

Group Governance & Legal
800 Bourke Street
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18 May 2018

Simon Sherwood
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Level 34, 600 Bourke Street, Melbourne

By hand and by email (letter only): FSRCSolicitor@royalcommission.gov.au

Dear Mr Sherwood

ROYAL COMMISSION INTO MISCONDUCT IN THE BANKING, SUPERANNUATION AND FINANCIAL SERVICES INDUSTRY

We refer to the Commission's letter dated 11 May 2018 which:

- noted that further hearings of the Commission will include consideration of lending for agribusiness purposes;
- referred to NAB's responses of 29 January 2018 and 13 February 2018 and asked whether there was any feature of those responses which related to agribusiness lending, or whether NAB wished to add to its responses specifically in relation to agribusiness lending; and
- requested any such response by 18 May 2018.

In preparing this response, we have interpreted the term 'agribusiness' having regard to the meaning given to that term within NAB's business. NAB's agribusiness segment sits within the Specialised Banking division of our Business Bank, and services a wide range of customers involved in both primary production (which may be referred to as "Farm Gate" customers, including farmers and producers), and other areas of the agricultural industry (which may be referred to as "Post Farm Gate", including processors of primary products). NAB's agribusiness segment also provides banking services to some industry bodies, which might consist of a mixture of farmers and agricultural service providers. The term **agribusiness lending** is used in this letter to refer to lending in NAB's agribusiness segment.

NAB's 29 January 2018 Response

By its letter dated 15 December 2017, the Commission asked NAB and its associated entities to identify any conduct by those entities which constituted misconduct or conduct falling below community standards in the period between 1 January 2008 and 15 December 2017.

NAB's response, delivered on 29 January 2018 (**29 January 2018 response**), was, as stated at page 4 (section 2.1) the product of a substantial documentary review covering the period from 1 January 2008 to 15 December 2017. NAB explained that, having regard to the scale of the Group's¹ business, the review had focussed on NAB's significant litigation reports;² reported Australian Court judgments; the Group's breach registers and underlying reports to ASIC, APRA and AUSTRAC; adverse Financial Ombudsman Service (**FOS**) Determinations relating to "systemic issues";³ significant breaches of the Code of Banking Practice reported in NAB's Annual Statements of Compliance; and reports to the Australian Information Commissioner.

The following entry in NAB's 29 January 2018 response contain responses referable to agribusiness lending:

- Misconduct - Section 3.11 Item 1: Code of Banking Practice issues – Other breaches of the Code of Banking Practice.

This entry is re-extracted for convenience in **Annexure A**.

13 February 2018 Response and the subsequent Responses of 21 February 2018

On 2 February 2018, the Commission sought further information in relation to identified misconduct and/or possible misconduct still under investigation of which NAB became aware at any time since 1 January 2013. The 2 February request sought responses to 8 specific questions in respect of that misconduct or possible misconduct.

On 13 February 2018, NAB wrote to the Commission and:

- identified that⁴ NAB's estimate of the quickest possible timeframes to provide a *comprehensive* response to the 8 specific questions for all of the misconduct identified in NAB's 29 January 2018 response were:
 - for entries 10, 13, 15, 19, 20, 21, 22, 27, 28, 29, 30, 35, 36 and 37 in the 29 January 2018 response: 28 February 2018; and
 - for the balance of the entries in 29 January 2018 response which relate to conduct which occurred since 1 January 2013 (and any other matters identified): 13 April 2018.
- explained that the above mentioned timeframes were based on the identification, extraction/retrieval and review required as outlined in section C of the 13 February 2018 letter including, for example:
 - the review of non-significant litigation reports and customer files; and
 - the review of materials relating to non-significant breach events.
- set out, in Section C of the letter, details of the various repositories of information potentially responsive

¹ The Group is defined in NAB's 29 January 2018 response to include NAB Limited and its presently controlled entities.

² As set out in footnote 4 of the 29 January 2018 response, these reports record actual or potential claims against the Group in excess of AUD\$250,000 for the period 1 January 2008 to December 2016 and in excess of AUD\$1,000,000 for the period from 1 January 2017 to December 2017.

³ As set out in footnote 5 of the 29 January 2018 response, under ASIC Regulatory Guide 139, FOS is obliged to identify, resolve and report on systemic issues and serious misconduct. A systemic issue is defined in FOS's Terms of Reference as an issue that will have an effect on people beyond the parties to a dispute.

⁴ Paragraph 9 of the 13 February 2018 letter.

to the Commission's request, including NAB's internal risk management system, Risksmart.

On 14 February 2018, the Commission responded that the Commissioner may well be willing to accept the information about identified misconduct in the form of a report from the Risksmart system.

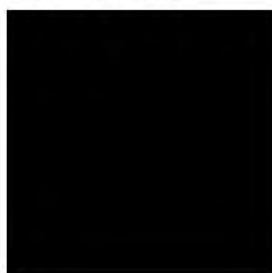
In response to the Commission's letter, NAB produced Risksmart reports for the period from 1 January 2013 in accordance with the parameters outlined in our letter dated 16 February 2018 and your email of 16 February 2018. These reports were provided to the Commission initially on 19 February 2018; due to the identification of an error in the 19 February reports, replacement reports were provided 22 February 2018 (**Full Risksmart Reports**). NAB also produced further Risksmart reports containing instances of misconduct⁵ or possible misconduct identified from a review of its Risksmart system on 21 and 22 February 2018 (**February Risksmart Extracts**). The specific events from Risksmart which are identifiable as relating to agribusiness lending are listed in **Annexure B**. NAB has also enclosed on USB spreadsheets which extract only those events in the same excel format as provided in the February Risksmart Extracts.

