



AUSCRIPT AUSTRALASIA PTY LIMITED

ACN 110 028 825

T: 1800 AUSCRIPT (1800 287 274)

E: clientservices@auscript.com.au

W: www.auscript.com.au

TRANSCRIPT OF PROCEEDINGS

O/N H-959654

THE HONOURABLE K. HAYNE AC QC, Commissioner

**IN THE MATTER OF A ROYAL COMMISSION
INTO MISCONDUCT IN THE BANKING, SUPERANNUATION
AND FINANCIAL SERVICES INDUSTRY**

MELBOURNE

10.00 AM, WEDNESDAY, 28 NOVEMBER 2018

Continued from 27.11.18

DAY 67

MS R. ORR QC and MR M. HODGE QC appear with MR M. COSTELLO, MS E. DIAS, MR A. DINELLI, MR T. FARHALL, MR M. HOSKING and MS S. ZELEZNIKOW as Counsel Assisting

MR R. HOLLO SC appears with MS T. SPENCER BRUCE for AMP

DR M. COLLINS QC appears with MS K. WILLIAMS SC, MR M. RUSH and MR T. CLARKE for ANZ

<CROSS-EXAMINATION BY MR HODGE

5

THE COMMISSIONER: Yes, Mr Hodge.

MR HODGE: Thank you, Commissioner.

10

Mr Wilkins, I wanted to ask you some questions about a document that was sent to you, a memorandum from Melanie Howard-McDonald, who is the AMP customer advocate?---Yes.

15

I will bring that up. That's AMP.6000.0287.4832. This is a memorandum that Ms Howard-McDonald prepared and provided to you setting out her thoughts in relation to the CBA prudential inquiry?---Yes.

20

And was that a document that you asked her to prepare?---This was one of a series of documents that I asked the top 100 leaders of AMP to prepare. I felt that it was important to get their perspective immediately after the CBA report had been produced, and not everyone provided me their views but quite a number did. Ms Howard-McDonald was one of those.

25

Ultimately, were any of these views passed on to the rest of the board?---They were, in – in broad terms. And have been used as the basis for some of the hypotheses that were developed as we were preparing our own response to – to APRA in respect of that CBA report.

30

I see. What I thought it might be helpful for us to do is if I just take you to some parts of Ms Howard-McDonald's observations, and then ask you what your view is about these particular points. So if we go to the second page. You see the second full paragraph from the top says:

35

However, while a clear pathway has been identified as a "bare minimum" to be followed by AMP effecting real change will take time and require a degree of honesty and frankness about deliberate choices, behaviours and practices that have previously been viewed as acceptable within AMP and what is required to change them.

40

?---Yes.

45

And what seems implicit in that is that in the past there has not been the necessary degree of honesty and frankness about particular choices and behaviours that have been made within AMP?---That's the – the implication from that paragraph. I think this whole document needs to be viewed in the light of – of the role that Ms Howard-

5 McDonald plays, which is as customer advocate dealing with customers complaints on a – on a day-by-day basis. But I did say yesterday that I felt that it was important that – at AMP we set the standards of – of behaviour, and that – and that there were consequences around those standards of behaviour and that previously we hadn't enforced that. So I take that as consistent with – with that view.

10 Yes. I think the point you were making yesterday was whatever the ethical failings within the business in the past, you wanted to make very clear now what the standards of behaviour were that were expected within AMP, and make sure that that flowed down throughout the organisation?--Yes.

15 And then the second part of that page that I wanted to draw your attention to is – you see there's a heading AMP Customer Advocate: Actions To Be Taken. And the first bullet point under that is:

20 *Ensuring that the "customer voice" and the "risk (and legal) voice" are equal with the financial voice in decision making. This is a very simple statement but essentially means redefining our strategic, operational and product/service design decision-making processes and forums to ensure these voices are explicitly incorporated and given equal weight.*

25 Do you have a view about – we will start with the past, whether in the past the voice on behalf of the customer and the voice of risk and legal has been treated equally with the financial voice?--I think in the – in the past, we – we have preferred short-term performance over some longer term investment, and – and other actions that need to be taken.

30 And have you formed a view about how you change that?--I think that it's – it is and has changed during – certainly during my tenure, in that we have sought to consider the – the position of the – of the customer in a number of the major decisions that we've taken. And also, we have ensured that any of those major decisions have had the – the voice of – of risk through the chief risk officer involved. One of the things that we did do, as an organisation, is said that we were going to set some objectives for ourselves for this six months until the end of this year. And finance, customer, risk and, in fact, all other key areas of the organisation were involved in – in setting that. One of those objectives was to make sure that we actually considered customers, that we got on with the remediation program that we discussed yesterday, but also that we – we continued to improve our processes and systems around that. So I think that it has been considered.

40 When you talk about improving your processes and systems, I just want to understand that a little bit. You would know, I'm sure, that a lot of the other – or some of the other major entities that have come before the Commission this year have emphasised that they have made particular changes to their three lines of defence, and, in particular, that they've tried to strengthen their second line of defence in particular ways, that they've tried to improve their first line of defence's understanding of risk, that is improve the business's understanding of risk, that

they've tried to increase reporting in relation to risk so it rises up through the organisation. Are those the types of changes to systems and processes that you're talking about?---Yes, partially. And certainly, that's a good portion of the \$100 million that we have said we are going to spend over the next two years to – to
5 reinforce our – our risk processes and procedures and systems.

And is the aim of that to make sure that when problems occur they're quickly recognised and escalated within the business. That's the first thing?---That's – that's part of it, but also making sure that there are processes and procedures in place that
10 hopefully get to those problems before – or get to those issues before they – they become problems, which comes through the first line.

Yes. I understand. So first – that the first line of defence actually recognises the issue and doesn't behave in a way that creates the problem in the first place. That's
15 the hope?---Yes.

And then improve the second line of defence, and also improve risk reporting generally, so that if something has become a problem, or if an issue is emerging and isn't being addressed by the business, it's recognised by the second line of defence or
20 it's recognised by more senior executives?---Yes, that the problems are called out, escalated more quickly and hopefully dealt with more quickly.

And then from the top, set the tone about when an issue is recognised, what the correct ethical behaviour is?---Yes. One of the things that I've said is when issues
25 arise, we should acknowledge those issues, we should actually fix those issues. We should learn from those issues and then we should move forward.

If we come over to the next page, there's a heading which is One AMP. And you will see the first sentence under that heading says:
30

As a business, we talk often about the value of a vertically integrated business but in practice my feeling is that we have little organisational understanding of what this means in terms of customer and other stakeholder expectations.

35 And then there's a – the next sentence says:

Further, on a day-to-day basis we operate as broadly four separate business lines who happen to share the same name and spend a lot of time doing business with each other, sometimes to the detriment of customer outcomes.

40 And perhaps if we start by just understanding what the four separate business lines are that Ms Howard-McDonald is talking about. Presumably one is advice, one is insurance, one is product manufacture, and - - -?---And the fourth is investment.

45 And the fourth is investment. And do you share her view that the understanding of vertical integration within AMP is problematic?---No, I don't. I think that – that that is her view seen through the lens of the – of the customer advocate, and in dealing

with – with issues as they arise. And some of the difficulties that she may be encountering in trying to go cross business unit to deal with those – with those customer issues.

5 Her perspective is the perspective of the customer and a very particular perspective of the customer, which is customers who are making complaints?---Yes.

And from the perspective of the customer making complaints, she sees problems with the vertically integrated model?---I think she was having some problems in
10 terms of navigating some parts of the business to get information that she was looking for, which may have prompted some of that discussion.

I see. We might come back to vertical integration in a moment. Can we go over to the next page, which is .4835. And you will see there's a heading which is
15 Expectations Are Not Optional. And the first sentence says:

The other element that I believe we need to consider as we embark on our rebuilding efforts is that we seem, as an organisation, not to be comfortable with setting expectations for people and holding them to account. It seems to go against our cultural DNA.
20

Now, I think you've made the point yesterday that since you have been in the role of acting CEO, you've focused on trying to make sure that expectations are understood and that there are consequences where people step outside of the
25 expectations?---Yes.

Do you think, though, that Ms Howard-McDonald is right to say that in the past the cultural DNA of AMP didn't support that type of idea?---I don't know that I would describe it as cultural DNA. I do think that there were examples – and – and
30 potentially several examples where people were not appropriately held to account for – for inappropriate behaviour.

I see. And that failure to hold people to account is presumably something that has to start at the very top, that is, at the very top people are not holding their subordinates to account for their misbehaviour?---I think it needs to go right through the
35 organisation. It's the only way in which you can – you can get people to recognise that they do need to be doing the right thing and that there are consequences where they don't do that right thing.

40 And do you have confidence that once you finish at the end of this week that the change that you have tried to bring about will continue and be embedded within the organisation?---As confident as I can be, Mr Hodge. These things always move, but having had discussions with the incoming CEO, I know that he shares similar views to me, and, in fact, he has said that to the broader staff as well, that he will be
45 expecting to – people to be accountable.

Do you think that one of the reasons that you could recognise the problem and that, perhaps, it hadn't been recognised in the past is that you come from outside AMP?---Look, I – I don't know the – the particular answer to that. To me, it just felt that it was appropriate to say that – that we have to set some standards, and we have to hold ourselves accountable for those standards.

If we go over the page to page .4837. You see at the bottom of the page Ms Howard-McDonald expresses some views about board and senior leadership. And I just want to ask you about the last sentence on that page which says:

It could be open to characterise some decisions made by the board over the past five years during the strategic planning process as at times setting the tone of a willingness to accept elements of heightened customer and conduct risk in order to maintain short-term financial performance and consideration should be given to how these perceptions can be balanced.

Do you share that view as to the decision-making of the board over the last five years?---Well, I think there's – there's always trade-offs that have to be made in terms of any decisions that are made, particularly big strategic decisions. The important thing is that all – all particular aspects are – are considered during that. However, I said yesterday and I've said again this morning that there have been some instances where we've preferred shorter term performance outcomes to longer term investment and – and longer term outcomes.

And that's a preference, though, not just within the GLT but also in the past at the board level?---Well, the board has – has signed off on the – on the strategy that has been put forward by the – by the business. Whether we were as aware as, perhaps, we needed to be, in terms of what those explicit trade-offs, is difficult to – to say.

I see. If we go over the page to .4840. You see the second – or the first complete paragraph at the top of the page says:

Conduct risk needs an intense level of scrutiny as episodes of misconduct can cause serious damage to AMP's reputation and undermine the confidence of customers and other stakeholders.

And then Ms Howard-McDonald goes on to say:

AMP should consider establishing a formal conduct risk strategy.

?---Yes.

And has AMP established a formal conduct risk strategy?---No, we haven't at this stage.

Is that something you've thought about?---It's part of the consideration that is going into what happens at AMP. One of the things that we have wanted to do is to, before

making very broad changes, is to allow the new chief executive to come into place so that he is the one that is actually setting that – that standard and deciding where he wants to go. However, I think we are well aware of the – of – that episodes of misconduct can cause serious reputational damage and whilst there mightn't be a particular strategy around it, I think we're – we're very conscious of – of reputational issues.

I tender that document, Commissioner.

10 THE COMMISSIONER: Memorandum of AMP customer advocate to Mr Wilkins 4 June '18, AMP.6000.0287.4832, exhibit 7.117.

15 **EXHIBIT #7.117 MEMORANDUM OF AMP CUSTOMER ADVOCATE TO MR WILKINS DATED 04/06/2018 (AMP.6000.0287.4832)**

MR HODGE: Mr Wilkins, the last topic I want to turn to - - -

20 THE COMMISSIONER: Just before we depart from that matter, Mr Hodge. Mr Wilkins, you said at the annual general meeting of the company in May this year that – and I think I quote you accurately:

25 *A small number of individuals in our advice business made the decision not to follow policy and inappropriately charged fees to customers where no service was provided.*

Do you regard that as a proper characterisation of what happened?---Yes, I do, Commissioner.

30 A few bad apples?---Yes. And that was part of the – the subject of – of my witness statement around the fact that policies were in place, that fees were – were to be turned off. Those policies were not followed and there have been subsequent consequences for those people who – who didn't follow that policy.

35 Yes.

MR HODGE: Thank you, Commissioner.

40 Mr Wilkins, the last topic I wanted to ask you some questions about is vertical integration, and how the AMP business model fits with changes that are happening and have happened. And it may be useful to do this by reference to a memorandum that you prepared for the board. Can we bring up AMP.6000.0329.0254. This is the board pack for the meeting of – the concurrent meeting of the three boards on 21
45 June 2018?---Yes.

And if we go to page .0273. We see a memorandum that you prepared to the board with the subject Strategic Response: Context and Framing?---Yes.

And as you explain – or as is explained in that paper, the purpose of it is to:

5

...provide the board with a view of how the issues and uncertainties in the current environment may impact the chosen strategy for AMP and the core strategic questions that will need to be answered over the coming months to inform and shape our beliefs and strategy.

10

?---Yes.

And I think it fair to say you haven't given up on vertical integration?---No.

