governance and redrafting the Code in ‘plain English’.

In its response to the findings of the independent review of the Code of Banking Practice, published on 28 March 2017,<sup>21</sup> the ABA has advised that it:

- Supports 61 recommendations;
- Supports in principle 19 recommendations;
- Supports in part 10 recommendations;
- Requires additional time to investigate four recommendations; and
- Does not support five recommendation due to either the risk of legal challenge or a view that such items are too detailed for inclusion in the Code.

For the 19 recommendations supported in principle, the ABA has indicated that the industry supports the underlying policy intent of the recommendation, however, through an assessment of the recommendation in practice or taking account of other issues or stakeholder views, the proposed approach may not be the best option to solving the problem. For example, providing customers with access to additional information might be the proposed approach, but the ABA has received feedback that customers are experiencing ‘information overload’. Therefore instead of making additional information available mandatorily, the ABA considers that customers should be made aware that they can request this information.

A number of the recommendations contain multiple and distinct parts. Of these there are 10 recommendations which the industry does not support in absolute terms. An example given by the ABA to illustrate this point relates to customers experiencing financial difficulties. The ABA has advised that the industry is committed to supporting customers experiencing financial difficulty, however it does not believe that the applicable circumstances should be defined prescriptively in the new Code, given each customer’s circumstances differ and the factors contributing to financial difficulties may be complex. The ABA has suggested that a clear commitment in the new Code supported by a revised industry guideline would be an appropriate way forward.

Furthermore, a number of the recommendations are complex and require further and close consideration by the banks. The ABA has advised that some recommendations could require regulatory approval from the ACCC. Given the industry response supported the new Code being approved by ASIC, the ABA has advised that the industry may seek alternative approaches to avoid also having to seek broad or specific regulatory approvals from the ACCC.

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<sup>21</sup> Available at <http://www.bankers.asn.au/media/media-releases/media-release-2017/aba-responds-to-code-of-banking-practice-review>

The ABA is now engaging with the banks and key stakeholders, using the industry response as the basis of discussions to identify priorities and processes for the recommendations and other issues. As expected, now that the Khoury Review is completed, a broader range of stakeholders has become involved in discussion around implementation. The ABA has advised this is welcomed and it will include such input into redrafting the Code and other implementation issues.

This carries implications for the timeframe of the new Code, as noted above. While the ABA has publicly signalled the intention to complete the redraft of the Code this year, it has also stressed that it is important to get it right, and not to rush the redrafting unduly. In light of these considerations, the ABA has advised me that it does not propose to set a timeframe of end December 2017 to complete the drafting at this stage, an approach which I consider reasonable in the circumstances.

The ABA has also indicated that it will be working both with ASIC on approval of the Code and with the Code Compliance Monitoring Committee (CCMC) on new governance arrangements for the Code. These processes are planned to be conducted in parallel with the development of the new Code.

The development of the new Code will be significant for the industry, and the ABA and the individual banks will need to be adequately resourced through the year. It will also be important for the redraft process to provide appropriate arrangements for stakeholders to be engaged. I will be encouraging the ABA and the banks to ensure their project teams develop implementation plans which focus not just on implementation, but engagement too, and this is reflected in the relevant timeframes.

### ***Initiative 6: Supporting ASIC as a strong regulator***

The two measures comprising this initiative involved the industry working with government and ASIC to: implement a 'user pays' industry funding model; and enhance the current breach reporting framework.

The ABA has provided its submission to Treasury on draft legislation for the ASIC industry funding model on 10 March 2017. The draft regulations are expected to be released by the Government for comment later this month.

Treasury's ASIC Enforcement Review is ongoing. The Taskforce has published its consultation paper on breach reporting, with submissions due 12 May 2017.<sup>22</sup> The paper proposes reforms to:

- Clarify when the breach reporting obligation is triggered - reducing compliance costs and delays in reporting, and removing uncertainty about when and whether a reporting obligation exists in the circumstances;
- Increase accountability for licensees, and their employees and representatives by expanding the class of reports that must be made to expressly include misconduct by individual advisers and employees;
- Introduce new and heightened penalties for non-reporting, giving ASIC greater flexibility to impose a range of penalties in response to a failure to report;
- Require ASIC to publish data on breach reports for major licensees; and
- Introduce an equivalent reporting regime for credit licensees (who are currently subject only to annual compliance reporting).

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<sup>22</sup> Available at <http://www.treasury.gov.au/ConsultationsandReviews/Reviews/2016/ASIC-Enforcement-Review/Consultation>

The ABA and the banks will prepare an industry submission using the leadership position on breach reporting agreed last year as the basis.

The next stages for this initiative, involving matters for consideration by government and/or ASIC, has been reflected in updates to the implementation plan referred to earlier in Section 2.2.2.

## 2.4 Update on development of performance indicators

In order to assess the initiatives in meeting their stated objectives, the ABA and the banks are developing a set of performance indicators to demonstrate the industry's performance in terms of the objectives for the initiatives. Desirably the performance indicators will inform the industry and stakeholders of the industry's success in achieving the objectives for each of those initiatives which contribute to protecting consumer interests, improved customer experience and good customer outcomes, as well as more broadly building trust and confidence in banks and enhancing transparency and accountability in how information is communicated by the industry. In this way the performance indicators, if well designed, will assist in bridging the specific initiatives to the overall goal of the industry's package of initiatives.

Consumer stakeholders commented that the industry has set a high bar in opening up discussion on the six initiatives but posed the question on how success will be measured. Knowing the importance of relevant performance indicators to highlight its success of bringing about the required changes, the industry has been working to progress the development of performance indicators to assess specific initiatives, as well as the broader objective of the package of initiatives overall. In the longer term, the benefits of targeted evaluation of whether measures have delivered on the goals of key initiatives will also be beneficial.

Despite their importance, progress on developing performance indicators has not advanced as quickly as might have been expected. The ABA identified some key challenges, including:

- Identification of performance indicators that directly measure effectiveness of the key initiatives and do not attribute causality or establish correlation inappropriately;
- A difficulty in identifying consistent definitions across all banks on the measures; and
- The internal resource requirements on banks to produce and collate data on multiple internal measures.

The ABA has also acknowledged that this work is difficult as the industry is contemplating not just how the initiatives deliver improvements but also how they contribute to overall cultural change.

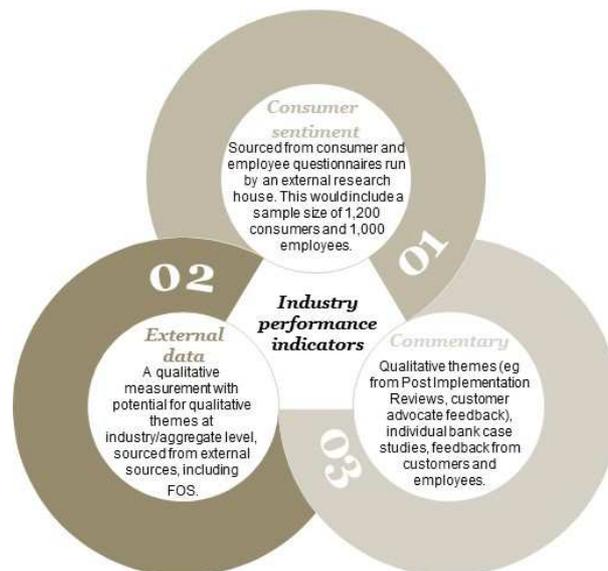
In order to provide an indication of consumer and employee sentiment on the overall program objective of the package of initiatives, the ABA has developed research objectives for a survey to address and track the following:

- Customers' interests and priorities (such as customer service and complaints handling, pricing, innovation, stability of the banking industry);
- Customers' personal experience with and perceptions of their bank or banks;
- Perceptions of the banking industry generally;

- Knowledge of and importance placed on key consumer protections and reform program initiatives (e.g., hardship programs, customer advocates, whistleblower protections, access to external dispute resolution); and
- Key factors driving customers' experience, perceptions and knowledge (such as personal experience, complaints made, remediation program, advertising, word of mouth, media).

