Submission on the Interim Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

As one of the many hundreds of thousands of bank shareholders I would open with the comment that I am disappointed in the behaviour of the management and board of the banks and their staff. It appears that complacency is an understatement and that there are clear cases of fraud by employees of the bank that needs answering by those people in a court of law with jail terms where proven.

Those customers of the bank that have been wronged need to be set right without a doubt.

I commend the enquiry on uncovering and examining in detail the amount of material it has with limited time and resources. It has been a significant task and the final report will no doubt be taken to heart by the government and opposition making it very important that it clearly identifies the issues and provides recommendations that take into account the consequences to all.

I would however like to point out a few issues that I feel have not been addressed succinctly enough in the reporting or hearings.

Firstly, it seems to me that there is no acknowledgement that shareholders are also victims of the behaviour of their employee's actions. In fact the wording in the report infers that the greedy shareholders are to blame for their employees acts (section 6.2). Now whilst shareholders are ultimately responsible for the acts of their employees I do not think that any shareholder would condone the acts exposed in your report, it is inimical to the long term growth of capital for a business owner to encourage mistreatment of its customers. No doubt the boards and managing directors will be made well aware of shareholder displeasure at the next round of AGM's.

Second, whilst the banking entities are relatively protected from failure by prudential regulation and depositors protected by government guarantee, shareholders are exposed to a near total loss should there be a significant failure. In the event of a significant issue the value of shareholding would be reduced by market forces and any need to call on new capital would severely dilute existing shareholders holdings. The overall way the report is written infers that bank shareholders and the bank entities are protected from harm. That is simply not true or at least not the whole truth when looking at shareholders risk.

The greed is ascribed to the Banks. Again, shareholders want a fair return on investment, and for that to grow over time, but I doubt any shareholder wants that by illegal or unreasonable actions. From the evidence the greed seems to be because of dishonest employees and poorly designed systems and culture that failed to detect or prevent dishonesty and errors. If management believed that pursuit of profit at any cost would be condoned by shareholders then they are mistaken. In fact the greed is attributable mostly to the structure of the remuneration system working within banks and other financial institutions that failed to balance profit with ethical considerations, something you have identified clearly as an issue. Hopefully the new BEAR remuneration framework addresses some of these issues but I'm not sure it goes far enough to expose senior management to long term risks of their actions.

Another issue that doesn't get coverage is how customers need to take some responsibility for their own actions as well. It seems to me that some customers have also committed acts of fraud when applying for loans, yet consequences seem light at best. It would also be prudent for customers to actually seek independent financial advice when investing or borrowing money for business or acting as guarantor. Relying on the lender or investment manager is not sufficiently independent. It's not in anyone's interest to create bad loans, everyone loses. We must acknowledge that sometimes events will make loans go bad and income to not meet expectations, not every bad loan is going to be prevented and the bank has a right to protect as much capital as possible in that situation even if that may not be the outcome the customer wants.

What I would like to see from this enquiry is:

- that where customers have been harmed that they be set right with government supervision but not to open up free-for-all for speculative class actions attempting to greenmail banks where only lawyers end up better off and customers only partially set right,
- where executives have failed in their duties under the corporations act that they also be personally held to account in court,
- for dishonest employees to be taken to court to face the consequences of their actions,
- any fines to be levied on the entities to be proportional, not political, given that shareholders are victims of their own employees actions in many cases,
- better oversight of remuneration schemes to ensure ethical considerations are adequately taken into account along with profits,
- acknowledgement that some failures will always occur and that the regulatory system should act proportionately with intent in mind so long as customers are put right when that failure occurs,
- not result in a whole lot of politically motived regulation to "punish the banks", we need them for the economy to function and they are in business for profit after all, but sensible regulation that encourages admission of failure early, delivery of prompt remediation and punishes when issues are covered up or reporting or remediation deliberately delayed including not only fines to the entity as a punishment but accountability by individuals for their actions (jail or personal fines are generally a good deterrent for white collar crimes) the last thing we need are banks that are motivated to hide problems due to disproportionate penalties, and
- require customers to obtain independent financial advice when acting as guarantor, borrowing for business purposes or making investments and that written confirmation that the product is appropriate, affordable and that the significant risks have been outlined to the customer by the independent advisor not paid by commission is required by the financial service provider before proceeding.