15 And for AMP, at least as it stands, vertical integration is pretty fundamental to the business?---We – we believe in vertical integration. We think it's – it's a – an appropriate structure that does have benefits for the consumer as well.

20 If we go to page .0279. And can we blow up what's termed exhibit 1 at the top. So this is explaining some aspects of AMPs vertically integrated business model. And I just want to make sure we've understood how this fits together. On the left-hand side we see the customer?---Yes.

25 And then the customer is then – works through the various distribution channels that AMP has?---Yes.

And the principal distribution channel is advice and the – and either direct or aligned advisers?---Yes.

30 And then we see what's set out there is – I think the percentages are what percentages of the customers' choices are going into AMP products?---Yes.

And we can see it's very high for platforms, and then goes down through funds, risk and bank?---Yes.

35

And you see at the top of the page there's a red number 2 which is for margin share?---Yes.

And it says there's a \$370 million margin share?---Yes.

40

Could you just explain to the Commissioner what that means?---That is a payment that comes from the manufacturing units to the – the advice unit recognising the access to – to all of those forms of – of advice in terms of the – in terms of the product flows that potentially come to AMP.

45

Is it – and tell me if I'm right about this – is it the case that \$330 million in commissions is paid by the products over to advice?---Yes.

And \$370 million is the amount of the margin that these AMP products make from the customers that is then shared back to the advisers?---Yes. Through – through access to – to that advice network.

5 Sorry, there's the \$330 million of commissions forms part of the \$370 million margin share?---I think that that is separate. I would have to read the whole document, Mr Hodge - - -

I see?--- - - - to re-familiarise myself with it.

10

All right. And we can see then what's also depicted is the value of funds that are flowing through these – from the customers through the AMP distribution channel of its advisers and into its various products?---Yes.

15 And then, in turn, at least from a number of those products those products then flow on over to AMP Capital, who is the investment manager?---Yes.

20 And it appears as if the majority of the funds that AMP Capital manages comes out of the AMP products?---Yes. However, I think that in that situation you need to look through AMP Capital because it then actually allocates those funds to a number of other external managers. So that the – that particular diagram as – as it sits showing internal funds, yes, they are from internal sources but they then, potentially, flow out to other external fund managers as well.

25 Yes. But the majority of funds that AMP Capital brings in and then distributes out to other fund managers comes from AMP products?---Yes.

30 And then if we then look – move away from exhibit 1 and look at the bottom of the page, there's a paragraph that begins "Vertical integration" and this explains a little further some other aspects of the vertically integrated model for AMP and says:

35 *Vertical integration means second and third-order impacts may propagate throughout multiple business units, both upstream and downstream in the value chain. For example, if grandfathered commissions were reduced this would reduce costs to wealth management (which may be passed to customers through price reductions,) may reduce adviser practice profitability and lead to increased exercising of BOLR and potentially decrease the profitability of practice finance funded by AMP Bank.*

40 ?---Yes.

45 So just to take the very last point, one of the consequences of advisers exiting the AMP network or no longer being AMP-aligned advisers might be that they would no longer be borrowing money from AMP in order to fund their practices or the purchase of their practices?---Yes.

Now, what I then want to test with you is how this vertically integrated model fits in a world where advisers are not a distribution network for products, because I think we agreed yesterday when we were talking about it, that going back more than 10 years, that's what advisers were; they were paid a commission by the product manufacturer because they were distributing the product manufacturer's products?---Yes.

And the fundamental shift that has occurred, as we discussed yesterday, is that they are no longer to be a distribution network for the products. They are to be professionals acting in the interests of their clients, and if they happen to recommend any particular product, it's supposed to be not because they're aligned with that product, but because they think that's in the best interests of their customers?---Yes.

And under the old model, it may have at least appeared on its face as if there was no conflict of interest for the adviser because the adviser wasn't really purporting to act in the best interests of the customer, or at least not primarily in the best interests of the customer. They were purporting to be a distribution network and they were paid money by the product manufacturer to do that?---Yes. And going back far enough in – in the insurance industry, those advisers were agents of the – of the company and – and, in fact, tied to only being able to distribute the company's products.

Yes. And the conflict of interest has arisen because the nature of what an adviser is doing has either been, on one view, changed; on another view, clarified and given crystal clarity, which is they're not a distribution network, they're providing advice to the client?---Yes. They have a best interest duty to the client.

That's right. And that then – that complete change in the nature of what they are doing is what has created the situation of conflict for them, conflict between their own interests and the interests of the client when they're in a vertically integrated group?---Well, I think in – in any situation, regardless of whether they're in a vertically integrated group or whether they are – are totally independent, I think there is still the potential for – for conflict in that scenario. Advisers do have a best interest obligation, and I don't think that it naturally follows that they do not exercise that best interest obligation if they're in a vertically integrated group, or that the risk of them not doing that is any less if they are in an independent role.

I think we're talking about two different things. The point that I'm making to you is there wasn't a conflict to be managed for the adviser if the adviser was never purporting to act for the client, they were only purporting to distribute the product manufacturer's products?---Yes, I accept that.

And it's the change in the nature of their role that has led to the conflict?---Yes. Or potential conflict.

Potential – well, it's – it's always a conflict. The question is how they manage it. And the difficulty then for an organisation like AMP is that it would seem the vertically integrated business model made sense when advisers were a distribution

network for products and those products then fed into the investment management business?---Yes. Although, I still think that it makes sense in – in today’s world as well.

5 And why is that?---Well, I think there are a number of advantages that vertical integration does present, including from a customer point of view. And some of those are outlined in my witness statement, but they – they range around affordability of advice because of the – the greater scale that’s – that’s afforded and that advice networks or – or the administration of advice networks can have its fixed costs
10 spread over a broader cost base. I think that there are benefits to be had also in – in terms of just the comfort and confidence that customers can have in dealing with a large integrated organisation, knowing that that organisation will stand behind the – the advice, and the – and remedy any issues that – that may emerge. And the third thing is I think that there’s a feedback loop that’s available that is to the benefit of the
15 customer ultimately through the feedback that the advisers get around the appropriateness of the – of the products that are in the marketplace at the moment, that they can then feed back into the product manufacturing component to make sure that those products are – are contemporary, and meeting the needs of – of the customers.

20 Can we take those things in reverse order. To begin with, the feedback loop. Presumably, independent, unaligned advisers who could also put their customers into AMP products?---If – if they are on – on an acceptable list, yes.

25 I’m sorry, say that again?---If they’re on a – if they’re on an approved product list. If the – if the AMP products are on a – on an approved list, yes, they could.

Yes. AMP will welcome funds coming from independent advisers?---Yes.

30 Those advisers or the people preparing their approved product lists may or may not think that the AMP products are good for their customers?---Yes.

And if they don’t think they’re good for their customers, then they won’t put it on their approved product lists?---Yes.

35 And therefore they might not put their clients into those products. But assuming they think the products are any good then they could put their clients into those products?---Yes.

40 And presumably if there are problems that they identified with AMPs platforms or systems or products, those advisers would give feedback to AMP?---Yes.

And you would expect independent financial advisers acting in the interests of their clients to be putting upstream pressure on the product manufacturers about the
45 quality of their products?---Yes, in theory.

Sorry?---In theory.

Well, I'm just wondering then, in theory, why it is that the feedback loop is dependent in any way on vertical integration?---I didn't say it was totally dependent on vertical integration. I think the – the ability for those aligned advisers to understand how to navigate the organisation a little bit better means that their voice is probably going to be more easily and more quickly heard than – than those independent advisers.

Yes. Although the flip side of that might be that the thing that will be heard the loudest by any product manufacturer is the flow of funds away from that product manufacturer?---Certainly all product manufacturers – and I think monitor what their product flows are.

And one might well think that independent advisers are more likely to move their clients away from a product that they don't think is any good if they have – or are not aligned with the product manufacturer?---I don't think that that necessarily follows. I think that aligned advisers still do have that best interest duty, and need to – if they are finding that, say, an AMP product does not meet the needs of their client, then they would look to – they would look to do something about that.

Although that may well depend on whether AMP has put any alternative products on the approved product list?---AMP has got quite a sizeable approved product list, which I think is demonstrated by that previous slide that you showed where there was a number of – of areas where AMPs flows were less than 50 per cent of the – from the aligned network.

Sorry, just to – can we just bring up exhibit 1, because this is a very interesting point. I think somebody looking at that, an independent person might – looking at those percentages might think, once you exclude bank, that they're quite extraordinary, that they are – that a genuinely independent adviser facing the extraordinary range of wealth management products available in Australia and overseas just could not possibly be putting that percentage of their clients' funds into AMP products if they are acting in the best interests of their clients?---I think you need to look at some of the issues, particularly around the platform business, because that would represent the amount of product that was on an AMP platform. But then, similar to what I described with AMP Capital there would be a look-through to what the actual underlying investments are that sit with that. And I think that number would come down quite considerably from where it currently sits if – if the look-through was applied.

I see. Well, ignore platform – in fact, ignore risk and ignore bank and just think about funds. Is the point you're making it might look as if 65 per cent of the funds under management coming through AMP Financial Planning is going into AMP products, but, in fact, ultimately, it's flowing out of those AMP products into other products?---There – there would be some of that flowing out. Some would be staying with AMP for management.

I'm not sure that really, in the end, addresses the question, because presumably an independent adviser would think if this is ultimately going to be going into Arrowstreet Global Management, then we will just put it straight into Arrowstreet Global Management rather than running it through another AMP product?---It depends on what the approved products list were. I'm not sure whether Arrowstreet is on our list or not.

Let's move then to the second point in reverse order which was confidence. And the point that you made was a client coming to AMP would have confidence that AMP will stand behind the advice?---Yes.

And one thing that you imagine might dent their confidence is the fact that, at least as at the beginning of this year, AMP was seriously contemplating the possibility that they might still be remediating a client 17 years after they had been charged fees for no service?---Yes, but as – as I explained yesterday, at that stage I don't think we had a – a full appreciation of the size of the issue that we were facing, and in terms of the subsequent provisions that we have put forward, I think we are – we are facing into that problem and saying we will remediate those clients in – within three years. And I think that AMP is actually the first of – of the companies with a major aligned network to be able to actually make that statement.

Well, that's within three years of 1 July 2018?---Yes.

So the possible maximum period has been shortened to about 12 – 11 or 12 years?---Yes.

Is that right? And I wonder, though, about the true value of that confidence. And I just want to test this proposition with you. If you had independent financial advisers who were insured and clients came to these professional independent financial advisers and received high quality advice, presumably if there were problems with that advice, then, as is the case with all other professionals, there would be an insurance policy available – it might even be issued by AMP – that could be called upon in order to meet whatever that liability is?---Up to the limit of the policy but AMP does not write that type of insurance but up to the limit of the policy.

And so the benefit or the confidence for a customer in coming to an AMP aligned adviser is if, what, there's a discovery like the rampant fees for no service problem, that it would be possible for AMP to make good that problem?---Yes. So AMP has set aside \$460 million, as we discussed yesterday, to deal with this. There would be several instances in that where the level of professional indemnity insurance coverage that was available to a single practice would be a fraction of that, and may not be adequate to meet it. AMP, because of its size and the – and the capital base that it has is – is saying it will stand behind that, benefitting the customer to the detriment of its shareholders.

It seems, though – and you're not the only entity that makes this point – but it does seem like an extraordinary proposition that a large financial services entity would say

it's possible for us to preside over an almost unimaginable level of withholding money from, or taking money from clients and not providing service to them, but at least clients can have confidence that 12, 17 years later we will still have the capital backing to be able to repay that money to them?---Well, I think the clients should
5 have confidence in a large financial institution. It might take us a while but ultimately we will do the right thing to remediate them.

It just seems like rather than having confidence that you will ultimately have the financial capacity to fix such an enormous problem, it would be preferable if it was
10 possible to have confidence that the problem wouldn't arise in the first place?---I absolutely agree with you.

And the first reason that you gave, working back through reverse order, is the spreading of costs?---Fixed costs.
15

Of fixed costs. And I would like to understand this, if we can. As you know, the – at least a number of other major advice entity – or a number of – a number of major retail banks are exiting from wealth management?---Yes.

20 And a point that has been made to us, even by an entity that may not have made a decision about exactly what the future is, is that the cost of providing high quality advice is quite high?---Yes.

And that when you have a large advice network, as the big four banks have had and as AMP has had, that the costs of having the compliance systems necessary in order to provide high quality advice is – and the controls necessary for high quality advice is very high?---Yes.
25

And is there some efficiency that you think it's possible to have in relation to those controls that somehow reduces the cost of advice?---I think it's – my – my point was the broader cost base of – of these organisations, and the – the advice network, not just the – the compliance systems that go with them. But there is premises costs, there are other systems costs, things such as practice management software, where the buying power of an AMP would be much greater than, say, an independent
30 financial adviser, and hence that that can reduce the overall cost to the advice network and ultimately the cost to the customer.
35

Most of your advisers, though, most of your aligned advisers aren't – in fact none of your aligned advisers are operating from an AMP premises, are they?---I think some operate out of AMP-owned premises, but the – the other point is that most are using practice software that is – that is sourced for them by – by AMP, and at a charge that would be less because of the volume that we can achieve than an independent practice would be able to achieve.
40

45 If we just take premises to begin with. Most of them will be – there will be small advice businesses operating from their own premises?---Yes.