The results of the survey will be incorporated into the industry-level performance indicators which the ABA is developing in conjunction with an external consultant. The proposed components of the industry-level performance indicators are represented below.

**Figure 2: Industry-level performance indicators – proposed components**



The ABA has advised that the banks are also looking at individual reporting on the initiatives, specifically the customer advocate and whistleblowing protections, which include in the respective guiding principles a commitment by the industry to provide information about the implementation and operation of these initiatives.

As other initiatives are settled, the ABA has advised that the approach to individual bank reporting against those initiatives will be considered. This is not an unreasonable position for the ABA to take at this time as reporting will need to reflect meaningful performance indicators for those initiatives and their intended outcomes for which individual banks and the industry can reasonably be held to account.

Nevertheless, given the high level of public interest in the performance of the banks, it will be important for the industry to agree that individual banks will report on the set, subset or proxy of the industry performance indicators, so as to inform customers and other stakeholders of the success of the measures within each bank in achieving the industry's objectives. These would best be settled after the industry-level performance indicators have been determined. Necessarily this would require banks to adopt consistent definitions for reporting of key information that contributes to the performance indicators.<sup>23</sup> It is noteworthy that the ASBFEO has also made a recommendation concerning individual bank

<sup>23</sup> For example, there is currently no standard definition of a customer complaint in Australia, compared to the United Kingdom where the Financial Conduct Authority (FCA) has developed a definition that is applied across the industry.

reporting. I would expect to see a combination of industry-level and individual bank reporting on the outcomes of the initiatives.

The ABA has committed to confirming the approach for monitoring and measuring performance by the time Report 5 is published, with the intention to provide a baseline measure at that time. The research report will be issued publicly. The ABA has also agreed to consider the minimum standards for reporting on the industry initiatives expected by individual banks and how ongoing reporting may be adopted to demonstrate outcomes for customers. The ABA has indicated it will consult with me further on the reporting framework.

## 2.5 Concluding remarks

The industry has adopted a structured and pragmatic approach to addressing past problem areas through its six initiatives. It has consulted widely with key stakeholders as part of its development process, and has had the benefit of the independent review of product sales commissions and product based payments in addition to the independent review of the Code of Banking Practice, to inform future directions.

The commissioning of the independent reviews by the industry has been well received as they address some of the more challenging areas faced by the industry. These reviews have been very useful in highlighting approaches to overcome such issues which have detracted from the industry's performance, and will assist the industry in agreeing on forward policy positions for application by individual banks. This is a necessary next step in progressing Initiative 1 and Initiative 5 towards meeting the overall objectives of those initiatives.

As noted in Report 3, largely due to the time required to progress measures which are likely to require legislative or regulatory support, there had been some slippage against the original timetable namely in relation to Initiative 4 (Removing individuals from the industry for poor conduct), Initiative 5 (Review of the Code of Banking Practice) and Initiative 6 (Supporting ASIC as a strong regulator). In addition, it has become apparent that measures associated with Initiative 2 (Making it easier for customers when things go wrong) which are reliant on government decisions, will also not meet the originally anticipated timetable. As a consequence, the implementation plan has been revised to recognise measures where the immediate industry-led work was complete, and final implementation of the measure relies on statutory underpinning. The revision of the implementation plan is timely and provides greater clarity.

With the completion the two independent reviews commissioned by the ABA, the implementation status of the industry initiatives has improved considerably. As Figure 3 highlights, in the past quarter there has been an increase in the number of both agreement-of-principles and complete-implementation milestones achieved since Report 3. Figure 3 also indicates that the number of milestones on alert has decreased. An additional trackable measure for the planning phase has been added to the plan now that the independent review of the Code of Banking Practice is complete. A new category has also been created for those measures where industry-led work is complete at this time, but final implementation is now dependent on statutory underpinning.

**Figure 3: Implementation status of the trackable measures<sup>24</sup>**

Milestone Status	Planning		Agreement of Principles		Complete Implementation	
	R4	R3	R4	R3	R4	R3
Complete	10	10	9	7	3	1
On track	3	-	1	-	3	4
On alert	-	2	2	4	2	3
Adjustment required	-	-	-	1	-	4
Next phase reliant on government	-	-	-	-	4	-
<b>Total</b>	<b>13</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>	<b>12</b>

Overall, of the 13 ‘planning’ milestones, ten (R3: ten) are complete, while the remaining three (R3: nil) are now on track. These three relate to Initiative 1 (Reviewing product sales commissions and product based payments) which had previously been on alert for slippage, and Initiative 5 (Review of the Code of Banking Practice) which is a new trackable measure.

Of the 12 ‘agreement of principles’ milestones, nine (R3: seven) are complete and two (R3: four) remain on alert for slippage against the implementation plan. Those remaining on alert relate to Initiative 1 (Reviewing product sales commissions and product based payments) which is consistent with the position outlined in Report 3. Measure 4.1 has moved to being on track, from on alert.

Of the 12 ‘complete implementation’ milestones, three (R3: one) are now complete. Those measures completed since Report 3 relate to the independent review of product sales commissions and product based payments (Measure 1.1) and the Code of Banking Practice (Measure 5.1). In addition, three (R3: four) of the ‘complete implementation’ milestones are on track (Measure 2.1, Measure 3.1 and Measure 4.1). Reflecting the complexity of implementing Initiative 1 (Reviewing product sales commissions and product based payments) the two remaining ‘complete implementation’ milestones for that initiative remain on alert as a matter of caution which is consistent with the position in Report 3. The remaining four ‘complete implementation’ measures are now reliant on statutory underpinning for the next phase. These relate to Measures 2.2, 2.4, 6.1 and 6.2.

While steps have been taken to progress development of performance indicators largely at the industry-level, tangible outcomes of this work are still quite preliminary. Agreement for individual banks to report on a set, subset, or proxy of the industry performance indicators, so as to inform customers and other stakeholders of the success of the measures within each bank in achieving the industry’s objectives, will also be important to demonstrate real progress. Together, this work is critically important to the industry being able to demonstrate, over time, its success in improving its focus on customers and build trust and confidence in banks. As such it needs to be a priority by the industry in the next quarter. It is recognised that it will take longer for standard definitions to be agreed and approaches to data collection and reporting to be settled, but this

<sup>24</sup> Quantification and summary status of milestones is based on the information outlined in the implementation plan contained in Appendix A.

should not delay the reporting framework being settled. The ABA has agreed to progress the work on performance indicators in consultation with me.

