

SUBMISSION ON POLICY ISSUES IDENTIFIED IN THE INTERIM REPORT

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Submission for: My Self

Name of other person, business or organisation:

Do you agree to your submission being published: Yes

Do you agree to your full name being published: No

Your submission:

Good Morning

I am the Director of a Company Limited by Guarantee (A Club) and have been advised that even though we are very small compared to listed public companies we are governed by the same Corporations Act

Among other things, The Act says in relation to Directors

Section 180 and 181 of the Act requires Directors exercise their powers and discharge their duties with the **degree of care and diligence** that a reasonable person would. Exercise proper **Business Judgement** by:-

- *making decisions in good faith,*
- *making decisions for a proper purpose,*
- *not have a material personal interest,*
- *informing themselves about the subject matter and*
- *rationaly believe the judgement is in the best interests of the Company*
- *in the best interests of the Company*

note: this generally means acting in the **best interests of the Company** as an entity NOT a section of the members + the Board must **manage the company** in a way that is consistent **with the duties etc set out in the Act even if the members want or direct otherwise**

We have been advised that if, as Directors, we don't do ALL of these especially *informing ourselves about the subject matter* we risk legal action and/or being disqualified from being a Director.

the Banks did things that cost the bank, share holders and customers millions of dollars and great distress.

I have seen media reports of Directors being disqualified for much less.

The Chair of the Commonwealth Bank resigned as a result of the practices revealed by the Royal Commission. She was reported to be receiving about \$600,000 pa in directors fees. It was also reported she was on 4 or 5 other Boards. For the exercise assume she was ONLY getting \$250,000 for the other 4 - her annual earnings from Directorships was about \$1.6 million.

The substance of the Commission's report is that bigger penalties should apply, ASIC should do more enforcement so more penalties should apply etc.

This is pointless and counter productive. "the bank" doesn't suffer fines. The sufferers are either the shareholders (the public, super funds etc etc that hold shares) OR the customers - mostly the customers.

Given, as it is oft stated that the company must act in the interests of the shareholders then it is only logical and consistent with past practices that fees, interest rates and charges against customers will be lifted to recoup the fines and leave the shareholders status quo. In other words the victims of the Banks will ultimately be those who pay the fines.

UNJUST

If the directors had made sure they were properly informed they should/would have not allowed the unconscionable practices that bought the companies into disrepute and ripped off the public to develop.

The CEOs and managers have lesser culpability AND are not responsible to the shareholders and don't have the same obligations under the Corporations Act as the Directors

Taking a holistic view a BETTER solution with longer lasting effect would be to disqualify (maybe half at a time six months apart for continuity) ALL the Directors of the banks and institutions subject to adverse findings so they cannot be a director of ANY company. The big rewards for little effort disappear instantly. MORE IMPORTANTLY future directors will act much more responsibly and seek to be fully informed because they will know that otherwise they will risk/lose ALL their director fees forever.

There would be little need for fines in this case