You would agree?---Yes.

So that doesn't seem to really be a meaningful scale benefit to the cost of advice?---Yes.

5

So what we're left with is computer systems or computer software, and your point is that the AMP scale means it can, in some way, reduce the cost of the computer software?---Yes.

10 And do you have some idea of what percentage of the cost involved in delivering advice is just having the software?---I – I don't, Mr Hodge.

15 I mean, presumably, the vast majority of the cost must be – involved in providing advice is probably not a fixed cost, it's a variable cost, which is the amount of time involved in providing the advice?---That would be a – a large component of it, but also there is just practical considerations around the record-keeping and the systems that sit behind that record-keeping that are important.

20 It's just difficult, I think, to see immediately what the case is for the efficiencies of a vertically integrated product manufacture and advice business, given the change to the nature of the role of advisers, because what it appears is that this is more like a roll-up, in the sense that you've – you've accumulated many advice businesses at a time when it made sense to do so, because they could act as a distribution network, and it makes a lot less sense now?---Certainly, one of the things that we are less
25 fixated on today than in the past is the overall size of the – of the network. I've said publicly that the – the number of advisers is not a measure of success for us. What is a measure of success is the professionalism, the productivity and the compliance that – that we see through the network. And we discussed yesterday that we do expect that there will be people exiting from the network. In fact, we've exited, during the
30 course of this year, almost 200 higher risk practices because we do want to make sure that those that are there are seen as professional, compliant, and that we get the productivity benefits that attach to those.

35 I tender that document, Commissioner.

THE COMMISSIONER: Board papers for AMP Limited, AMP Life and NMLA meeting 21 June '18, AMP.6000.0329.0254, exhibit 7.118.

40 **EXHIBIT #7.118 BOARD PAPERS FOR AMP LIMITED, AMP LIFE AND NMLA MEETING 21 JUNE '18 (AMP.6000.0329.0254)**

45 MR HODGE: I have no further questions for Mr Wilkins, Commissioner.

THE COMMISSIONER: Yes. Mr Hollo.

MR HOLLO: I have no re-examination, Commissioner.

THE COMMISSIONER: Thank you very much, Mr Wilkins, you may step down?---Thank you, Commissioner.

5

<THE WITNESS WITHDREW [10.49 am]

10 THE COMMISSIONER: Now, Mr Hodge.

MR HODGE: Commissioner, I believe the next witness is Mr Elliott from ANZ. Would it be convenient to take a 10 minute break.

15 THE COMMISSIONER: If I come back at 11.

MR HODGE: Thank you, Commissioner.

20 **ADJOURNED [10.49 am]**

RESUMED [11.00 am]

25

THE COMMISSIONER: Yes, Ms Orr.

MS ORR: Commissioner, the next witness is Mr Shayne Elliott.

30

<SHAYNE CARY ELLIOTT, AFFIRMED [11.00 am]

<EXAMINATION-IN-CHIEF BY DR COLLINS

35

THE COMMISSIONER: Thank you very much, Mr Elliott. Do sit down. Yes, Dr Collins.

40 DR COLLINS: Thank you, Commissioner. Is your full name Shayne Cary Elliott?---Yes, that's right.

Is your business address 833 Collins Street, Docklands, in Victoria?---Yes.

45 And Mr Elliott, are you the chief executive officer and executive director of the Australia and New Zealand banking group?---Yes, I am.

Mr Elliott have you received a summons to appear before the Commission to give evidence?---Yes, I have.

Do you have the original of that summons with you?---Yes, I do.

5

Commissioner, I tender the summons.

THE COMMISSIONER: Exhibit 7.119, summons to Mr Elliott.

10

EXHIBIT #7.119 SUMMONS TO MR ELLIOTT

DR COLLINS: Mr Elliott, have you made a witness statement for the purposes of Rubric 7-03 of this Commission?---Yes, I have.

15

Do you have the original of that statement and the exhibits with you in the witness box?---Yes, I do.

Mr Elliott, are the contents of that statement true and correct?---Yes.

20

Commissioner, I tender the statement.

THE COMMISSIONER: The statement of Mr Elliott and its exhibits in relation to Rubric 7.03 becomes exhibit 7.120.

25

EXHIBIT #7.120 STATEMENT OF MR ELLIOTT AND ITS EXHIBITS IN RELATION TO RUBRIC 7.03

30

DR COLLINS: Mr Elliott, have you made a further witness statement for the purposes of Rubric 7.14 of the Commission?---Yes, I have.

Do you have the original of that statement and its exhibits with you?---I do, yes.

35

Mr Elliott, are the contents of that statement true and correct?---Yes.

Commissioner, I tender the statement.

40

THE COMMISSIONER: Statement and its exhibits in relation to Rubric 7-14 becomes exhibit 7.121.

EXHIBIT #7.121 STATEMENT OF MR ELLIOTT AND ITS EXHIBITS IN RELATION TO RUBRIC 7-14

45

DR COLLINS: Nothing further, thank you.

THE COMMISSIONER: Thank you, Dr Collins. Yes, Ms Orr.

5

<CROSS-EXAMINATION BY MS ORR

[11.02 am]

10 MS ORR: Mr Elliott you've been the CEO and an executive director of ANZ since 1 January 2016?---Yes, that's correct.

And since last year you've also been the chairman of the Australian Banking Association?---Yes.

15 You joined ANZ in June 2009?---Yes.

And since that time you've had a variety of roles within ANZ, including as global managing director of ANZs institutional business unit?---Yes.

20 And as chief financial officer?---That's correct.

And before joining ANZ you had senior positions in two other financial institutions, one of which was Citigroup, and the other of which was a large investment bank in the Middle East. Is that right?---That's correct, yes.

25

And when you were appointed as CEO of ANZ in October 2015, ANZ published a media release which contained some quotes from you. Do you recall that?---I recall the media release. I don't recall the quotes.

30 Well, you were quoted, Mr Elliott, as saying that:

ANZs people are guided by a clear strategy and a strong set of values.

Do you recall saying that?---Yes, I do.

35

What strategy were you referring to at that time, Mr Elliott?---Well, at the time, the broader strategy, it had a bit of a nickname. It was called the super-regional strategy which was really about ANZs differentiated approach to engaging Australia and New Zealand with the rest of Asia in particular but the rest of the world. So that, in summary, was the strategy that was adopted at the time.

40

And are ANZ staff still guided by that strategy, Mr Elliott?---No, not – not in that level of detail. That is a part of the strategy but there has been a resetting, if you will, of the strategy.

45

What is the strategy now?---The strategy today is, essentially, one around simplification, a strategy that recognises that the environment we work in is fast

changing, and that we should do a few things and do them well, and if you like I can – there are three things that we have decided that we would like to excel in.

5 Yes?---One is to be the best bank for people who wish to buy and own a home in Australia and New Zealand. The second is to be the best bank for people who wish to start, run and grow a small business in Australia and New Zealand. And the third is to be the best bank for those companies – and it’s generally larger companies – who are driven by trade and capital flow in our region.

10 Now, the other part of the quote related to a strong set of values. What values were you referring to at that time?---Yes. So ANZ – and these haven’t changed – for some years prior to my joining have five values, which are colloquially known internally as ICARE. It’s integrity, collaboration, accountability, respect, and excellence.

15 And how do you think those values have served ANZ, Mr Elliott?---Well, they were certainly well-intended, and my understanding at the time they were adopted they were embraced by our staff as a guiding principle. Over the years, we have attempted to understand what they mean to our people, how they would repeat them back to us, how it influences their day-to-day actions. I think it’s fair to say that it’s
20 mixed. Even most recently, our people tell us that integrity, respect in particular they identify with and understand, and it means something to them. They struggle a little bit when we talk about things like excellence in terms of what does that actually mean and what are our expectations. And we continue to do that. We have had a refresh of those strategies, on my recollection – about two years ago where we
25 reengaged with our people to see whether they still remained relevant, whether they were understood, and as a result of that we updated and modified the definitions and have used communication channels to give better examples of what – what they mean.

30 And what does excellence mean to you? How do you want your people to interpret that?---Yes. Good – good question. It really means doing what you do with pride and doing it well. I mean, the point of the values is they’re not discrete. They’re supposed to be seen as a whole. It’s fine to be collaborative but if the outcome is not excellent that’s not good. And so it’s really about having pride in work and really
35 it’s largely about the outcomes, making sure that things are done well.

ANZ has acknowledged to the Royal Commission that it has engaged in a range of misconduct and conduct that fell below community standards and expectations. And in the submissions that ANZ provided to the Commission following the interim
40 report, ANZ explained what it regarded to be the causes of that misconduct and conduct that fell below community standards and expectations. Those causes included culture, including a culture that has become overly focused on revenue and sales. Could you explain that further for us, Mr Elliott?---Sure. So first to give it some context, obviously the issues that we were talking about were over a period of
45 time, in particular the 10 year period, but I think, in fairness, drift back further than that in terms of the causes. There was a recognition that at times we had – we always have to get the balance right between the needs of various stakeholders, that we had

become far too focused on revenue, in particular, we don't use the word "sales" but certainly revenue as a definition of good behaviour, or – or good outcomes of excellence, if you will. People who drove good revenue outcomes were seen to be doing a good job, and we paid less attention to how they achieved those outcomes.

5

I want to come later to what you're doing to try and address that matter?---Yes.

10 But the other causes that were dealt with by ANZ in its submissions to the Commission following the interim report included a focus on achieving short-term objectives, including financial objectives, at the expense of longer term results, including customer outcomes and the reputation of the bank. Could you explain that?---The point we were trying to make here – and it's related to one of the other causes that perhaps we will talk about later – was around complexity. So we have had the good fortune to be in an industry that was profitable and fast growing at the same time. That encourages the – the searching for scale to grow, to get bigger at what you do, to find new things to do. And with that complexity and the way that we ran the organisation, it ended up where we had a very decentralised way of managing that, if that makes sense. So we're doing a lot of things, it was effective to manage that in a decentralised way. One of the outcomes of that is that individual business units, teams make decisions based on their own knowledge of their own world around them, rather than the greater group, and so they search for and sought short-term tactical solutions when problems arose. And because of that decentralisation, those problems weren't necessarily visible to the most senior levels in the organisation.

15
20
25

Other causes that you identify in those submissions include poorly calibrated performance and remuneration plans. You accept that that has been a contributing cause?---Yes, I do.

30

Complex systems and processes to deliver your banking and financial services, which you've touched on already?---Yes.

Further complexity resulting from the design, number and breadth of your product offering?---Yes.

35

Failures to quickly recognise systemic issues and to elevate them to senior management for action?---Yes.

40

Insufficiently clear lines of responsibility and accountability?---Yes.

And inadequate investment in things such as customer remediation programs?---Yes.

45 Has ANZs technology and its oversight of technology also been a contributing cause, in your view?---Yes. I think it is the outcome of many of the causes that you have just listed, yes. We had a - - -

5 It's the outcome, did you say?---Well, I think it is related to – I am not sure it is a discrete and different cause. It is interrelated with many of the things you talked about. When you run an organisation in a decentralised way with a disaggregated view of services, inevitably perhaps teams develop again short-term tactical solutions to technology as opposed to looking for broader strategic long-term solutions.

10 Now, I want to examine some of those causes that ANZ has identified for the Commission in greater detail and I want to start by doing that by reference to ANZs breach reporting practices?---Yes.

Now, ANZs – I'm sorry, ASICs report 594 which was published in September reviewed the breach reporting practices of 12 entities, including ANZ, over a three-year period from 2014 to 2017?---Yes.

15 And as part of that review, ANZ provided ASIC with data on 87 significant breaches that it had reported in that three-year period?---Yes, I believe that's the number, yes.

20 And ASIC provided ANZ with its preliminary findings from the data many months before the report was published?---Yes. It was early in the – early in the year, yes.

Yes. It appears to us to have been in February this year?---That is my recollection, yes.

25 Did you meet with Mr Shipton, the chair of ASIC, in April this year?---I can't recall specifically. I have met with Mr Shipton a number of times this year, so it's very likely I did.

30 And as part of any of those meetings prior to the publication of report 594, did you discuss ANZs breach reporting practices with Mr Shipton?---I – I don't recall it being a detailed conversation. It may have come up as a part of a broader meeting agenda. I don't remember certainly it being the – the specific topic of a meeting.

35 Now, you tell us in one of your statements that you've read ASICs final report into the breach reporting practices. So you've seen the findings that ASIC made about the practices of Australian financial services licensees generally, and about ANZ?---Yes, I have.

40 And what concerned you most about those findings, Mr Elliott?---I don't know that I can say what it was that was most. It was all fairly concerning. I mean, clearly what it pointed to was a lack of attention, focus and diligence around our obligations around significant breach reporting, and – and importantly, not – you know, the investigations. So the identification of issues was too slow, the investigation was at times too slow, and some challenges with the remediation.