Overall progress to date is largely consistent with the timeframe where the industry has control over the development of new policies; where statutory underpinning is required, the timing is dependent on subsequent government decisions. That said, for this quarter considerable progress has been made in achieving planned implementation milestones.

## 3 Implementation by the banks

### 3.1 Introduction

This chapter outlines the progress of the 21 ABA member banks actively involved in implementing measures that collectively are expected to deliver on the objectives of the initiatives. Consistent with previous reports, feedback was requested from those participating banks on:

- The status of the measures (or actions) that will contribute to the nominated initiative;
- The work planned for the next three months; and
- The current judgement as to any significant risks in achieving the objectives of the initiative, and appropriate mitigants.

All participating banks responded to this request for information. In addition to their implementation status, banks were invited to submit case studies that demonstrated specific actions being taken to address the objectives of the initiatives or otherwise inform banks of implementation issues. Selected responses are included in this chapter.

### 3.2 Progress on initiatives

As the industry measures are being developed, participating banks have also been gearing up to manage their response to the industry positions, including revision of internal policy positions, changes in procedures, and preparation of internal and external communications. This is a significant resource commitment, particularly for the smaller banks. Significantly, a number of banks have foreshadowed the need to revise their service commitment to customers in the light of the industry's initiatives. This will be a very tangible way for banks to exhibit the strength of their customer focus; and also provide customers some leverage to remind banks of their commitment to them, should this be required.

It is also positive to see that some banks are already making use of information arising from the package of initiatives to head off downstream problems; and are extending the reach of some of the industry measures beyond their banking services because of the benefits that will accrue more broadly to other financial services that they may offer.

#### *Initiative 1: Reviewing product sales commissions and product based payments*

As noted in Chapter 2, the final report of the Sedgwick Review was published on 19 April 2017. Mr Sedgwick has acknowledged the considerable efforts by the banks in recent quarters in providing data and other assistance to complete his report. Notwithstanding extensive consultation, the ABA and individual banks had limited opportunity to respond to the full detail of Mr Sedgwick's report prior to publication of this report on 21 April.

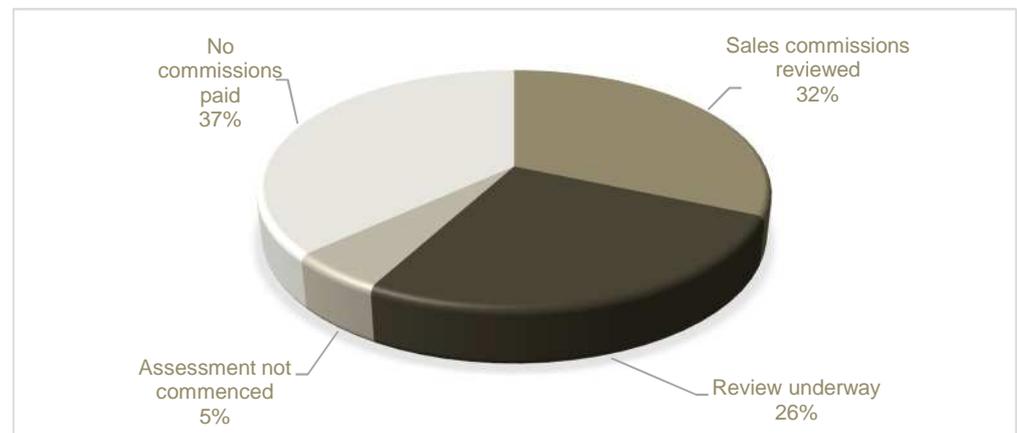
However, many participating banks have advised me that they have started early work on examining their remuneration practices in advance of the publication of Mr Sedgwick's findings and on developing project plans to assist timely

implementation,. They have also advised that they are mindful of Mr Sedgwick’s recommendation that changes be made as soon as possible (taking into account different performance arrangements and workplace agreements), and, in any event, no later than the performance year that begins in 2020. In addition to the ABA media release published on 19 April supporting the recommendations, a number of banks have also confirmed their intention to implement the recommendations, recognising that considerable effort will be required to finalise the details.

For those participating banks that have product sales commissions or product based payments, a number have already modified these arrangements or are in the process of reviewing these schemes, with a minority having not yet commenced a review. Some banks have indicated that revisions to remuneration and incentive arrangements will incorporate customer interest tests.

In response to my request for information on the status of actions on product sales commissions and product based payment structures, the information presented in Figure 4 below was provided by the participating banks.

**Figure 4: Review of product sales commissions and product based payment structures by participant banks (including bank staff and third parties)**



The subsequent release of the Sedgwick Review has indicated that “virtually every bank will need to change some practices in respect of at least some roles in order to comply with my [Sedgwick Review] recommendations. However, the proposals will affect banks differently. Some have already progressed well on the journey towards a less sales dominant culture, for example, while others are less advanced. Other banks – often smaller banks – believe they have a strong affinity with their customer base and that their culture and practices are already well aligned with the objectives that underpin the proposals.”<sup>25</sup>

Against this background, it will be important for all banks to review their current policies and practices in the light of these recommendations.

Additionally, the Sedgwick Review has made some observations about how remuneration policies by each bank could be improved. Each bank is expected to consider the findings to ensure they have overarching principles on remuneration and incentives that are aligned to good customer outcomes and sound banking practices. These overarching principles are due to be developed or refined and published by each bank by December 2017.

<sup>25</sup> Stephen Sedgwick AO, Retail Banking Remuneration Report, 19 April 2017

## *Initiative 2: Making it easier for customers when things go wrong*

The centre-piece of Initiative 2 is for the banks to establish a customer advocate in line with the *Guiding Principles – Customer Advocate* (published on 30 September 2016). At the date of preparation of this report, all but two participating banks have advised they have implemented the customer advocate role in accordance with the Guiding Principles, which is well ahead of the 30 June 2017 deadline originally stated in the implementation plan. Those two remaining banks have confirmed with me they are looking to introduce their customer advocate by 30 June 2017. Reflective of the importance being placed by the banks on the role of the customer advocate, a customer advocate forum has been established, with the first forum held on 1 March 2017; participants included NAB, CBA, Westpac, ANZ, Suncorp and Macquarie Bank.

It is encouraging to see tangible results arising from this initiative. This includes better outcomes for customers and highlighting potential opportunities for improvements to bank systems and processes.

National Australia Bank has provided an example of how their customer advocate has led to improved outcomes in Case Study A below.

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### ***Case Study A: Customer advocate in action***

**Situation:** A customer visited a branch regarding his post-divorce settlement, which required the customer to refinance a mortgage, close a joint account, evenly distribute the balance and change security on a business overdraft. For its part, the bank says it asked the customer to provide certain financial information, including tax returns, to support the application for the new facilities. The settlement by the required due date did not occur and consequently resulted in the customer suffering a financial loss. The customer complained to NAB that the customer service from the bank, which led to him breaching the deadline for performance of the court order terms, caused him distress and inconvenience and financial loss. He says he also received a poor complaints-handling experience, and that his concerns were not addressed.

