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## **ATTACHMENT: TURNBULL GOVERNMENT ACTION IN BANKING AND FINANCIAL SERVICES**

1. Action to Improve Professional Standards
2. Action to Reduce Consumer Costs
3. Action to Strengthen the Stability of the Financial System
4. Action to Create Competition That Helps Consumers

### **Action to Improve Professional Standards**

- **Professional standards for financial advisers:** raise the education, training and ethical standards of financial advisers. Legislation enacted in February 2017 and a new standards body, the Financial Adviser Standards and Ethics Authority (FASEA), has been established. The new education standards come into force from 1 January 2019 and from this date all new advisers will be required to pass an independent exam.
- **External Dispute Resolution Review (Ramsay Review):** the Government commissioned the Ramsay Review to make recommendations to improve the external dispute resolution framework. The Government released the final report on 9 May and accepted all 11 recommendations, including the establishment of a one-stop shop for all financial disputes – the Australian Financial Complaints Authority – by 1 July 2018.
- **ASIC capability:** the Government is strengthening ASIC's capability through adopting the recommendations of the ASIC capability review, providing additional funding (the April 2016 ASIC package provided \$121 million over 4 years) and announcing additional powers.
- **ASIC Enforcement Review Taskforce:** the Government has commissioned a detailed assessment of the suitability of ASIC's existing enforcement toolkit including breach reporting, corporate penalties and industry codes in the financial sector. The taskforce is due to report to Government by the end of the year.
- Required the **major banks' CEOs** to regularly appear before the House of Representatives Standing Committee on Economics to explain pricing decisions and to discuss their progress in responding to various issues raised in previous Parliamentary inquiries.

### **Announced but not yet enacted:**

- **Banking Executive Accountability Regime (BEAR):** the Government has introduced legislation to enact the BEAR to increase accountability of senior executives and directors of ADIs, including all banks. The Government consulted on the proposed approach to implementation, including a heightened standard of behaviour for ADIs and senior executives and directors, in line with community expectations. Where these expectations are not met, APRA will be empowered to more easily remove or disqualify individuals, ensure that ADIs' remuneration policies result in financial consequences for individuals, and seek substantial fines for ADIs. A registration regime for senior executives and directors of ADIs will also apply.
- **Internal dispute resolution:** to increase accountability, the Government will legislate to require financial firms to report to the Australian Securities and Investments

Commission (ASIC) on internal dispute resolution outcomes. Legislation was introduced on 14 September 2017.

- **Strengthen product issuer and distributor accountability:** introduce a targeted and principles-based product design and distribution obligation that will require issuers of financial products to take steps to ensure products are reaching their intended target market. (to be legislated)
- **Introduce a product intervention power for ASIC:** introduce a proactive product intervention power for ASIC to enable them to take action such as banning or restricting the distribution of a financial product where ASIC identifies the risk of significant consumer detriment. (to be legislated)
- **Whistle-blower protections:** new arrangements will be introduced to protect individuals who disclose information about tax misconduct to the ATO and enhance protections for whistle-blowers in the corporate sector. (to be legislated)
- **Beneficial ownership of companies:** The Government has consulted on arrangements to improve the transparency of beneficial ownership information to assist relevant authorities to tackle illicit activities including tax evasion, money laundering, bribery, corruption and terrorism financing. Government is considering what action may be needed to increase the transparency of beneficial ownership.

### Action to Reduce Consumer Costs

- **Surcharging regulation:** banned excessive card payment surcharging through new legislation enacted in February 2016 and the RBA's new surcharging standards in May 2016. The ban applied to large merchants from 1 September 2016 and has applied to smaller merchants since 1 September 2017.
- **Interchange fee regulation:** improved interchange fee card payment regulation through new RBA standards, commenced on 1 July 2017. There is now a 0.8 per cent ceiling on credit card interchange fees and the debit card (average) benchmark fell to 8 cents.
- **Unclaimed Monies:** return the time definition of unclaimed bank accounts and life insurance policies to being inactive after seven years and better protect personal details, as recommended by the Financial System Inquiry. Legislation was enacted in December 2015.
- **Life insurance remuneration:** life insurance commissions initially capped at 80 per cent and transitioning down to 60 per cent after two years with the potential to clawback commissions if the consumer leaves the product. Legislation enacted in February 2017 and commission caps apply from 1 January 2018.

### To be enacted:

- **Introducing an Open Banking regime:** the Government has commissioned a review to recommend the best approach to implement an Open Banking regime in Australia, with the report due by the end of 2017.
- The Turnbull Government will legislate for a **mandatory comprehensive credit reporting regime** to come into effect by 1 July 2018, to ensure good customers are rewarded with better deals.

- **Small Amount Credit Contracts (SACCs) Review:** the Government will introduce legislation to increase protections for consumers of Small Amount Credit Contracts and leases of household goods.
- **Credit card reforms:** the Government will legislate to improve consumer outcomes and enhance competition in the credit card market. Legislation was introduced into Parliament in October 2017.