45 Can I take you to three of the findings that ASIC made. The first was a finding that Australian financial services licensees took, on average, 1517 days to identify an

incident that was later determined to be a significant breach. Are you familiar with that finding?---That – yes, I do recall that.

5 And that number of days, 1517 days, also happened to be the average time it took ANZ to do that. Is that right?---I believe so, yes.

So, on average, it has taken ANZ more than four years to identify an incident that's later determined to be a significant breach?---Yes.

10 Now, can I ask you what your observations are about that finding, more than four years to identify an incident?---Well, I mean, it's clearly unacceptable and it's not right.

15 How did it get to the point, Mr Elliott, in ANZ where it took more than four years for you to identify incidents that involved significant breaches?---Well, you know, we – I can't say that I have a perfect answer to that where I have analysed it where I can give you a great degree of certainty of why that is, but what I do believe is that the issues we've talked about previously about complexity and the delegated nature of running the organisation have absolutely been a major factor in that. And I can give
20 an example, if you like.

25 Yes, please?---So, for example, the way that we ran the organisation was to disaggregate and manage differently the people who developed products or services, the people that offered those to customers, the people that serviced them and then the people who dealt with complaints, many of those units would have had different reporting lines, different performance objectives, different data that they would look at and different systems. That makes it difficult to look and see mistakes or errors, and certainly from a systemic nature.

30 You say in your statement that your systems and processes weren't effective in proactively identifying issues. Is that right?---Yes.

35 And you also say that your staff were not always adequately encouraged by senior management to identify and report compliance issues?---That's absolutely right.

You also referred to your compliance and operational risk database which you said was complex and very difficult to navigate?---Yes.

40 Is that still the case?---There have been some improvements made to it recently. Certainly over the year. So this is a system we call CORE. And that is when people find and do speak up and see an issue, they're encouraged to, through our compliance colleagues, to enter that into a database, so that we can look for systemic issues. While it was well intended and it cost a reasonable amount of time and money to implement, it wasn't necessarily well designed from a user point of view.
45 And what we found is we – therefore, that was discouraging people from actually using it, and then when they did use it, even with good intention we weren't actually

able to generate the right level of data that would be useful. So we have improved it. And that – and those improvements continue.

5 How long do you think it should take ANZ to identify incidents that are later determined to be significant breaches?---That's a complex question, because every issue will have its own characteristics and terms. I'm not sure there is a definitive answer to that.

10 Well, what average would you like to see, as opposed to the 1517 day average?---Again, I'm not – I'm not sure it's the type of statistic that lends itself to a target. Obviously, far lower than that. Much less. I don't know that I can put a number on that. But I would say it's significantly lower than 1500 days.

15 Four years, yes?---Yes, absolutely.

ASIC included some case studies in its report, including case studies in relation to this particular finding about the time to identify an incident that is a significant breach. Has ASIC told ANZ whether any of the case studies relate to ANZ?---My understanding that at least three of them do, yes.

20 Yes. Now, can I take you to one of those case studies which we are told by ASIC does relate to ANZ. If we could bring up RCD.0003.0078.0001. This is report 594. And if I could take you to 0030. Now, ASIC has told us that case study 2 relates to ANZ. That case study is recorded in this way:

25 *An AFS licensee could not advise when one significant breach started, despite having conducted investigations for almost two years and identifying historical concerns with fee disclosure on some types of credit and debit cards. The availability of data meant that the licensee could only identify instances that*
30 *had occurred in the previous seven years (which totalled around \$7 million in overcharged fees). As a result, the remediation was limited to the identified \$7 million overcharged. Further investigation of unavailable data may have revealed a greater impact.*

35 Now, does that sound familiar to you - - -?---Yes.

- - - as a situation that was experienced by ANZ?---Yes, it does.

40 And do you have any observations about how it could come to the point where an investigation had been conducted for almost two years which had found that customers had been overcharged around \$7 million but ANZ still couldn't identify when the breach had started or whether this was the entirety of the amount that had been overcharged?---So in my preparation and certainly when we got the report and understanding of this case study as it – as it relates to ANZ, my understanding from
45 discussions with our team is that, again, this speaks to the difficulty – so we retain data, as we're required to, for at least seven years. The difficulty here was going back further into history where the data was unavailable. Therefore, it was – it was

impossible for us to try to reconstruct that data. We accept that the concerns or the fee issues may have actually predated the seven years. It's really a technical inability to go and discover that. Yes.

5 And is that still the case? Would you still today be unable to look beyond seven years to see how many customers had been affected?---Not in all cases. So we have made some improvements here and what I've been told by – we have a specialist team now that just focus on remediation. It's called our responsible banking team. They're building a data asset which allows us to do more forensic work in situations
10 like this. I can't give you an assurance that says that in every single case we would be able to go back beyond a certain date but we are building that – we are building a capability to be able to do it more often than not.

The second finding in this report that I want to ask you about is ASICs finding that it
15 took the major financial groups an average of 150 days after commencing an investigation to lodge a breach report?---Yes.

Despite a legal obligation under section 912D of the Corporations Act to report significant breaches within 10 days of becoming aware of the breach. Now, ANZ
20 was an outlier on this front. Do you agree, Mr Elliott?---Yes, I do.

If we could turn to 0116 in this document and 0117. Now, we see from table 32, which starts at the bottom of the first page and continues on to the second page, that the other three major banks each took an average of 104 days for CBA, 139 days for
25 NAB, and 165 days for Westpac between commencing the investigation and lodging a breach report. But ANZ took 213 days?---Yes. I see that. Yes.

Do you have any observations to make about that beyond the matters that you've already pointed to, Mr Elliott?---Well, my observations were that it's clearly
30 unacceptable, the 213 days is far higher than it should be or needs to be. I'm not sure that while it's of interest to compare to others, I imagine that we all have our own peculiarities and different operating systems and ways of getting things done. My observation from the time of looking at this was less concerned about how we appeared relative to my peer group; it's just too high.

35 What should that number be? What are you looking for there, Mr Elliott?---Well, my understanding of this analysis here and – and the difficulty is this is the time taken from the observation of a breach through to reporting, as opposed to the observation of identifying it as significant and requiring reporting. On the latter part,
40 my understanding and my analysis says that we do not have a key failing there. We – we can do better. From the point of significance, I believe we do comply. It's actually getting to that decision. Is this breach a potentially significant, is where we have a failing and can do better. I don't know, again, what the right number for that is. It's certainly not 200 days. It would be significantly less than that.

45

ASIC has also told us that case study 13, which I will take you to in connection with this finding, relates to ANZ. That's at 0047 and 0048. Case study 13 is entitled Delays Caused By Determination Of Significance:

5 *An AFS licensee produced a progress report created during the course of an investigation into whether the breach was significant. It is noted that the root causes of the breach were still being determined but included poor detective controls, lack of exception reporting, multiple manual processes, multiple hand-off points, having grandfathered packages, complicated product design and staff oversight and error. The report also noted that the licensee was currently sizing up the number of impacted customers and the dollar value of any remediation. Preliminary estimates indicated that affected consumers made up 20 per cent of all packages distributed, with around \$5 million overcharged. Despite the extent of the root causes, the diverse range of affected products, the number of potential affected consumers, and the size of the dollar estimates, the report provided a status update that the compliance function was assessing whether the event would be reportable.*

20 Now, does that concern you, Mr Elliott, because the matters referred to in that final paragraph that I've just read to you all point to a determination of significance. Do you agree?---I totally agree.

25 And do you have any explanation for why at that point in this investigation the matter had not been determined by ANZ to be a significant breach?---I can explain, but that doesn't excuse it. This is wrong. And this is not the standard we should set for ourselves. This is clearly significant. And it should have been reported earlier.

30 Can I take you then to the final finding that I want to ask you about in the report, Mr Elliott, which is ASICs finding that it took the major financial groups an average of 251 days to make the first payment to customers affected by a significant breach after the end of the investigation?---Yes.

 You're familiar with that finding?---Yes, I am, yes.

35 And for ANZ, it took an average of 198 days?---Yes.

 Now, again, is that too long, Mr Elliott?---Yes. Absolutely.

40 And why has it taken ANZ so long to remediate customers?---So my – my investigation into this and discussion with our teams has been – and this is – this was a mistake on our part so I accept this was wrong – we had a culture of before we started remediating any customers we wanted to have total knowledge of the full extent of the – who exactly should be remediated and so there was a desire for exactness and completeness before we even commenced remediation. That was a cultural norm, if you will, within the company. It's wrong. It's flawed. And so what we have done now, with our remediation team, is we've adopted new principles and a new way of thinking about that which essentially says once we have sufficient

5 knowledge where we can determine remediation even for a small number of customers, a cohort, we should start. So we don't need to wait until we have 100 per cent knowledge. We should start and do it in tranches and get going. We've already adopted that approach. It's already having an impact in terms of our timelines. And it's now something that we monitor.

ASIC recorded in this report that it had identified historical documents from two of the organisations that referred to remediation for customers as a distraction?---Yes.
10 Was ANZ one of those two groups?---Yes, it was.

Now, could I take you to a document that records that. We don't need to tender report 594, which is already in evidence. Could we now turn to BRP.0030.0002.0123. Have you seen this document - - -?---Yes, yes, I have.

15 - - - before, Mr Elliott. It's a presentation on the responsible banking approach to remediation from January this year?---Yes.

And if we turn to 0129 within the document. We see that this part of the document is headed The Changing Focus Of Customer Remediation. And it records that:

In the past –

25 Before January this year:

there was less focus on customer remediation. It was seen as a distraction, at the expense of earning revenue, and therefore not always given the highest priority.

30 And:

It was delivered in an ad hoc and inconsistent way.

35 That's what this document records looking - - -?---Yes.

- - - back on the previous approach to customer remediation. Now, ASIC tells us that this is the historical document that it was referring to when it made that statement in the report. And what I want to understand from you, Mr Elliott, is what happened at ANZ that led to it treating remediation of its customers, for errors that ANZ had made, as a distraction?---So I think – that's a very – totally fair question. I think I need to put this document into perspective and give it some context.

45 Yes?---This is not an official document of the group. It – it had essentially no shelf space or life to it. As we were developing our new approach to remediation and pulling together a team of people that would be dedicated to this, one of our mid-level – in our parlance, a group 3 executive, you know, a mid-level executive took it on their own to put down some thoughts on their observations around remediation.

So this was to be shared with the now head of that tribe or that group. As I said, it's not an official analysis, it's a person's perspective. It's a valid perspective but that's what it is and I think that is important to note.

5 Can I start then by asking whether you agree with that perspective?---Well, I think there are elements with that. I mean, I take this person at their word. There will have been an element of that, most certainly. Whether it was widespread, whether it was the norm at ANZ, I – I don't believe so. I think there was certainly the risk of this was always evident. And it goes back to the nature of the way we ran the bank at the time, the decentralised approach. So I – I accept that there is a risk of this. I do not believe it was pervasive across the organisation.

To the extent that it was present, even if not pervasive, how did that happen?---Well, it's – first of all, it's wrong. So we – we – we accept that. Large organisations are always grappling with prioritisation. Even with the best will in the world we have limited resources, whether those resources are financial or more importantly just talent, people, intellectual resource. We have to decide what is the best application of those resources to achieve the best outcomes for the group. And so teams are always being asked to make difficult trade-offs. And in this case, I think this is referring to the fact that too often teams, groups made a poor choice and decided to focus on short-term, in this case, talking about revenue, as opposed to remediation. That has at a group level, I think, changed significantly in the last two years. And now the whole area of remediation in the broader sense gets a high level of visibility all the way through to our board.

25 So where does customer remediation sit now on your list of priorities for the application of your resources?---Right. So I don't have a list of priorities that numbers them one through 10 or something. I have a group that are all important. Remediation is there. If we were to speak to our team who run the Australia business, of which this refers to, they would tell you – and they have – and it's documented – that remediation is their – their number one priority as a team. If I look at our board, our board – and I believe it's documented in the minutes – have encouraged or suggested or even in stronger terms than that, demanded that remediation deserves to be a top priority of the organisation.

35 Could I tender this document, Commissioner.

THE COMMISSIONER: Responsible banking approach to remediation, January 2018 BRP.0030.0002.0123, exhibit 7.122.

40

**EXHIBIT #7.122 RESPONSIBLE BANKING APPROACH TO
REMEDICATION, JANUARY 2018 (BRP.0030.0002.0123)**

45

MS ORR: You tell us in your statement, Mr Elliott, that ANZ has now launched a breach reporting project to improve its reportable event identification, investigation

and reporting. You also suggest in your statement that section 912D should be amended to clarify when the obligation to report arises. And I want to ask you some questions about that. Are you familiar with the recommendations for legislative reform in relation to section 912D that have been made in the ASIC Enforcement Taskforce Review?---I'm broadly familiar with them, yes.

One of the recommendations made there was that section 912D should be amended to make clear that the significance of breaches is to be determined objectively, so that the obligation to report arises once there are sufficient facts or information to found an objectively reasonable belief that there's a significant breach?---That's my understanding of the recommendation, yes.