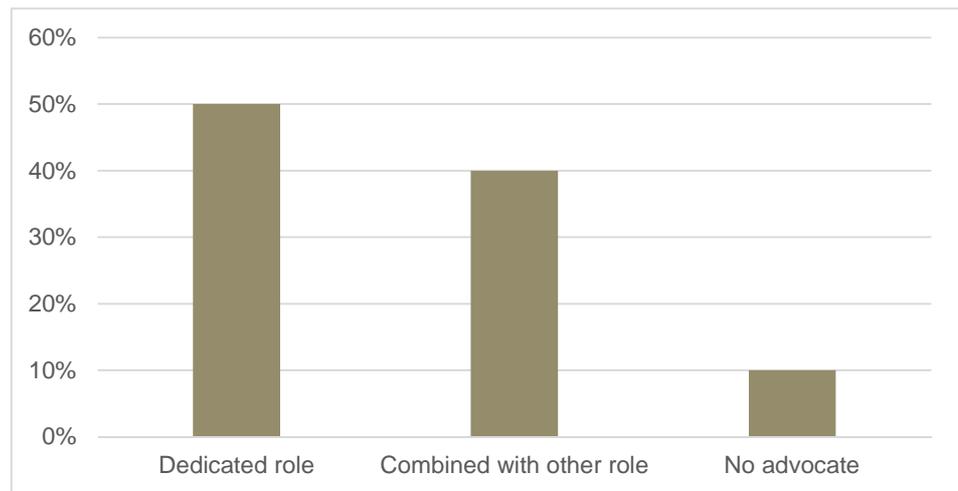
**Review:** The Customer Advocate established there were a number of elements to the customer's complaint that required individual attention. The review confirmed that these were not addressed thoroughly or accurately which contributed to the delay in settlement, incurring of financial costs and dissatisfaction with the complaints handling process.

**Resolution:** It was accepted by NAB that it contributed to the settlement delay and did not address the full extent of the customer's complaint. After consideration of all the facts and evidence of the complaint, NAB paid an amount to the customer for compensation.

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One issue which has arisen is the situation of the smaller banks where the number of customer complaints or concerns is so low that it is not cost-effective to have a dedicated customer advocate function. The smaller banks have variously chosen approaches of either creating a new part-time position, or specifying the customer advocate role as part of an existing position with sufficient separation from the business it is monitoring. In total, ten participating banks have chosen such approaches. These are reasonable and pragmatic solutions for these smaller banks provided there is a clear understanding and articulation of the customer advocate role, consistent with the expectations of the Guiding Principles. It should also be noted that these ten banks are smaller institutions and in total represent only a very small percentage of customer deposits and lending (less than 1%).

**Figure 5: Nature of customer advocate role as at 21 April by % of all participating banks**



As mentioned in Section 2.3, the ABA has agreed to provide additional guidance to inform smaller banks on the application of the Guiding Principles to their circumstances where a full-time dedicated customer advocate may not be a cost-effective solution.

In considering the structure of their part-time customer advocate role, one participating bank commented that the workload and effectiveness of their customer advocate structure would be revisited after a period of operation in order to assess whether any changes were required. This is a useful approach that has broader application, both at the individual bank and industry level, to build better practice over time.

Westpac Banking Corporation has provided an example of how it is working through its complaints process, and linking this to remediation, outlined in Case Study B below.

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### ***Case Study B: Service quality review and remediation***

Westpac customers under the age of 21 and St George Bank customers under the age of 18 qualify for certain benefits (such as waivers of some fees) on selected savings and transaction accounts. A review of service quality, specifically focusing on the causes of customer complaints, identified that certain account holders had not been receiving the benefits available to them. Westpac commenced an investigation to determine the impact and scope of the issue, which identified that the issue related in part to bankers not correctly coding accounts at origination.

Westpac proactively reported this matter to ASIC and provided the regulator with updates as it progressed its review of this issue and developed its customer remediation program.

The guiding principle for remediation activities within the Westpac Consumer Bank is to place customers back into the position they should have been in, had the issue that may have caused loss or detriment not occurred. To achieve this, a number of streams of activity are required to determine the scope of the review and remediation program. These broadly include:

- Containing the issue causing customer impact to prevent future loss or detriment;
- Identifying customer cohorts that are in scope for the review and remediation program; and
- Determining what customer engagement is appropriate to address the customer impact.

For this matter, interim processes were established to ensure that the correct account designation was placed on accounts for customers aged under 18 and 21 to attract the appropriate benefits. The account opening process has since been enhanced, with the objective of being fully automated. Westpac has also put additional checks in place to monitor this process to ensure the correct treatment of eligible accounts.

Customers, both current and non-current, who had not received the relevant benefits were identified and a process was established to refund any fees charged in error over the course of the impacted time period. Recognising that customers may also have incurred an opportunity cost through not being able to use those funds for other purposes, a compensatory payment was also made.

The steps Westpac took to resolve this matter for customers reflects Westpac's commitment to put things right where we have made mistakes. Reflecting Westpac's focus on constructive engagement with its regulators, ASIC acknowledged the co-operative approach taken by Westpac in its handling of this matter and the appropriate reporting of the matter to the regulator.

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In addition to the establishment of a customer advocate function, Initiative 2 included a number of other measures designed to make it easier for customers when things go wrong. These have involved the ABA making industry submissions to the Ramsay Review. The EDR system and last resort compensation scheme initiatives have key dependencies on the outcomes of Ramsay Review, as noted in the revised implementation plan discussed in Section 2.2.2. The banks are now awaiting the findings of the Ramsay Review on the EDR system and for the issues paper on the last resort compensation scheme.

As discussed in Report 3, all participating banks have advised of their adoption of the principles outlined in ASIC's Regulatory Guide 256: *Client review and remediation programs conducted by advice licensees* [RG 256].

ANZ Banking Group has provided advice on how the Group is further enhancing remediation principles in Case Study C below.

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### ***Case Study C: Review of remediation principles***

ANZ took ASIC's formal requirements on remediation (RG 256) a step further in early 2017 by appointing Colin Neave AM as its Customer Fairness Advisor. The new role, reporting directly to the Chief Executive Officer, is intended to help ANZ more consistently deliver fair and responsible banking to our retail and small business customers.

The Customer Fairness Advisor's initial focus is to help ANZ listen to, and better understand, the key retail and small banking issues by speaking to the bank's customers and relevant stakeholders including regulators and non-government organisations.

As a first step, Mr Neave is working to develop remediation principles to be applied universally across ANZ, in addition to the formal requirements of RG256. The principles will guide the development and implementation of remediation processes so that the bank has a consistent set of standards to stick to when things do go wrong.

As Customer Fairness Advisor Mr Neave has interviewed everyone in ANZ who has an interest in, or responsibility for, remediation and is conducting workshops to identify what has worked and what has not gone so well. A smaller task force will prepare draft principles for testing by the larger group. These principles and ideas for improving processes will be available in a couple of months.

Mr Neave is a former Commonwealth Ombudsman, Chief Ombudsman of the Financial Ombudsman Service, the Australian Banking Industry Ombudsman, Chairperson of the Legal Services Board of Victoria and Vice Chair of the Australian Press Council.