### Action to Strengthen the Stability of the Financial System

- **Bank capital levels:** in response to the Government commissioned Financial System Inquiry, APRA is ensuring that Australian authorised deposit-taking institutions (ADIs) have capital ratios that are 'unquestionably strong', protecting the stability of Australia's financial system. APRA has also adjusted mortgage risk weights required for our larger, internal ratings based, banks. This raised their capital levels and made the playing field more even for the smaller standardised risk-weight institutions.
- **Terrorism insurance reforms:** the Government has responded to all 10 recommendations of the 2015 review of the Terrorism Insurance Act, including: increasing the retention levels for insurers; expanding the coverage of the reinsurance scheme to certain mixed-use and high-value residential buildings; and clarifying that losses attributable to terrorism attacks that use chemical or biological means are covered.
- Introduced a **major bank levy** on banks with liabilities of at least \$100 billion, raising around \$1.5 billion per year – a fair additional contribution from our major banks in recognition that the concentration of the banks poses a structural risk to the economy and provides a more level playing field for smaller banks and non-bank competitors.

### Announced but not yet enacted:

- **Crisis management toolkit:** the Government will strengthen the crisis management powers of financial regulators to ensure stability now and into the future. Legislation was introduced into Parliament in October 2017.
- **Competition in cash equities:** legislate to provide the regulators (ASIC, RBA, ACCC) with rulemaking and arbitration powers to enforce regulatory expectations on ASX and minimum conditions for competition in clearing and settlement.
- **Regulation of payments systems, including digital currency:** ensure the RBA and ASIC have the power to regulate new payment systems, including digital currencies, as they emerge.
- **Regulatory reform of financial benchmarks:** ensure significant financial benchmarks are appropriately regulated in Australia in line with agreed international standards and make manipulation of benchmarks subject to appropriate enforcement and penalties. Legislation is currently before the Parliament.
- **Strengthening APRA's ability to address financial stability risks:** the Government will provide APRA with new a rulemaking power over the lending activities non-ADI lenders. This is a reserve power to be used by APRA if it determines that these activities are materially contributing to financial stability risks. Rules made by APRA will be enforced through directions and appropriate penalties. Legislation was introduced in October.

- **ASIC industry funding:** to increase transparency and accountability, the Government will consult on proposals to introduce cost-reflective fees for ASIC-related applications, compliance reviews and changes to market rules during 2017-18.

## Action to Create Competition That Helps Consumers

- **Crowd-sourced equity funding (public):** Equity funding from the crowd for public companies commenced on 29 September 2017.
- **Regulatory sandbox introduction:** ASIC launched its regulatory sandbox on 15 December 2016, permitting eligible businesses to test financial and credit services without facing the full requirements of regulatory licensing by ASIC. The Government will introduce legislation to expand the sandbox.
- **Productivity Commission (PC) review of data:** the Government tasked the PC to review the costs and benefits of increasing access to and improving the use of data across the whole economy, taking into account community concerns about appropriate privacy protection. The PC final report was released on 8 May 2017.
- **ASIC industry funding:** commenced industry funding for ASIC on 1 July 2017 to increase transparency and accountability.
- **Client monies:** ensure retail client monies held by entities in relation to over the counter derivatives are adequately protected. Legislation was enacted in December 2016.
- **Competition reviews:** the Government has tasked the PC to review the state of competition in the financial system. The Government has also provided \$13.2 million over four years to the ACCC to establish a dedicated unit to undertake regular inquiries into specific financial system competition issues. The ACCC was provided with a further \$7.9 million funding in order to undertake a three year inquiry, commencing 1 July 2017, into the supply of residential building, contents and strata insurance in northern Australia.
- **Review of the legal frameworks for mutual and cooperative entities:** In November the Government accepted all recommendations of a review led by Greg Hammond into the legislation and Corporations Act treatment of cooperative and mutual enterprises. The recommendations will increase competition and consumer choice in the banking and financial services sector.
- **NISA Insolvency reform:** improve our insolvency regime to provide additional flexibility for businesses in financial difficulty. Legislation received Royal Assent on 18 September 2017, which provides a safe harbour for directors from personal liability for insolvent trading and from 1 July 2018 places a stay on the operation of ipso facto clauses.

### Announced but not yet enacted:

- **Reducing barriers for new banks:** the Government and APRA will reduce barriers for innovative new entrants into the banking sector by addressing current obstacles: the limitation on closely-held ownership in the Financial Sector (Shareholdings) Act 1998 (FSSA); the prohibition on the use of the word 'bank' by certain ADIs; and burdensome bank licensing processes. (legislation in Parliament)

- **Crowd-sourced equity funding for proprietary companies:** the Government introduced legislation on 14 September 2017 to expand access to crowd-sourced equity funding to proprietary companies.

**Coalition Government commissioned reviews to determine how to improve the banking financial services sector.**

- **Murray Financial System Inquiry**, which was a full inquiry across the financial system. The Government is implementing the key recommendations. Labor opposed this inquiry.
- **Ramsay Review Part 1** which recommended the establishment of the Australian Financial Complaints Authority;
- **Ramsay Review Part 2** has recently provided the Government with recommendations on the merits and design of a **last resort compensation scheme** and the benefits of providing **access to redress for past cases**. The report is currently being considered by the Government;
- A review into the small business lending practices of the banks (**Carnell Review**). The Government is monitoring industry implementation of these recommendations;
- Reviews by ASIC of the specific allegations made against **CommInsure** (released 23 March 2017) and the broader **life insurance sector** (released 12 October 2016);
- An independent review to recommend the best approach to implement the **open banking regime** in Australia. The review is to report by the end of 2017.
- Conducted a Treasury consultation process “Credit cards: improving consumer outcomes and enhancing competition”.