And what I would like to understand from you is whether in your view the – the implementation of that sort of recommendation would address the uncertainty that you speak of in your statement?---Well, I believe it would certainly help. It would be enormously helpful and operationally far easier if there was an objective measure of significance, whether that was number of customers, financial or others, or a mixture of them, it would certainly be easier. But I don't want for a minute to suggest that that's the only solution. I mean, I think as an organisation there's an onus on us to be clear about how we define significance, and I think, you know, we haven't done as well as we could have on that measure. But certainly a more formal definition would be enormously helpful.

What would you be looking for in that formal definition, because the matters you just referred to, number of customers and financial impact, are all matters referred to in the legislation already?---Yes.

What more do you think the legislation needs to do?---So my understanding of the legislation – and again, I'm not a lawyer – but my understanding of it is it talks to the fact that we should consider those things. It does not give me a number and suggest that significant, you know, is 10,000 customers or 1000 or a percentage of customers. Those, I believe, is what we're talking about when we're talking about more objective measures, giving some guidance to help us determine that this has now become significant.

Given the breadth of types of Australian financial services licensees, size and sophistication, do you agree that it would be unrealistic to legislate particular figures attached to number of customers, amount of remediation necessary?---I do. Look, I – I agree with that. And, again, I'm not suggesting that it necessarily needs to be legislative change, but perhaps just guidance from the regulator or some best practices, some guidelines. Anything that can give greater clarity would be helpful.

THE COMMISSIONER: Well, the old adage, Mr Elliott, is control the drafting. If you're going to produce something, control the drafting and form it for yourself. Is it useful, important, desirable, for entities like ANZ to form their own criteria?---Absolutely. And I – I agree with that fully. I mean, we ourselves are a

diverse organisation. We have different products and services and – but I absolutely believe it would be helpful for us to have greater clarity.

5 And probably not one size fits all through the organisation. There will be separate
- - -?---Absolutely.

- - - parts?---That will inevitably be the case, yes.

Yes.

10

MS ORR: And is that part of your breach reporting project to try and formalise those sorts of criteria to assist in the assessment of whether a breach is significant?---I believe so. I – I – I can't recall if that is specifically laid out in the current terms, but certainly in our discussions that is – that would make us more effective. And so it will be one of the things that they look at, yes.

15

And the ASIC - - -

20 THE COMMISSIONER: Sorry, just to interrupt again. For you to form your own criteria and document why you have chosen those criteria – not - - -?---Yes.

- - - simply record the fact that, “Here they are” but “here is why we got to those answers” is itself, surely, both helpful and prudent?---I totally agree with that. I think many – like many things, the thought process, the work will be more important in many ways than the outcome itself of determining the number. The fact that as a company, as an organisation with our people, we are discussing that will be a much better way of embedding that thinking into our people, accepting there will always be unusual circumstances and exceptions to any rules, if you will, we put in place.

25

30 Well, there's something clarifying about writing down why?---Yes.

It's not always easy. Go on?---And then, if I may, I mean, hopefully being able to share that with our regulators, and ensure that, you know, we're at least on the right track. I'm not – I – I understand – well, my view is I would not be necessarily asking them for a formal approval. I understand that puts them in a difficult position. But at least some guidance to suggest this is, you know, making reasonable progress and is in the general area of acceptance.

35

40 MS ORR: And you know that ASIC has issued regulatory guidance in relation to section 912D?---Yes.

Yes. But you would hope for something beyond that level of guidance?---Well, I'm, again, going back to the Commissioner's comments, I would – I believe we do need to do that work ourselves and then I think it would be responsible and prudent for us to share that with our regulators for comment.

45

Yes. I understand. The ASIC Enforcement Taskforce Review made a number of other recommendations in relation to section 912D. One was changing the timelines for reporting, so that significant breaches and suspected breach investigations that are ongoing need to be reported within 30 days to enable an investigation to have been conducted, and an assessment to have been made. Do you have any view on that proposal, Mr Elliott?---Not particularly, other than, you know, we support the concept. I mean, whether it's 30 days or 20 or 40, I – you know, I don't know. But the general idea, I think, is a good one.

10 And another recommendation was expanding the range of penalties for noncompliance with the obligation by increasing criminal penalties and adding a civil penalty option. Do you have any views about that proposal?---Again, other than the fact that there is a role for penalties in any governance system. And if they are balanced and if they are thoughtful in terms of their – the setting of the appropriate levels, then I completely understand that there's a role for increasing the penalties. And what I mean by that is, again, I – we know in our own case of running a company, if we set penalty too high and too draconian we always run the risk of driving behaviour underground. That people are less reluctant to speak up because they now fear personal penalty.

20 More reluctant to speak up. Is that what you mean?---Yes. Yes.

Yes?---Sorry, yes. Yes, more reluctant, yes.

25 I just wanted to make sure that that made sense on the transcript, Mr Elliott?---Yes. No, that makes – yes, for the transcript, yes.

Now, do you agree, Mr Elliott, that the matters that you've identified as causing ANZs failings in relation to breach reporting also led to failings in ANZs handling of the processing errors that were the subject of evidence by Ms Stubbings from ANZ in the first round of hearings?---Yes, I do. They're essentially – the root cause is the same, yes.

35 And what do you see as ANZs key failings in relation to that case study?---Well, as I – as I mentioned earlier, if we go back to the root cause here, and we can get into more detail, when you – when as an organisation you take on too much, you try to do too many things you inevitably don't do them very well. And we ended up with a complex infrastructure, complex systems, and when you have – you overlay that with a fast-changing environment, customer expectations are changing, technology is changing, regulation is changing, it makes it very difficult to keep all of those fit for use. And, therefore, things break. And we have errors. And they remain invisible for far too long. So I think those are the issues that I refer to certainly in terms of the causes. Now, complexity in and of itself doesn't necessitate errors, but it's a major contributing factor. And, you know, our failing as an organisation, in my view, is that we did not fully appreciate the nature of change that was happening in our environment. We did not fully appreciate the risk that came with that disaggregated

way of managing issues and the complexity and, therefore, we did not put in place an appropriate governance structure and management structure to deal with it.

5 And what about how you handled the errors once they emerged, once they were identified. As you've said, they were difficult to identify in the first place, but when they were identified, do you think ANZ adequately addressed those errors?---No. Patently not. No, we did not. And, again, in my view, they're related issues. When you run a confederated business model doing lots of things, those things, when things break in them, when errors happen, it's less likely they get escalated. It's less likely
10 they're visible at the appropriate levels, at a board or an executive committee and therefore they do not necessarily get the right – the due care and attention or resourcing to be fixed.

15 And is it more likely that a bandaid solution is applied - - -?---Yes.

- - - rather than looking behind that particular problem to see the root causes that are creating a whole lot of other problems as well?---Yes. You're – that is absolutely correct. And, again, without, you know, compounding it too much, an inability – if issues are not raised to the appropriate level, there is an inability to – to connect the
20 dots and see that something is systemic here. Not just that but also learnings. Even – even when we do identify an error in one – an error in one area, an inability to take that learning and say that may be useful, why don't we go and look in other areas to see if we have the same problem. So those are all symptoms of a complex organisational structure trying to manage too much things, in my view.

25 So how are you dealing with that now?---Right. So now we are simplifying our organisation. That's an easy thing to say but what are we doing. We've exited and sold a significant number of our businesses. So we no longer operate in them. Many of those were profitable, perfectly decent businesses but we decided we can't do
30 everything well. So we've done that. We've radically reduced the number of products on offering. If I give you an example, in the Australia branch network two years ago if you walked into an ANZ branch that branch would service around 370 products or flavours of products, different credit cards, mortgages, etcetera. We've already decommissioned 130 of those. And we have far more to do. So those are
35 some examples of simplifying the actual what we do. The second area is to simplify how we manage. I mentioned before that we had a disaggregated or a confederated way of running businesses. So, for example, in that time when branches had all those products, the operational team, the people who process the applications, who process the payments, who take the customer complaints, they were in a different
40 part of the business. They had a different reporting line through to the executives. That's disjointed. It's harder for that information that comes through complaints to be shared to do root cause analysis and fix the core problem. We have addressed that by changing accountabilities, who reports to who, what people are accountable for.

45 Now, if I could return, just briefly, to the particular processing errors case study, there were five quite different errors on the part of ANZ that were examined in that case study, each of which resulted in very large numbers of customers being

overcharged or not receiving agreed discounts or benefits in relation to their home loans?---Yes.

5 And how many customers – do you know how many customers were affected by those five sorts of errors in total?---I can't recall the – for those five. I – if we look at all remediations that are underway, including some others beyond that five, I know that the total number of accounts affected is – is approaching two million, many of which will be double counted. You know, it might be a customer with a credit card remediation and a home loan remediation, for example. But that's the – that's the
10 broader number.

And do you know how much has been paid in remediation either to the customers in relation to the five processing errors or, more broadly, if you like, in relation to your remediations?---So, again, I can't recall off the top of my head the number. It is
15 hundreds of millions of dollars when it is added up. Some of that has already been paid. And you would know that recently, in October, we took a provision charge, we took a cost for \$374 million, I recollect, after tax, for further remediations. Now, some of that is money that will go back to customers. That's theirs. That is, you know, with interest, and some of that reflects the cost of actually – of discovery and
20 remediation. So this is significant numbers.

The first of the errors in the processing errors case study which affected customers who had a break free mortgage package, that led to ANZs first ever significant remediation program that commenced in 2010. Is that right?---Yes, that's my
25 understanding, yes.

And I want to talk to you about the steps that ANZ has taken to improve its approach to customer remediation since that first program. Prior to last year, is it fair to say that accountability for customer remediation generally sat with the sponsoring
30 business executive with support from other staff as needed?---Yes, absolutely.

And I think you've already said that this had the effect of, in your words, disaggregating efforts, inhibiting ANZs ability to take an overarching approach. Is that – would you agree with that?---Yes, I would.
35

And it was in mid-2016 that the first move was made to centralisation of customer remediation at ANZ. Is that right?---That's my understanding, yes, of the timeline, yes.

40 And that's when the dedicated team for customer remediation was formed?---I couldn't confirm the exact dates but it has been some time, yes.

Yes. And then in December 2016, ANZ appointed Mr Neave as ANZs customer fairness adviser with particular focus on remediation?---Yes.
45

Was that the initial - - -?---Yes.

Initial thinking about his role?---Yes, it was, although with a slight slant in that definition, not necessarily to do the remediation.

5 Yes?---But be an adviser on – essentially avoiding the need for remediation in the future but also to make sure that we approached remediation in a consistent, fair, ethical way.

10 Now, the customer fairness adviser is a board appointee and reports directly to you. Is that right?---That's correct.

But he's not part of your executive committee?---No.

15 And why is that?---I think – so it's – it was a new role, a little bit of a pilot or an experiment, if you will. It is an advisory role. So he has no executive responsibility. I thought at the time – and, you know, it's not to say it's not open for further consideration in the future – I thought at the time it was important that he had an element of being independent. Now, clearly, he works for us and we pay him so he's not truly independent, but I didn't want him to feel part of the business team that's responsible for other results. I wanted him to be really advising us through that very, quite narrow but important lens of customer fairness.

25 I want to come back to the steps that you've taken to ensure his independence. But first, could you explain what the key responsibilities are of the customer fairness adviser?---Sure. So it's evolving. I mean, at the – at the time, it really came out of an observation that when things go wrong we have processes and teams in place to deal with complaints, we have a customer advocate, which we've had for a long time. But if you will, they're kind of – in colloquial terms they're the ambulance at the bottom of the cliff and we wanted to be at the top of the cliff. How did we give more thought to ensuring these things didn't happen. And if they did, to drive this consistency. So it was really that observation. And so we were very fortunate to have Mr Neave available, given his experience as an ombudsman. And so I wanted him to advise me and my team around when we develop new products and services, are we putting the customer in – as part of that design. Are – are terms and conditions fair? Are the way we behave, the way we market, the way we incent 35 people. And then, ultimately, when things go wrong the way we interact with those people. So it was quite broad. And it has evolved because he's learning more about the organisation. We have found his advice to be valuable. And so we have asked him to take on more.

40 You mentioned your customer advocate. Can you just explain the difference between the responsibilities of the customer advocate, a role that all the major banks seem to have, and your customer fairness adviser?---Sure. So the customer advocate is essentially a middle ground, a middle step between a customer raising a complaint with us, and then potentially going to what was FOS or now AFCA. Going to a truly external party. Essentially, it was an option for people if you're not satisfied with the way we've dealt with your complaint, we have this group who you can go to who will cast an independent eye to the extent they can, obviously – again, they work for 45

us – it’s just another dispute resolution offering. People don’t have to use it. They can go straight to external – what we found it to be a really useful, customers seemed to derive value from it. So that’s, again, that’s after a complaint has been made. Mr Neave’s advice has been helpful for that team in how they go about their business but really his focus is to avoid the need for complaints in the first place.

So part of Mr Neave’s role is to advise on customer remediation. Is that right?---Yes.

10 I know that you’ve talked about the preventative aspect as well, but Mr Neave also advises on customer remediation projects. Is that right?---Yes.