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### ***Initiative 3: Reaffirming support for employees who 'blow the whistle' on inappropriate conduct***

In accordance with the implementation plan, participant banks are scheduled to have implemented the *Guiding Principles – Improving Protections for Whistleblowers* by 30 June 2017. However as noted in Report 3, the major banks committed to implementing the Guiding Principles by 31 March 2017, which was ahead of the implementation plan timetable. It has been reported to me that all major banks have now implemented whistleblower policies consistent with the Guiding Principles. Additionally, three smaller banks have also implemented whistleblower policies consistent with the Guiding Principles, and ahead of schedule.

An example of how the major banks have implemented their whistleblowing policies is provided by the Commonwealth Bank of Australia in Case Study D below.

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#### ***Case Study D: Whistleblower: SpeakingUP***

Commonwealth Bank places great importance on fostering a culture that encourages its employees to speak up about issues or conduct that concerns them. This ranges from small things which may not feel quite right, through to raising serious concerns about conduct covered by the bank's Whistleblower Protection Policy.

Speaking up can be as simple as a conversation with a manager when an employee spots something, or it can involve using established channels for those who wish to escalate their concerns. An important part of this is the SpeakUP Hotline, which is a 24/7 hotline where employees, and others working with the bank can raise issues that they may not feel comfortable raising internally. Those contacting the hotline can choose to disclose their identity, remain anonymous, or protect themselves as a whistleblower.

The hotline is managed externally on behalf of the bank, with every allegation thoroughly investigated. In late 2015, Commonwealth Bank introduced the Misconduct Governance Committee, which includes four Group Executives (direct reports to the CEO) to ensure misconduct complaints are managed in a reliable and consistent manner.

Recently, one of the Bank's employees contacted the SpeakUP Hotline to report an issue that they had observed. They had noticed another employee misusing the expense process and receiving benefits to which they were not entitled. The employee reported this anonymously, without the need for whistleblower protections, and a thorough investigation was undertaken.

Following the investigation, the allegations were found to be correct, and due to the seriousness of the misconduct, the other employee was dismissed from the Group. The employee who raised the complaint has maintained their anonymity, which was important to them, while allowing action to be taken.

The SpeakUP Hotline is just one way Commonwealth Bank continues to foster a culture where employees are encouraged and feel confident to speak openly about concerns, but even more importantly, the right action is taken.

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In respect of the other participant banks, based on their submissions, the measures under this initiative will be completed by 30 June 2017, with all but one bank committing to this deadline.<sup>26</sup> All participant banks have advised they have assessed existing policies against the Guiding Principles to identify and address any gaps.

Progress by the participating banks on this initiative is encouraging, in particular by those smaller banks that have accelerated implementation of the measure.

#### ***Initiative 4: Removing individuals from the industry for poor conduct***

The ABA had proposed the development of an industry register, as a mechanism to improve recruitment practices and decisions in the banking industry, as the primary measure under Initiative 4. As noted in Chapter 2, given it is now apparent that the implementation of such a register will be contingent on some form of statutory underpinning, the ABA has redirected resources into further progressing the development of a new Conduct Background Check Protocol for bank employees.

The ABA has advised it is looking to publish the Conduct Background Check Protocol for bank employees in May 2017. The Protocol will be adopted in a staged

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<sup>26</sup> AMP is considering this measure on a whole-of-group basis rather than as the bank subsidiary within the AMP Group therefore is unable to commit to this timeframe due to this dependency.

approach with the major banks committed to adopt the protocol by 1 July 2017, with the smaller banks expected to adopt the protocol by 1 October 2017. This is in addition to the ABA's Reference Checking and Information Sharing Protocol for financial advisers, which has been adopted by the seven financial advice banks and AMP Group.<sup>27</sup>

The participant banks continue to see a number of challenges posed in the operationalisation of the Conduct Background Check Protocol, including some stakeholder concerns as well as making sure systems, processes and human resources are in place to capture the information required by the Protocol.

### *Initiative 5: Strengthening the commitment to customers in the Code of Banking Practice*

In Report 3 it was noted that of the 21 participating banks, six banks<sup>28</sup> were not signatories to the current Code of Banking Practice, and it would be desirable for these non-signatories to reassess their position in respect to the adoption of the Code. It is pleasing to report that all of the participating banks that are not current signatories have committed to at least revisiting their position in relation to adoption of the new Code.

With the release of the findings of the independent review of the Code of Banking Practice, including 99 recommendations for change, some participant banks continue to have concerns about the short period of time required to redraft the Code, albeit acknowledging that subsequent adoption of the new Code by individual banks will extend beyond December 2017. That said, the participant banks have advised that they continue to actively contribute to the ABA's working group and develop robust project plans to assist timely implementation.

Mr Khoury, as part of his review, drew a distinction to the importance of a Code as "the difference between legislative obligation – an imposition by the community on the banks, and a voluntary code – a promise by the banks to the community". Customer service charters or similar value statements that each bank generally has in place set the tone for the organisation, its commitment to customers, and assists in meeting the promise of the banks. Some of the banks are also seeking to extend the focus to organisational culture, and initiatives that they could put in place to reinforce, amongst other things, the stronger focus on customer service.

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<sup>27</sup> Refer to <http://www.bankers.asn.au/financial-advice>

<sup>28</sup> ABA member banks which offer retail products and services that are not subscribing banks are Bank Australia, Defence Bank, Macquarie Bank, ME Bank, MyState and Qudos. It should be noted that a number of these member banks are recent ABA members and formerly credit unions. The Community Owned Banking Association also has a code.

Case Study E from ING Direct demonstrates the linkage of customer centric values and alignment to employee behaviours.

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### ***Case Study E: The Orange Code***

The Orange Code (OC) articulates the values and behaviours that help ING to achieve its purpose as a Bank - globally and locally. It is a set of standards that all employees in its global network are measured against embedded in all of the Bank's policies and is a key component of the Performance Management System.

The OC relates to the 'how' and the behaviours expected, rather than the 'what', to ensure sustainability of performance and getting the right behaviours over the long term. ING employees are generally ineligible to receive variable and fixed remuneration components where the OC is not met. There is a validation process for such cases.

The OC is the sum of two parts:

1. ING Values - the non-negotiable promises ING makes to the world. These are the principles the Bank sticks to - no matter what.
  - We are honest
  - We are prudent
  - We are responsible
2. ING Behaviours – these underscore the values, setting out ING's "way of being" making the Bank different from the rest. These are the commitments ING staff make to each other and provide the standards by which performance is assessed.

The ING behaviours make a number of references to ING's customers:

- You take it on and make it happen
  - Consistently honouring commitments and promises to customers
  - Servicing customers with passion and energy, and acting as a brand advocate
  - Consistently honouring commitments and promises to customers
  - Treating customers how they want to be treated
  - Being personable, showing mutual respect and empathy with customers
- You help others to be successful
  - Listening and responding to the needs of your customers
  - Balancing business and customer needs to achieve the best outcome for all
  - Respecting every customer's time
- You are always a step ahead
  - Empowering our customers by giving them options and the freedom to choose
  - Understanding customer needs, anticipating customer needs and providing solutions

The OC is the embodiment of ING's customer service charter and the basis for the Bank's employees conduct and behaviour.