In the course of preparing that extract, NAB identified that a small number of entries in the February Risksmart Extracts had misaligned columns, caused by the filtering process undertaken in conducting the review for misconduct or possible misconduct that was undertaken in February 2018 and described in our letter dated 21 February 2018. We have corrected this error in the extract showing agribusiness lending entries produced today, and note that Full Risksmart Reports are not affected by the misalignment.

Conclusion

Having regard to the matters identified in NAB's 13 February 2018 letter and the time available, NAB does not otherwise wish to add to its 29 January 2018 and 21 February 2018 response, other than in the manner identified above. If, having regard to the foregoing, the Commission would benefit from the provision of further information, please let us know.

Yours faithfully



John Sharpe
General Counsel, Dispute Resolution & Regulatory Investigations

⁵ Being conduct within one of the four identified sub-paragraphs of the definition of "misconduct" in the Terms of Reference.

Annexure A

Extract from NAB Group's 29 January 2018 response in relation to misconduct:

| 3.11 Code of Banking Practice issues | | | | |
|---|--|--|---|--|
| Q1 Misconduct | Q3(a) | Q3 (b)-(d) | Q3(e)(i) | Q3(e)(ii) |
| <p>38. Other breaches of the Code of Banking Practice</p> <p>During the normal course of its business operations the Group has identified other breaches of the Code, in addition to the breaches identified above.</p> <p>These breaches are set out in:</p> <ul style="list-style-type: none"> the reports provided by FOS to ASIC regarding systemic issues relating to NAB's conduct; NAB's Annual Compliance Statements to the CCMC (which identify and summarise breaches of the Code, including descriptions of any serious breaches); and NAB's customer complaints handling records. <p>For example, the Group has identified instances where it has omitted to pay interest on amounts held in customer accounts.</p> | <p>Issues identified may be subject to review or inquiry by FOS or the CCMC.</p> | <p>Banker capability issues including application of internal policies and documentation / record keeping.</p> | <p>The Group takes the identification and prevention of breaches of the Code seriously. The Group responds to customer complaints and findings of misconduct in numerous ways depending on the issue including:</p> <ul style="list-style-type: none"> resolving the dispute directly with the customer by way of monetary payment or other resolution; or complying with the FOS and the CCMC process and any determinations made. | <p>As part of its normal business operations, the Group has in place a variety of measures designed to prevent and reduce instances of breaches of the Code, many of which have been previously identified in the table above.</p> |

Annexure B: Events identified in Risksmart reports

Entries relevant to agribusiness lending

Event numbers from 2013 Risksmart extract

| | | |
|------------|------------|------------|
| 1 834007 | 2 875937 | 3 1564826 |
| 4 1565221 | 5 1566318 | 6 1568452 |
| 7 1575157 | 8 1577081 | 9 1564018 |
| 10 1565667 | 11 1566997 | 12 1572918 |

Event numbers from 2014 Risksmart extract

| | | |
|------------|------------|------------|
| 13 1003788 | 14 1591239 | 15 1592639 |
| 16 1593568 | 17 1601160 | 18 1590445 |
| 19 1597173 | 20 1599531 | 21 1578281 |
| 22 1579016 | 23 1580884 | 24 1581883 |
| 25 1586282 | 26 1587776 | 27 1588599 |
| 28 1588658 | 29 1591371 | 30 1592196 |
| 31 1597164 | 32 1598691 | |

Event numbers from 2015 Risksmart extract

| | | |
|------------|------------|------------|
| 33 1013774 | 34 1024299 | 35 1604496 |
| 36 1604969 | 37 1605387 | 38 1606966 |
| 39 1607514 | 40 1608496 | 41 1608901 |
| 42 1609540 | 43 1610250 | 44 1610673 |
| 45 1611094 | 46 1611643 | 47 1611828 |
| 48 1611833 | 49 1612681 | 50 1613218 |
| 51 1614135 | 52 1614514 | 53 1614725 |
| 54 1615689 | 55 1618357 | 56 1620769 |
| 57 1620811 | 58 1622892 | 59 1623798 |
| 60 1623830 | 61 1623945 | 62 1623971 |
| 63 1623976 | 64 1624339 | 65 1624682 |
| 66 1624995 | 67 1625272 | 68 1625895 |

Event numbers from 2016 Risksmart extract

| | | |
|-------------|-------------|-------------|
| 69 27629000 | 70 28496813 | 71 31138393 |
| 72 31942224 | 73 32156139 | 74 33272347 |
| 75 35407643 | 76 25978081 | 77 29696056 |
| 78 32594238 | | |

Event numbers from 2017/2018 Risksmart extract

| | | |
|-------------|-------------|-------------|
| 79 36395450 | 80 36626670 | 81 41924234 |
| 82 42703542 | 83 43112419 | 84 46409139 |
| 85 38611969 | 86 47929898 | |