And he was involved in the development of your customer remediation principles?---He drove that, yes.

15 Yes. And you launched those principles last year. They apply to all large scale remediations?---Yes.

20 Is it asking too much of you to see if you can list what those principles are, Mr Elliott?---Off the top of my head, there’s about eight. I probably would struggle. They were essentially about very simple plain English things. We would listen to the customer, you know, we – we will act quickly, etcetera. So they’re – they’re principles driven about we want people to be, as I said, sensitive and listening and responsive to our customers but I can’t repeat all eight.

25 I will make it easier for you, Mr Elliott?---Yes.

30 But before I list them for you, was it important to you that they be articulated in a plain English way, capable of being understood easily by your customers?---Yes, it was very important.

35 And the principles – we understand that there are seven of them are: we will listen; we will apologise; we will compensate; we will commit resources to fix the problem; we will explain our approach clearly; we will act speedily; and we will learn from the mistakes?---Yes. That’s familiar.

40 Now, what are you doing to ensure that those in your organisation who have a role in handling customer remediations act in accordance with those seven simple propositions?---So, that’s a big question, because you’re talking about cultural change across an entire organisation of many thousands of people. First, it’s really important that we have them, that they’re easy to understand. And I would use an analogy, this is very similar to when the values, those five values I mentioned were launched. People at ANZ largely can repeat them, even though I failed spectacularly with the seven here. But – so what we’ve done, we’ve made them important. We’ve published them. And then Mr Neave has presented those, he attends many of our teams that are responsible for remediation to embed those in their own operating principles. At some point – not yet, I think it’s probably a little early – we will have

to go and essentially measure the effectiveness. Do people understand them, are they being applied, do we have the ability to see where they are not, and what are we doing about that.

5 Do you have any ideas about how you're going to do that, Mr Elliott?---They're
always complex things to go and measure because they don't necessarily lend
themselves to numeric metrics. I think we have a reasonable track record in terms of
being able to measure the adoption and understanding of values, for example. So I
would probably do it through focus groups, customer surveys, etcetera. But I think
10 that – that's only one measure. That's essentially do our people understand them, do
they believe they are valuable. At the end of the day the real metric is do they make
a difference. And so the ultimate measure is, you know, do we see evidence that we
are listening, that we are apologising, etcetera, etcetera. I have to say, I have not
given sufficient thought to that at this point, but I will need to.

15 You also have a remediation framework that you launched in January. And what I
want to ask is whether you have observed any changes to particular customer
remediation programs as a result of the principles and the framework?---Yes, I have.
Now, I'm not for a minute going to suggest that they're solely as a result of those
20 two documents, if you will. There has been a significant uplift in ANZs
understanding of the importance of remediation. And the reason I know that is it is
talked about more at our board. It is talked about and analysed and reviewed more at
our executive committee. We have had a significant amount of time spent discussing
remediation, what happens when things go wrong, what are the root causes, with our
25 – some of our most senior leadership. We have had – I think the last count, 450 of
our most senior people go through and spend time with that remediation tribe, or the
team. They have a special room set up to explain what went wrong, how we're
fixing it, how to avoid these things. So it's a far more visible approach. So that's
about our understanding. And then I can look at the actual – the facts. The facts are
30 that we are now beginning to get first payments to customers faster than we were
before. That we are learning from mistakes and being able to apply learnings from
one set of remediations to another. So I do believe there has been an impact of those
but there's clearly more to – more to do.

35 One of the things that you mentioned when you were speaking of Mr Neave's
responsibilities as customer fairness adviser was looking at your products and your
services. Do you explain what you ask him to do when he's looking at those
products?---So – well, again, in concept – and then I will talk about the practical – in
concept, what we want to make sure is that we say what we said we would do, that
40 we deliver the products and services that our customers understood they were
buying, whether that's from a legal perspective, the terms and conditions match
exactly what we're doing, but also just the understanding. When I – you know, the
credit card or the deposit I have acts in the way I expect it to. That might sound quite
simple, and at some level it is, but it does require work. And we engage with Colin
45 to help us go through those reviews. Again, he comes at it with a very different lens.
He's not a lawyer looking at the terms and conditions, but really, is this fair.

Is it important to you to have systems in place, and people whose job in your organisation is directed to ensuring that your products don't have an unfair impact on your customers?---In principle, yes. The definition of fairness is always complex, you know, it's subjective, but, yes. And I think while we are far from perfect on this, I think it has added a different tone to many of the discussions we have. And, again, I – if it you will, I can give an example.

Yes, please?---We developed a new operational committee called the ethics and responsible business committee which I chair. A couple – for the last couple of years. That's a committee now that Mr Neave now sits on. He did not at the beginning but, again, this is the evolution. This is a committee where we really decide and make policy decisions around who we should bank, how we should behave, the things we should do and not do. And one of the examples that has come up there where Colin – or Mr Neave has been enormously helpful is the dilemma of where people use – potentially use our products and end up causing themselves harm. And the example used is the use of credit cards for gaming. And while many people use that perfectly responsibly, what's our responsibility. And how do we respect people's individual choices and rights, but also consider making sure they're using – and Colin – Mr Neave has been instrumental in helping us think through if we want to make changes there, how to do that in a way that is fair from a customer's perspective.

And where have you landed on that, on the tension between allowing individual autonomy and the social responsibility that the bank has in relation to its products?---So we have – we have another – we have an external member on that committee, Dr Simon Longstaff from The Ethics Centre who joins us, and he has with our team developed an ethical decision-making framework. It's not an algorithm but it's a framework for how do we consider these questions. And we work through those. So with regard to the use of credit cards for gaming, as a result of that, we've changed a number of things: (1) how we deal with people who have got themselves into difficulty and how we think about that in terms of hardship and our approach to that, and probably more importantly, we've made changes to the terms and conditions of our product that will make it – will put some speed bumps along the way that make it more difficult for people to use those products irresponsibly.

What sort of speed bumps are you thinking of, Mr Elliott?---So, for example, to suggest – and it is difficult because we are talking about individual rights here – to suggest that while you may be able to use our products at a gaming venue, we don't want to see people use the maximum credit limits. We want to always have people have some ability and flex left in their cash flow for normal expenses. So we will put essentially a sublimit in on a card. If I've got a \$5000 limit in general – I am making this up here but hypothetically, maybe I can only use \$4000. Once I hit 4000 I could not use that product for gaming purposes beyond there. Things like that.

So is that something that you are considering as a way forward?---We are actually doing that.

Yes. And – you are doing that?---Yes.

And have you commenced implementing that?---We are – we are amending the term – we have to amend the terms and conditions of our products to allow us to do that
5 with our customers.

And what will be the circumstances that define when that sublimit can be set?---So the sublimit will be set by us. We will determine – and, again, this has been a complex series of conversations we've had with Mr Neave – not just Mr Neave but
10 Dr Longstaff and others ourselves about how do we consider the ethics on this. We made a simple perhaps in hindsight decision, that while people can use their own money to do certain – participate in certain legal activities, when you're using a credit card, essentially, that's the bank's credit provision, and we do have a responsibility there. And we use the simple analogy to think about this as if we were
15 running a – a bar. There is a responsibility not to serve people – people can buy alcohol but at some point not if they're intoxicated. And we tried to apply those principles here to provide some level of protection to customers so they would not get themselves in harm's way by using our products perhaps irresponsibly.

20 So just trying for a moment to tease out the practicalities of that?---Yes.

How will you choose the people to whom the sublimit will apply and how will you determine where to set the sublimit?---Now we get into the complexity of our real life. Essentially, what we would do is apply that to everybody. And say you can – at
25 ANZ if you're going to use our credit – this credit product, these are the rules of application. Now, there are – there are institutions – some in Australia – minor, smaller players – that do not allow the use of their credit cards in gaming facilities at all. So it's not totally new ground. We have tried to get a balance within our approach but it would not be by option. It would not be by the customer's choice to set that limit. We looked at that. That becomes incredibly complicated from an
30 operational perspective, and we felt would lend itself to future problems, to be perfectly honest, in terms of our ability to operate that safely.

So it will apply to everyone. And will it be a percentage of the limit that
35 - - -?---Percentage.

- - - the sublimit is fixed at?---Yes.

40 What is the percentage that you're proposing to fix it at?---85 per cent.

Okay. So a customer will be unable to spend – spend might not be the right word – extend more than 85 per cent of their credit at gaming venues?---Once they hit 85 per cent you won't be able to use the final piece on a gaming – in a gaming venue.

45 So that is a development – I was going to say a proposal but it's much more than a proposal?---Yes.

This is something that you have said you will be doing?---Yes.

That you have been assisted in developing by your customer fairness officer?---He's one of many voices but he's an important voice in that.

5

Yes?---Again, thinking through what was fair. Was it fair for us to impose that decision on our customers, was there a greater good argument, how do we balance the needs of many.

10 And what led you to take those steps?---We – well, the formulation of our ethics and responsible business committee, where we – it goes back to our sense of purpose, which we clarified a few years ago, which is to shape a world where people and communities thrive, and we said, well, there are really three important aspects to that. If we believe – if we – if we are true to it that would influence surely who we bank,
15 we need to bank people who are aligned with those ambitions, how we behave, day-to-day with our customers, when things go wrong, the way that we interact with people, the way we talk to them. And the things that we care about. And so the ethics and responsible business committee has executive ownership of that purpose, and its articulation through the way that we actually operate the bank. And so we
20 asked to deal with difficult issues, like this one, and we provide an avenue for having internal debate and setting standards and expectations of our behaviour.

Are there any other changes of that nature to the operation of your products that you are currently considering?---So there are a few. There are some that we have done in
25 terms of who we bank. So we decided – if we believed that we were here to shape a world where communities thrive and people, what did that mean in terms of certain industries that we banked. So we have made some decisions around that.

What are those decisions, Mr Elliott?---They are largely to do with the way we
30 would bank the big tobacco industry, for example. We had already made decisions around our involvement and banking around parts of the defence industry. So we had some – so any of the sensitive – anything that's sensitive, companies involved in water, companies involved in any kind of land usage. We talk to and have higher expectations of our institutional customers in terms of their thinking, at least, about
35 the environment. So there's a range of things that we have already done and continue to consider.

When you say it's about the way that you bank those sorts of entities, are you saying that you do not permit some of those entities to bank with ANZ?---Yes.

40

And that was the tobacco organisations, was it?---Yes.

Any others?---Not in the particular – that – not in kind of whole industries but certainly we have already made statements around people who operate in coal-fired
45 power, what standards we would apply. You know, so we don't exclude there but we certainly have emission standards where we say if people are what we believe are a force for good in improving emissions and we have got some standards that are

reasonably well accepted internationally of where you – I know not everybody agrees with this – but we might determine to be slightly cleaner than not, we apply those standards, for example.

5 Now, another part of Mr Neave’s responsibilities has been reviewing the case studies that ANZ has been involved in in this Royal Commission. Is that right?---Yes, that’s right.

10 Could I ask you to look at ANZ.801.326.7811. Now, this is an email from 29 October this year from you to Margot Dargan. Can you explain who Ms Dargan is?---Actually - - -

Is it actually an email to all of the staff at ANZ?---Yes it was an email to all staff. Yes.

15 Yes. And Ms Dargan’s name is the only name that appears but - - -?---Yes.

- - - it was an all staff email from you?---That’s my recollection. It would certainly have been all Australian staff if not all staff. Yes.

20 This is an email that you sent following the lodgement of ANZs submissions in response to the interim report?---Yes.

25 And in this email you’ve said that you had asked Mr Neave to review the ANZ customer case studies. Do you see that towards the middle of the page?---Yes.

To see if there was more ANZ should do to set things right for the customer personally, or to change ANZs own processes.

30 ?---Yes, I see that, yes.

And you went on to say that:

35 *Mr Neave had acted swiftly on one of the case studies to resolve it and would soon meet with the customer concerned to apologise.*

Which case study and customer was that, Mr Elliott?---I believe we were referring to Mr Regan.

40 And what was the swift action from Mr Neave to resolve that case study?---So I asked – as it says here – I asked Mr Neave to go back and look at any cases that had come through, just again to pass a different lens to say are we sure we’ve acted and done the right thing here. Mr Regan’s case, from recollection, was one of the very first that came up in this room. And so he went, he reviewed the case and made a
45 recommendation that we had not – that we could actually improve that, and so we have forgiven the debt of Mr Regan, etcetera, and made some payments to him. Mr

Regan has accepted that and part of the remediation or suggestion from Mr Neave was that I will personally apologise to Mr Regan, which I will do.

When are you planning to do that, Mr Elliott?---It's in my diary. I know it's soon.

5

In this email you also referred to nearly 500 emails from customers that you had received and responded to, and analysis that was being done to understand what was new in those emails and what further steps needed to be taken?---Yes.