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Straightforward expressions of the bank's values and behaviours, such as in the case study above, are an important way of communicating with all employees the expectations of the organisation and its commitments to customers.

### ***Initiative 6: Supporting ASIC as a strong regulator***

Many of the participant banks are continuing to contribute to Treasury's consultations on the new industry funding model and the reviews of ASIC. Additionally, banks are engaging in dialogue with the regulator itself. At this stage there is limited additional input required from the participant banks, noting that the Taskforce consultation paper on breach reporting has just been published and the draft regulations on the new funding model are due for consultation later this month.

Participating banks await the outcomes of these consultations and the findings of the various reviews before considering any implementation actions.

### 3.3 Concluding remarks

Participant banks continue to make good progress in implementing measures under each of the initiatives, moving ahead of industry-level positions in some cases and remaining cognisant of the evolving regulatory and political environment.

Consultations, in this past quarter, with a range of bank Chief Executive Officers have shown a high level of commitment to seeing the industry initiatives delivered because they are good for customers and also good for business.

A number of significant measures have been implemented during the quarter, including the customer advocate by all but two banks, whistleblower protections by the major banks and some smaller banks as well as initial changes to the remuneration structures relating to product sales commissions and product based payments in some banks. In light of the recently released Sedgwick Review, all banks are expected to review their remuneration policies and practices. The ABA has also agreed to provide further guidance to smaller banks to assist in the further implementation of their customer advocate function.

The banks remain alert to the significant amount of work that still needs to be done, particularly as the demands of progressing the initiatives shift from industry-level milestones to individual bank-level milestones and implementation of new practices and other changes in each bank. It is encouraging in my discussions with bank Chief Executive Officers to see that they remain committed to delivering the package of initiatives, and working with the ABA to progress the reforms.

Some participant banks have expressed concerns with implementation timeframes, but equally are aware of the significant and ongoing public scrutiny of banks and impatience by the community in seeing the improved focus on customers. This is a challenge for the banks in managing expectations and delivering changes which are well considered and implemented in a timely manner.

Twelve months into the industry's package of initiatives, it is clear that many in the community still need to be persuaded about the intent of the banks to make real change and move the dial on protecting consumer interests, increasing transparency and accountability, and ultimately building trust and confidence in banks. The continued focus by participant banks on working with the ABA and government to progress measures and implement tangible improvements will be important, as will committing to performance indicators that demonstrate the effectiveness of the package of initiatives.

Positively though, real progress is evident in the development of the various measures and in the attitudes of individual banks in progressing changes in bank policies and approaches. An illustration of the willingness of individual banks to consider their position on the reform measures is that all of the participating banks that are not current signatories to the Code having committed to at least reassessing their position in relation to adoption of the new Code. Further I have been advised that other banks have accelerated implementation of some of the measures ahead of the timeline proposed in the implementation plan.

The bank Chief Executive Officers continue to play a vital role in not only publicly promoting the good work being undertaken by their individual institutions, but also supporting the steps being taken by the industry as a whole, as the industry moves into a critical phase in making the changes required to win back community trust.

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# Appendix A

# Implementation plan as at 21 April 2017

Initiative	Objective	Measures / Implementation Steps	Implementation Phases <sup>(1)</sup>			Summary Deliverable <sup>(1)</sup>	Milestone Step <sup>(1)</sup>	Primary Responsibility
			Planning	Agreement of principles	Complete implementation			
1	Strengthen alignment of remuneration and incentives and customer outcomes	1.1	Immediately establish an independent review of product sales commissions and product based payments, with a view to removing or changing them where they could lead to poor customer outcomes	Jul-16 	Mar-17 	Mar-17 	Independent review report on remuneration (*Timing contingent on ASIC review on mortgage broking)	a) Establishment of independent review Reviewer b) Assessment of information gathered and submissions received Reviewer c) Preparation of draft report and engagement with stakeholders Reviewer d) Publication of final report Reviewer
		1.2	Each bank commits to ensure it has overarching principles on remuneration and incentives to support good customer outcomes and sound banking practices	Apr -17 	Aug-17 	Dec-17 	Individual bank policies on remuneration and incentives; informed by the independent review (*Changes and communication of changes and how they support good customer outcomes and sound banking practices may require additional time due to potential impact on agreements/contracts and alignment with performance reviews and other workplace-related matters)	a) Analysis of existing remuneration structures and practices and creation of initial framework ABA/Industry b) Preparation of draft guiding principles to assist each bank meet the commitment ABA/Industry c) Consultation and stakeholder engagement ABA/Industry d) Finalisation of guiding principles ABA/Industry e) Identification and development of overarching principles by each bank Banks
		1.3	Work with regulators to implement changes and, where necessary, seek regulatory approval and legislative reform	Apr-17 	Jun-17 	Dec-17 	Potential regulatory approvals (egg authorisation, legislative reform) (*Timing contingent on preparation of report by independent reviewer and any regulatory approval processes required as well as legal requirements to be satisfied. Any necessary changes will need to be made across various agreements/ contracts and that may require further time)	a) Identification of responses and actions needed to remove or change product sales commissions and product based payments which could lead to poor customer outcomes ABA/Industry b) Preparation of any documentation necessary to make any changes (such as submissions or applications for regulatory approvals) ABA/Industry c) Regulatory approvals (where necessary) provided for banks to be able to make changes Regulators d) Banks change remuneration structures (where necessary) and communication of how and why these changes have been made Banks

**Legend:**



R1 R2 R3 R4  
Reported status

**Status key:**

- Completed
- On target
- On alert for slippage against plan
- Adjustment required to original plan
- Next phase reliant on government

Implementation plan as at 21 April 2017

Initiative	Objective	Measures / Implementation Steps	Implementation Phases <sup>(1)</sup>			Summary Deliverable <sup>(1)</sup>	Milestone Step <sup>(1)</sup>	Primary Responsibility
			Planning	Agreement of principles	Complete implementation			
2 Making it easier for customers when things go wrong	Ensure retail and small business customers have a voice and problems are resolved more efficiently  Ensure complaints are escalated and responded to within specified timeframes	2.1 Enhance the existing complaints handling processes by establishing a dedicated customer advocate in each bank to ensure retail and small business customers have a voice; and customer complaints directly relating to the bank, and the third parties appointed by the bank, are appropriately escalated and responded to within specified timeframes	Jul16 	Dec-16 	Jun-17 	Industry position on the role of a customer advocate  Appointment of a customer advocate in each bank	a) Assessment of customer advocate function and creation of initial framework b) Preparation of draft guiding principles to assist each bank meet the commitment c) Consultation and stakeholder engagement d) Finalisation of guiding principles e) Implementation of customer advocate function in each bank	ABA/Industry  ABA/Industry  ABA/Industry  Banks
		2.2 Support a broadening of external dispute resolution (EDR) schemes. Support the Government's announcement to conduct a review into EDR, including the Financial Ombudsman Service (FOS) conducting a review of its terms of reference with a view to increasing eligibility thresholds for retail and small business customers	Sep-16 	Dec-16 	Jun-17 <sup>(2)</sup> 	Industry position on operation of preferred EDR system completed for contribution to government review (*Timing of review to be determined by the government; potential impact on Code review)	a) Preparation of industry position on EDR b) Participation in government review of EDR c) Announcement by government (or relevant regulator) of findings of review and recommendations d) Adoption of industry position in new EDR system	ABA/Industry ABA/Industry Government ABA/Industry
		2.3 Work with ASIC to expand its current review of customer remediation programs from personal advice to all financial advice and products	Jul-16 	Jul-16 	Sep-16 	ASIC regulatory guidance on client remediation programs issued (*Timing of regulatory guidance to be determined by ASIC)	a) Revised submission to ASIC on consultation paper on client remediation b) Adoption of industry position in new regulatory guidance c) Implementation of any changes to ensure banks' systems and practices support client remediation programs, including better record keeping	ABA Regulators Banks
		2.4 Evaluate establishment of an industry wide, mandatory last resort compensation scheme covering financial advisers. Support a prospective scheme being introduced where consumers of financial products who receive a FOS determination in their favour would have access to capped compensation where an	Sep-16 	Mar-17 	Sep-17 <sup>(2)</sup> 	Industry position and model for last resort compensation scheme settled	a) Identification of possible model for a last resort compensation scheme b) Preparation of industry position on a last resort compensation scheme c) Coordination of engagement and consensus building across stakeholders d) Consensus support for implementation of scheme	ABA/Industry ABA/Industry ABA/Industry ABA

Legend:



Status key:

-  Completed
-  On target
-  On alert for slippage against plan
-  Adjustment required to original plan
-  Next phase reliant on government

Implementation plan as at 21 April 2017

Initiative	Objective	Measures / Implementation Steps	Implementation Phases <sup>(1)</sup>			Summary Deliverable <sup>(1)</sup>	Milestone Step <sup>(1)</sup>	Primary Responsibility		
			Planning	Agreement of principles	Complete implementation					
		adviser's professional indemnity insurance is insufficient to meet claims					e) Preparation of consensus submission to the Government f) Possible introduction of legislation to implement a scheme	ABA Government		
3	Reaffirming our support for employees who 'blow the whistle' on inappropriate conduct	Promote highest standards of whistle blower protections and ensure robust and trusted framework for whistleblowing	3.1	Ensure the highest standards of whistleblower protections by ensuring there is a robust and trusted framework for escalating concerns. Standardise the protection of whistle-blowers across banks, including independent support and protection against financial disadvantage.	Jul-16	Dec-16	Jun-17	Industry position on whistleblower protections  Implementation of whistleblower framework aligned with industry principles in each bank	a) Assessment of whistleblowing policies and practices and creation of initial framework b) Preparation of draft guiding principles to assist each bank meet the commitment c) Consultation and stakeholder engagement d) Publication of guiding principles e) Bank implementation of highest standard of whistleblowing policies	ABA/Industry ABA/Industry ABA/Industry ABA Banks
4	Removing individuals from the industry for poor conduct	Demonstrate banks' commitment to improve practice and implement an industry register or mechanism to identify poor conduct across all bank employees, including customer facing and non-customer facing roles, and promote good conduct and ethical behaviour. <sup>(2)</sup>	4.1	Implement an industry register or mechanism to identify individuals who have breached the relevant law, codes of conduct, standards or policies, so that employers can make their own informed recruitment decisions.	Sep-16	Jun-17	Dec-17 <sup>(3)</sup>	Completion of position paper on an industry register  Implementation of Conduct Background Check Protocol <sup>(2)</sup>  Industry register established (*Contingent on introduction of supporting statutory underpinning by Government) <sup>(2)</sup>	a) Identification of possible model for industry register b) Preparation of industry position c) Coordination of engagement and consensus building across stakeholders d) Implementation of Conduct Background Check Protocol (from 1 July 2017 (major banks) and 1 October 2017 (non major banks)) <sup>(2)</sup> e) Demonstrate industry engagement with Federal Government in support of a statutory register (end Dec 2017) <sup>(2)</sup> f) Implement statutory register if introduced by Government <sup>(2)</sup>	ABA/Industry ABA/Industry ABA/Industry ABA/Industry ABA/Industry

**Legend:**  
  
R1 R2 R3 R4  
Reported status  
**Status key:**  
> Completed  
> On target  
> On alert for slippage against plan  
> Adjustment required to original plan  
> Next phase reliance on government

Implementation plan as at 21 April 2017

Initiative	Objective	Measures / Implementation Steps	Implementation Phases <sup>(1)</sup>			Summary Deliverable <sup>(1)</sup>	Milestone Step <sup>(1)</sup>	Primary Responsibility
			Planning	Agreement of principles	Complete implementation			
5	Strengthening our commitment to customers in the Code of Banking Practice	5.1	Complete a review of the Code of Banking Practice by the end of the year.	Jul-16	Dec-16	Dec-16	Independent review report on the Code of Banking Practice	a) Establishment of independent review Reviewer b) Assessment of information gathered and submissions received Reviewer c) Preparation of draft report and engagement with stakeholders Reviewer d) Publication of final report Reviewer
		5.2	Work with banks to implement changes to improve the operation of the Code of Banking Practice within their individual organisations	Jun-17 <sup>(2)</sup>	TBC	TBC	New Code of Banking Practice (*Contingent on EDR review by government; transitional period and subsequent implementation of changes dependent on the extent of the changes)	a) Identification of responses and actions needed to improve the operation and performance of the Code ABA/Industry b) Preparation of any changes to the Code and associated materials ABA/Industry c) Publication of the new Code ABA d) Banks make changes to reflect the standards contained in the new Code Banks
6	Supporting ASIC as a strong regulator	6.1	Work with the Government and ASIC to implement a 'user pays' industry funding model to enhance the ability for ASIC to investigate matters brought to its attention	Aug-16	Oct-16	Jun-17 <sup>(2)</sup>	Industry agreement on funding model (*Implementation will be subject to consultation with an agreement by government)	a) Participation in consultation on users pays funding model ABA/Industry b) Consideration of industry position in new model ABA/Industry c) Implementation of an industry funding model which is accountable, transparent and encourages better and more efficient regulatory activities Government
		6.2	Work with ASIC to enhance the current breach reporting framework	Aug-16	Oct-16	Dec-16 <sup>(2)</sup>	Industry position on breach reporting regime completed for contribution to ASIC consultation (*Timing of review to be determined by government)	a) Preparation of industry position on breach reporting regime ABA/Industry b) Participation in Government/ASIC review of breach reporting ABA/Industry c) Adoption of industry position in revised regulatory guidance Government d) Banks implementation of changes to systems and practices to support new breach reporting system Banks

Legend:



R1 R2 R3 R4  
Reported status

Status key:

- > Completed
- > On target
- > On alert for slippage against plan
- > Adjustment required to original plan
- > Next phase reliant on government

Footnotes:

1. Assessment based on advice from the ABA and/or entity/entities with primary responsibility for implementation
2. These items have been revised from the original implementation plan as described in Section 2.2
3. Complete implementation of the measure still requires further consultation with key stakeholders and support for appropriate statutory underpinnings.