10 What was new and what further steps have needed to be taken, Mr Elliott?---So these emails refer to – at my last appearance in the Parliament – at the economics committee, I volunteered my email address and asked that if any disgruntled customers that they were – they could share that with me personally. And that was not totally new. I've done that before in terms of on radio, etcetera. And that's what
15 generated which is now 600-plus emails. Essentially, those emails – a wide range of issues. I would say 20 or 30 per cent of them result – result – are around reasonably – not being dismissive of the issues but sort of technical one on one issues, not necessarily systemic. I didn't get frequent flyer points on this card transaction, you know, I don't like the interest rate on that product, etcetera. We've dealt with those.
20 I've answered every – about another third would be known customer cases where they – we had already had a complaint in the past and they were just reiterating their point. And then there were a range of other things in there. Every single one of those I have responded to personally. I can't obviously deal with each of them because I'm not in a position to know the detail. We've set up a team, of which Ms
25 Young here is the leader, and we resolve those to the best of our ability. We meet every two to three weeks to go through the outstanding list and see that they are resolved.

I will tender this email, Commissioner.

30

THE COMMISSIONER: Email from Elliott to all ANZ staff, 29 October '18 concerning response to interim report, ANZ.801.326.7811, exhibit 7.123.

35 **EXHIBIT #7.123 EMAIL FROM ELLIOTT TO ALL ANZ STAFF DATED 29/10/2018 CONCERNING RESPONSE TO INTERIM REPORT (ANZ.801.326.7811)**

40 MS ORR: Now, the documents suggest, Mr Elliott, that there are four things that Mr Neave is going to do as part of his review of the case studies. He's going to, firstly, review the evidence, the findings, and ANZs submissions to assess whether a settlement offer should be made to the customer, or whether a settlement offer that had been made was fair and reasonable?---Yes.

45

Next, he's going to determine if ANZ should apologise or make any other communication to the customer?---Yes.

Then he's going to consider any other action that would enable ANZ to propose a customer outcome that's fair and reasonable?---Yes.

5 And finally, after those steps have been taken, Mr Neave is going to provide a report and recommendations to you. Is that right?---Yes, that's right.

10 Now, Mr Neave was told not to review certain topics, including ANZs policies for providing services to remote communities that were examined in the fourth round of hearings. Why was that, Mr Elliott?---So we took an inventory of all the issues that were raised through the hearings and we essentially made sure there was a stream of work. And somebody was accountable for following those issues. In those cases, we have a different approach. So they're not being ignored. In fact, on that particular one, as it has transpired, we are seeking Mr Neave's help on that one. In fact, I saw him this morning and he gave me a verbal report, an update. He had just spent some time in the Northern Territory, and – so he will be involved in that one. But there was just – to make sure we were really clear what we were asking Mr Neave to do and we have others that are working on other issues.

20 When is Mr Neave going to complete his review of the case studies?---I couldn't give you a date but it won't be too far away. He's working through them. In addition to the individual we've already discussed, he also has already made a recommendation around ANZ Assured, which we will be implementing. I don't know but I would imagine it's, you know, perhaps early in the new year.

25 Has he made any other recommendations in relation to the case studies other than the ANZ Assured recommendation?---Not formally to – not to my knowledge, no. I don't believe he has yet.

30 All right. Now, can I take you to Mr Neave's recommendation in relation to ANZ Assured, ANZ.801.351.0008. Now, this is a report of Mr Neave's review of another case study examined in the first round of hearings which involved ANZ making unsolicited offers of pre-approved overdraft facilities of \$500 or \$1000?---Yes.

35 And that was part of the Commission's inquiries into responsible lending practices?---Yes.

And Mr Neave recommended in this report that:

40 *ANZ enter into discussions with ASIC about remediation of all customers who took up a pre-approved offer for an ANZ Assured facility from January 2011.*

?---Yes.

45 And that involved refunding all fees and interest charged to customers on those facilities since 2011, as well as compensation for the time value of money?---Correct.

I tender that document, Commissioner.

THE COMMISSIONER: Neave memorandum concerning recommendation about ANZ Assured, ANZ.801.351.0008, exhibit 7.124.

5

**EXHIBIT #7.124 NEAVE MEMORANDUM CONCERNING
RECOMMENDATION ABOUT ANZ ASSURED (ANZ.801.351.0008)**

10

MS ORR: Do you think, Mr Elliott, that the customer fairness adviser helps you to minimise reputational risk?---I imagine that he does.

15 Do you think that he helps you to minimise the risk of regulatory intervention?---He should. I mean, if he's effective in his role – and I have every confidence he will be – yes. An outcome should be that, yes.

20 And you mentioned earlier that you've taken steps to ensure, as best as possible, his independence within your organisation. Can I ask you about some of those. And I see you already seem to have some doubts about whether they are entirely effective. Is that a fair reading of that facial expression?---Yes. He's an employee of the company. So, you know, he's not totally independent. We try to make him as independent as we can but it's not without its own challenges, obviously.

25 Well, what you've done to attempt to make him independent is put him on a fixed three-year term. Is that right?---Yes, that's right.

And that's not renewable?---No, I don't think it was envisaged to be renewable.

30 And his remuneration is determined – was determined at the outset of the three-year term. So there can't be any adjustments to his remuneration in the period. Is that right?---That was the understanding we agreed to, yes.

35 And his remuneration is a base salary only. He's not eligible for any form of variable remuneration?---That is correct.

40 And you considered those measures necessary because of your desire to try and keep him independent from the operational parts of the organisation. Is that right?---That was certainly a major factor in it. And there was a recognition that this was an unusual role, as an adviser. I would suggest that the most – the closest similar role would actually be, in many ways, how we would engage with external advisers on various issues where we would pay a fee, a consulting fee, that was not necessarily linked to outcomes. So it's a hybrid between that external advisory piece where we would pay a fixed amount, and, you know, a staff member. So it was a
45 consideration, yes. That was the simple answer to your question.

Do the other major banks have people like Mr Neave? Do they have customer fairness advisers performing his sorts of functions?---Not to my knowledge.

5 Now, another step that ANZ has taken to improve its approach to customer remediation that you've touched on already is the creation of this responsible banking tribe or team. And that was created in April this year?---That was its formal kick-off, yes.

10 And how many staff are in that responsible banking team?---So that relates to the Australia business, so it does not include our wealth colleagues. The last count I saw was around 165 people. And speaking to the leader of that team in the last week, we have approved, I believe, they're in the market to hire another 50 people.

15 THE COMMISSIONER: Sorry, 50?---Sorry, another 50.

Yes.

MS ORR: So you intend to have more than 200 people - - -?---Yes.

20 - - - working in this team?---Yes.

And how many remediations is the team currently working on?---Well, you're testing my - I - I couldn't give you an exact number. I believe it's - it's certainly more than 10.

25 And do you think you have enough staff to cover all of those remediations, Mr Elliott?---In an ideal world, no, we don't. And the issue here is it's not actually about the numbers of people. It's about their subject matter expertise. These are complicated - this is not - the solution here is not merely to hire more people. We need to find people with the right skills in order to be effective. In speaking to the leader of that team we have said to her - including in front of our board - that she has essentially no restriction on resourcing. It is for her to determine the optimal number of people and amount of money to spend to get the best outcome.

35 There was a discussion at your board meeting last month about adding another 100 people to that team?---Yes.

Is that right?---Yes.

40 And the extra 50 people are part of that?---Yes, that's my understanding, yes. That's the first 50, yes.

45 Has ANZ met each of the timelines that it has given the Commission throughout the year in relation to customer remediation?---Not specifically. I would say that of the ones that I've reviewed, there was - there was around half a dozen -four from the wealth division and a couple from the Australia division. Many have. Many have slipped a little bit. But they are on track.

Well, as of 19 October, ANZ had not met the timelines given to the Commission in relation to the rebating of trail commissions to approximately 6000 customers?---That's correct. Yes, I believe that's correct.

5 And had not met the timeline given to the Commission in relation to reimbursing adviser service fees that had been incorrectly deducted from the accounts of about 3000 customers?---Yes, I believe that's – there's a – there's a delay in that area, yes.

10 And had not met the timeline given to the Commission in relation to the remediation of customers for issues arising from systems, disclosure problems connected with life insurance in superannuation?---I can't recall that one, but - - -

You don't recall that one?--- - - - I take your word for it, yes.

15 Now, each of those matters, I want to suggest to you, were matters where ANZ told the Commission that they would remediate those matters by mid-July this year?---Again, I can't recall but I – I'm sure that's the case, yes.

Just to be fair, I will bring up a document. ANZ.801.339.2386?---Yes.

20 So this is an email from 19 October that lists dates advised to the Royal Commission that have either been missed or are under pressure. Do you see that?---Yes, I am familiar with this document, yes.

25 Yes. And you see the references in the final column to mid-2018, first half of 2018, July 2018?---Yes, I do.

So those timelines had not been met by 19 October. Why is that, Mr Elliott?---If I could just have a minute to familiarise myself with the detail?

30 Yes?---Thank you. Again, I – I can't comment on the specifics in terms of why the delays have been. I know – just, again, for context, the three that you're referring to are in the wealth division, which is not part of that remediation tribe, the one we talked about with the 165 and the extra people. So it's a separate part of the bank.
35 That's no excuse but just for – for clarity.

Can I just ask you to pause there - - -?---Yes.

40 - - - and why is that. Why is the wealth division not serviced by the same sort - - -?---Yes, well - - -

- - - of dedicated remediation team?---Yes, a very good question. And – and the reason is it's a – it's exactly a symptom and a result of the way we've run the business over many years. The reason we – so, as I said, wealth was – was actually separated from ANZ Group probably around 2011 or a date around then when we created this wealth division, separated it, gave it its own governance structures, its own management, and actually were physically separated. All sorts of reasons why
45

that was the case. Therefore it has been managed separately. That is the reason it has a separate approach to remediation. The reason we have not pulled those together at this stage is you will be aware that we have made some strategic decisions to dispose of our superannuation business, our aligned dealer groups, and our life insurance company. And it would be disruptive, I think, further disruptive to these remediations to try and centralise remediation at the same time as we were making those transactions. So this is not good enough. But I can't give you the specifics in each case what the specific delay is.

10 We see that the second last one and the last one in the table don't relate to the wealth division?---That's correct.

They relate to the Australia division. The second last item, which I think relates to one of the processing errors examined in the first round of hearings – have I got that right?---Yes, that's right.

The Royal Commission was informed that ANZ was targeting December this year to complete payment but completion is now April 2019?---Yes.

20 So despite all of the progress that we've been discussing that ANZ has made in relation to customer remediation, there is still some way to go. Do you agree, Mr Elliott?---I do agree. And on this one, I – I totally agree. And, again, the commitment is there – it certainly was our target and the team was resourced appropriately, but like many of these things you don't know what you don't know. And as these remediations progress, they uncover more difficulty. So, for example, what I've been informed in this particular case – and I think it relates to some of the others – not the wealth ones – is it is far easier to remediate a customer that remains a customer of ANZ, who is still with us and we have their accounts, and we can actually make those payments to their accounts in reasonable good time. When a customer has subsequently left ANZ and is now a customer somewhere else, that presents a certain difficulty. We made a decision here, we had two choices in this case. Again, a tactical solution, do a manual workaround, meet the deadline, or to invest in a strategic solution that would enable us to make payments to other financial institutions more effectively in real time that would cause a small delay to this one but ultimately mean all future remediations would be faster.

I see?---And that's the decision that we made.

40 How long do you think is an acceptable time to remediate customers?---Well, first of all, it's unacceptable that we have to remediate them in the first place and, again, I know that sounds simplistic, but it is. It has to be as quickly as possible. Our limitations to date relate to the complexity we've built into our business over time. Again, our fault, it shouldn't have happened, but it did. We are getting better at this. In the future, with better processes and a simpler bank, the timescales will come down dramatically.

Documents that ANZ has produced suggest that success for your responsible banking tribe will be demonstrated by the first customer payments occurring within three months of the matter moving to that team?---Yes.

5 When do you think ANZ will be consistently remediating its customers within that sort of timeline?---I can't give you a date on that. I don't know. My – my job is to hold that team to account, to be sure that they're fully resourced to achieve that objective. I don't want them to achieve it at all costs in the sense of doing something silly to get there, and neither do I accept that – that that three months is the end
10 game, that it should not improve further from there.

I will tender this document, Commissioner.

15 THE COMMISSIONER: Email from Laurent concerning RCROG 19.10.18, ANZ.801.339.2386, exhibit 7.125.

**EXHIBIT #7.125 EMAIL FROM LAURENT CONCERNING RCROG
DATED 19/10/2018 (ANZ.801.339.2386)**

20

MS ORR: You mentioned earlier, Mr Elliott, decommissioning of products and the large number of products that you've decommissioned in recent times. Is ANZ also proactively reviewing its product terms and conditions against a description of your
25 systems and processes to confirm that your products are, in fact, operating as they're intended to operate?---Yes, we are.

And when did you begin that project?---Again, my memory fails me on that. It has been a little while. I couldn't give you a date. It's well underway, though. There's a
30 significant number of products that are currently under review. There remain some that we've not begun but we're progressively working it through.

Has the project identified products that are not operating as intended?---I believe so. I couldn't give you an example here today but I – I'm led to believe that it has been a
35 useful exercise, and I believe that it's part of that process that has uncovered further remediation requirements.