# Appendix B

## Industry governance arrangements

The composition and scope of each element of the industry governance arrangements, represented in Figure 1 of Chapter 1, are:

- **ABA Council:** there are 16 members of the ABA Council. The Council is led by the Chairman, Mr Andrew Thorburn, National Australia Bank Group Chief Executive, and the Deputy Chairman, Mr Mike Hirst, Managing Director, Bendigo and Adelaide Bank. The ABA Council provides guidance and leadership to the ABA on policy issues which affect the banking and financial sector;
- **Industry Strategy Working Group (ISWG):** a delegated committee of the ABA Council that is responsible for progressing the reforms and reporting on progress to the ABA Council. The ISWG comprises senior executives from the banks, each of whom has a direct reporting line to the bank Chief Executive Officers;
- **Banking Industry Program Coordinators:** a committee on which participating banks are represented that is responsible for reporting to the ISWG, and co-ordinating efforts across the six initiatives at the industry-level and within individual banks. Coordinators are responsible for co-ordinating resources, identifying synergies across the initiatives, and streamlining industry efforts. The role of this group also includes the early identification of matters particular to their individual banks, or group of banks, which have the potential to delay or obstruct the successful implementation of the initiatives; and
- **Working group committees for each of the initiatives:** comprising senior representatives from the banks who are heads of businesses, technical and legal specialists, and other relevant representatives, including consumer and regulatory experts. The working groups have been established with a specific mission, defined participation and work activities, and detailed work program and are tasked with developing industry positions and managing technical input.

Additionally, the ABA has implemented other supporting arrangements to provide appropriate governance and program management, including:

- **ABA Program Manager** has been appointed reporting to the ABA's Executive Director – Retail Policy. The Program Manager's role is to work with the ABA team and the banks to manage overall implementation, including ensuring there are appropriate project management processes across the program and each of the initiatives.
- **Quarterly key stakeholder meetings** have been established with the regulators and consumer stakeholders. These meetings are in addition to meetings and discussions on each of the initiatives, and are intended to ensure overall progress and engagement.
- **Fortnightly open forums** are held, in recognition of the varying level of program coordination and resources among banks, to share information on any concerns or implementation issues, particularly from the smaller banks.

# Appendix C

## Participant banks

The following member banks of the ABA have confirmed their participation in the package of initiatives:

- AMP Bank<sup>29</sup>
- Arab Bank Australia
- Australia and New Zealand Banking Group
- Bank Australia
- Bank of Queensland
- Bank of Sydney
- Bendigo and Adelaide Bank
- Citigroup Australia
- Commonwealth Bank of Australia
- Defence Bank
- HSBC
- ING Direct
- Macquarie Bank
- ME Bank
- MyState Bank
- National Australia Bank
- Qudos Bank
- Rabobank
- Rural Bank
- Suncorp Group
- Westpac Banking Corporation

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<sup>29</sup> AMP Bank has advised its commitment to the package of initiatives is subject to relevance to the bank and alignment with AMP Group.

# Appendix D

## Stakeholder consultations undertaken to date

Discussions were held or input was provided by the following individuals and organisations in preparation of this report:

***Banks:***

- AMP Bank
- Arab Bank Australia
- Australia and New Zealand Banking Group
- Bank Australia
- Bank of Queensland
- Bank of Sydney
- Bendigo and Adelaide Bank
- Citigroup Australia
- Commonwealth Bank of Australia
- Defence Bank
- HSBC
- ING Direct
- Macquarie Bank
- ME Bank
- MyState Bank
- National Australia Bank
- Qudos Bank
- Rabobank
- Suncorp Group
- Westpac Banking Corporation

***Other stakeholders:***

- Australian Bankers' Association
- Australian Securities and Investments Commission
- Australian Small Business and Family Enterprise Ombudsman
- Brotherhood of Saint Laurence
- Choice
- Consumer Action Law Centre
- Financial Counselling Australia
- Financial Ombudsman Service
- Financial Rights Legal Centre
- National Seniors Australia
- The Banking and Finance Oath
- The Ethics Centre

***Independent reviewers:***

- Mr Philip Khoury
- Mr Stephen Sedgwick AO

# Appendix E

# Summary of external reviews

Body	Review title	Consultation close	Findings due	Initiatives potentially impacted					
				1	2	3	4	5	6
House of Representatives Standing Committee on Economics	Review of the Four Major Banks ('Coleman Inquiry')	Feb/Mar 2017	Ongoing	x	x	x	x	x	x
Parliamentary Joint Committee on Corporations and Financial Services	Whistleblower protections in the corporate, public and not-for-profit sectors	Feb 2017	Jun 2017			x			
Senate Economic References Committee	Consumer protection in the banking, insurance and financial sector	Mar 2017	Jun 2017			x			
Senate Select Committee on Lending to Primary Production Customers	Regulation and practices of financial institutions in relation to primary production industries	May 2017	October 2017			x			
ASBFEO	Small Business Loans Inquiry ('Carnell Inquiry')	Dec 2016	Completed			x			x
ASIC	Review of mortgage brokers remuneration structures	Dec 2016	Completed			x			
Treasury	Review of the financial system external dispute resolution framework ('Ramsay Review')	Oct 2016	Jun 2017			x			x
Treasury	ASIC Enforcement Review								x
Treasury	ASIC Industry Funding Model								x
Treasury	Tax and corporate whistleblowing	Feb 2017	Ongoing			x			
Treasury	Product design and distribution obligation and Product intervention power	Mar 2017	Ongoing						x
Treasury	ASIC review of mortgage broker remuneration	Jun 2017	Ongoing			x			

Note: This table includes the major reviews impacting the banking industry package of initiatives. Other reviews are underway by ASIC, APRA and the Government that may also have some effect on the package of initiatives.

# Appendix F

## Glossary and abbreviations

Term	Definition
ABA	Australian Bankers' Association
APRA	Australian Prudential Regulation Authority
ASBFEO	Australian Small Business and Family Enterprise Ombudsman
ASIC	Australian Securities and Investments Commission
Banking industry	Banks and banking industry associations
Banking system	Regulators, industry bodies, banks, laws and regulations
CALC	Consumer Action Law Centre
Carnell Inquiry	Small Business Loans Inquiry being undertaken by the ASBFEO, Ms Kate Carnell AO, into the laws and practices governing financial lending to small business
COSBOA	Council of Small Business of Australia
EDR	External Dispute Resolution
FOS	Financial Ombudsman Service
FSU	Finance Sector Union
Implementation plan	Detailed program of work, including provisional timetables for each phase of the project, planned to address each initiative
ISWG	Industry Strategy Working Group. A committee of senior bank representatives convened by the ABA to oversee implementation of the package of initiatives
Major banks	ANZ, CBA, NAB and Westpac
Package of initiatives	Six programs of work announced by the ABA on 21 April 2016
Measures	Actions specified to achieve the objectives of ABA's package of initiatives
Milestones	Interim deliverables required to be achieved in order to implement each measure
Performance indicators	Key performance indicators to assess the effectiveness of measures in meeting the objectives of the initiatives. Referred to as Success Indicators (Outcome Indicators) in Report 1 and Report 2.
Ramsay Review	Treasury's 'Review of the financial system external dispute resolution framework'