Now, I want to move on to a different topic - - -

40 THE COMMISSIONER: Just before you do that. Does that work suggest any need for – does it provide any assistance in product design processes within the organisation?---Yes, it does. It has been – and, again, it's undergoing. The team have told us that as a result of doing that work their learnings absolutely will help us be more thoughtful about future product design to avoid repeats of these issues.

45

I should say to you that I am struck by both the number and size – industry-wide, not confining this to ANZ Banking Group – I am struck by the number and size of so-

called processing or administrative errors. Now, the immediate response I have is why was this not fixed before the event, why is it coming out after the event. Now, is that – no doubt it is a naive and simple approach to it but are these things that can and should be picked off at product design level?---Yes. Can I – if I – if I may, I
5 would suggest – so two – two things. (1) if we just look at some of the data. So applying for a mortgage and processing that through sounds reasonably simple. There are 408 steps in that process at ANZ. A large number of those steps are manual. That’s why things go wrong in the first place. So – and there is a myriad of
10 systems behind it all, technology. That in itself is complex and not – it’s not fit for purpose and we’re redesigning that. If you then disaggregate the management of that value chain, all those steps, and I am responsible for bits of it and you are responsible for other pieces, this is what contributes to the problem in terms of the number of issues. This issue of no accountability, that we did not have a governance structure that says, “I am accountable from the design of the product through to its
15 implementation and if something goes wrong, remediating it, and, importantly, keeping it fit for purpose. Laws change, technology changes, I am accountable for all of it.” We never had that single point of accountability.

20 Yes?---And that – that in and of itself, again, that won’t solve everything but that will mean a far greater opportunity that people take due care and design and oversight of these systems so that they do not break in the future.

MS ORR: Do you have that single point of accountability now, Mr Elliott?---We
25 are building towards that. As I mentioned, we have reorganised the bank in terms of reporting lines. Part of what we call new ways of working, our way of getting work done is designed to resolve some of that. So the teams who build things are responsible for their maintenance and they’re responsible for fixing them, keeping them current. So we are in the process of that. We’ve made a – I think a big step forward in the last two years.

30 And how far away do you think you are from having that?---Well, for the Australia division, we have the structure in place that allows that. Now it’s about embedding the behaviours that go with that. Without belittling it we are asking people to change habits they will have learnt over many years, if not decades, and that learning is
35 proceeding at present. So in terms of further transformation, we’re not aiming, with respect to the Australia business, to make more changes. It’s now embedding those and building these new habits and holding people to account, building the scorecards that are appropriate, making sure the incentives are set appropriately. We clearly have work to do there. Making sure we actually do hold people to account, that we
40 do reward people for doing the right thing but also there are consequences when people are negligent.

45 And how are you going to evaluate your success?---Well, it might sound simplistic, but we will have less things to remediate, we will have less customer complaints, we will have actually a greater sense of employee engagement and ownership for what they do.

I said I wanted to move to a different topic, Mr Elliott, which is the accessibility of banking services. In ANZs submissions in response to the interim report, ANZ said that it:

5 ... recognised the importance of providing assistance to customers who may face obstacles to accessing banking services by reason of geographical remoteness or cultural, linguistic or financial literacy barriers.

?---Yes.

10

Do you think that it is important to ensure that banking services remain accessible throughout Australia?---I believe there is – that is an issue for the community and the economy. I’m not sure that that suggests that ANZ has that sole responsibility, obviously. But we play a role in that.

15

And tell me about that role that you see yourselves as having, as opposed to the role of – for the economy or the community more broadly?---Our role is to ensure that the customers we have today are fairly treated, that they have – that we consider their own needs in terms of access, and that when we respond to changes of customer behaviour, changes in the nature of the economy, changes in technology, that we do so in a thoughtful and responsive way. I do not believe that extends to us seeking out the provision of banking to all sectors of the community that, you know, we do not currently bank.

20

25

In the days that followed your appointment as CEO, Mr Elliott, back in October 2015, you visited a number of regional branches in Victoria and in New South Wales. Why did you do that?---I did that because my background, as you will have seen from my history, is largely on the corporate and institutional side of the bank. I have limited exposure to retail banking in my own professional career. And partly, it was sending a – an important signal, and culture is – you know, a lot of building culture is about signals, a symbol that says I thought it was important and that I think – and I do. So it was to be visible, so I believe in – and I wanted to learn from what our branch network – what they – what they did and what they believed in and what they hold dear to what their business was.

30

35

And beyond that trip, how much time have you spent in ANZs regional, rural and remote branches?---Well, remote is difficult, just for the obvious reasons. I spend – I will have visited over my three years well over 100 branches, not all of them are remote. But I travel reasonably regularly. When I do, I try to utilise or go to local branches. Whether that’s here in Australia or other parts of our network. I couldn’t give you an exact amount of time but it’s significant.

40

And do you - - ?---Maybe not significant in the total scheme of things, but I make an effort.

45

Do you have any observations about the importance of bank branches to local communities?---Not of any great depth, other than I appreciate that, like many

services, they're an important part of the fabric of any community, whether that community and – wherever that community might be but it is of particular importance and value in smaller communities, which, in Australia, tends to highly correlate to more regional and remote communities.

5

And how many branches has ANZ closed in the last decade?---From my count, it's around 110.

10 And how many of them have been closed this year?---In the last – well, so first of all, just to give – that number, the 110, from my – those – those are the gross number of branches closed. We have opened some along the way as well. So there's a redistribution of our network. In the last year, it would be probably around 50.

15 Sorry, I mean this calendar year. Is that around 50 this calendar year?---It would be – in this calendar year, probably less. Probably 35.

20 And what about last year. How many branches did you close last year?---Again, I couldn't be exact. The calendar year would be about the same. It would be somewhere between 30 and 50.

In the past decade, documents that ANZ has produced show that ANZ has closed 55 branches in inner regional Australia. Is that right?---I believe so, yes.

25 And 44 branches in outer regional Australia?---I believe so, yes.

I can bring up this document if it – if it assists you, Mr Elliott?---Sure.

30 It's ANZ.801.377.0001. We've had to do some maths, Mr Elliott?---Yes, I was going to say - - -

- - - because there are no numbers in this document, but on our tally, because the document is divided between inner regional, outer regional and remote – perhaps if we could bring up the second page – perhaps if we could bring up the last page, 0004, you will see that it works its way down - - -?---Yes.

35

- - - to remote and very remote. On our maths it's 55 branches in inner regional, 44 in outer regional, six in remote Australia, and four in very remote Australia?---Yes.

40 Now, you said that this year ANZ had closed – I think you said about 35 branches?---That's my understanding.

45 Why so many branches this year, Mr Elliott?---Well, consumer behaviour is changing very quickly. And not that it has changed just this year but over the last few years we're seeing a number of fundamental changes. The Reserve Bank governor the other day referred to the fact that cash – the usage of cash is almost becoming a niche payment solution. What do people do in branches? Much of it is related to cash, either deposits or withdrawals. So what we're seeing is a significant

fall in traffic in our shops, if you will. That fall has approached 20 to 30 per cent over a couple of years, and shows no sign of slowing. So, essentially, we are confronted with a dilemma where we have shops and a distribution network with less and less people in it, and, therefore, at some point they become uneconomic. And then we have the difficult decision to decide whether – at what level do we maintain them for other reasons, and at which point we say they – we need – we need to take alternative arrangements. At the same time, what we have seen is a rapid increase in the use of technology for people who prefer to do their banking on their phone or at home, or even, in some cases, on the – on the phone. And so it's really a behavioural change that we are seeing. And we are, in a sense, reacting to that.

Now, I want to ask you about a number of things that you just mentioned in that answer. You said that cash – cash transactions were a large part of what happens in branches. People might also need to go into branches to verify their identity when they're unable to do so - - -?---That's true.

- - - over the phone. This is something that's referred to in ANZs submissions in response to the interim report?---Yes.

Do people tend to like to go into branches when they're discussing something as significant as a home loan?---Yes, perhaps, although I would say for ANZ – and we may be different than our peer group – our home loan book only – less than a third of home loans are originated through a branch. 55 per cent come through brokers and another roughly 15 per cent come through our mobile banking network, ie, we send somebody to you. So the branch network is not a terribly efficient or used – well used avenue for home loans.

But it's a third of your home loan book still?---It's a third of the home loan book, yes.

People like to come into the branch to talk about taking out a home loan?---Yes. Some do, yes.

Well, about a third of your home loan customers. You also mentioned a 20 to 30 per cent fall in traffic in your shops. Now, is that 20 to 30 per cent across your branch network or are you referring to particular areas?---No, so that's since – the areas where we ultimately are faced with that decision. I can't recall the total traffic numbers. We have two types of customers who come into a branch. We have our consumer retail customers and then we have small business. The last report that I saw from our network was that retail traffic, the number of people coming in and the number of things they do when they are there is falling. I can't remember the exact numbers but from recollection it's close to, perhaps, 10 per cent per annum. Small business usage remains reasonably solid, so it's not shrinking.

You also referred to the rapid increase in technology?---Yes.

And I assume there you're referring to the ability to use digital banking services. Do you agree that ANZ's capability to offer banking services to its customers by digital means lags behind the capability of your peers?---So that's a subjective question. It's always difficult to know. We certainly have had that in the past. We're making
5 significant investments to change that, (a) to close the gap and to be better. At a simplistic level and it's not the only answer but if we look at mobile banking, so your ability to use an ANZ app on the app store, our app today, which was re-platformed earlier in the year, is the number one rated app of the majors in Australia. And so I think we are doing a lot better on that side and will continue to.

10 You're closing the gap, in your words?---Yes. And perhaps have some leadership in some areas.

15 Were there cases in which of those 109 branches that were closed over the last decade the closure of the ANZ branch was the closure of the last bank branch in the town?---I am sure that will be the case. I couldn't tell you the number.

You don't know how many of them would fit - - -?---No, I do not.
20 - - - into that situation?---No.

I want to ask you about the considerations that ANZ takes into account when making a decision to close a branch. What role do financial considerations play for ANZ?---Well, they play a role. They're a factor. So first – I can't talk with any
25 confidence about how those decisions were made in the past. You're talking over a 10 year period. I can tell you a little bit more – give a bit more flavour as to how those decisions are made today. First of all, we – we're struck with this quite difficult conundrum as an industry and certainly at ANZ which I think is hard to see in others, which is our customers when they talk about service, they talk about the
30 branch. That's what people imagine service to be. There's very little correlation between what happens in the branch and the economic outcome to the bank. What most people do in a branch drives very little value. We don't charge fees for most of what they do. It is a service that is not necessarily correlated to where we generate our profits or earnings. That's quite unusual for most industries. And that delinkage is actually accelerating. More people use brokers, for example. So we end up in the
35 situation where some of our customers, home loan customers, are essentially subsidising, if you will, through us the provision of a branch network, because they're not correlated. And so that causes us a real dilemma. So when you say – this is a longwinded answer to your question – but when you say the financials, our
40 branches don't have a P&L. We don't say what is the profit and loss of the Daylesford branch. What we look at typically is how many customer interactions are they having, what is the nature of those interactions. Are they interactions that could be done at an ATM or are they actually, to your point, conversations around home loans or advice. We look at that. We look at the kinds of transactions that are
45 available in that area. Home loans, deposits, and others. And then we – we consider what the alternatives are for those, if we were to close a branch, what the alternatives would be. Are there technology solutions like leaving ATMs which today can do a

vast array of things for people. Are there other banks close by, is there another ANZ branch close by. And so we apply a lot of those factors into making the decision. It's not an algorithm, it's not a formula. It inevitably requires some level of judgment on behalf of my colleagues in the Australia division.

5

In the course of the evidence that Mr Tapsall from ANZ gave in the fourth round of hearings, Mr Tapsall was taken to a document containing a proposal for accelerated branch closures which appeared to have been prepared for a discussion with you in April last year?---That's right.

10

Did that proposal proceed?---I would have to see the paper – I know the paper you're talking about.

15

Yes?---From recollection there were two proposals. One was, was there an opportunity to essentially sell branches.

Yes?---And the other was to continue with a branch by branch closure program, if you will.

20

Yes?---I do recall that. The proposal – so we did not proceed with the option to sell branches. I recall – I recall the meeting quite vividly. And I recall that the business owners' recommendation was to continue with the approach that had been in place for some time which was to take branches on a case-by-case basis.

25

And what were the reasons why the decision was ultimately made to accept that recommendation, Mr Elliott?---In weighing up the factors here, economic, as you point out, the impact on customers, what customers were likely to do, and I – I can't remember if it was in that paper but we certainly have had – because we've had a – we had data available from other branches we've closed, we had reasonably good data to understand, well, what do customers do? Do they move banks, do they stay, do they use ATMs, etcetera. I remember that that was discussed as part of it and the view was taken that, on balance, the – the closure program was effective in achieving the right balance between customer needs at a – at a reasonable cost for the organisation.

35

Do you consider the loss of employment as a result of a closure of a branch?---Yes, it is one of the factors. I would say, again, though, in most cases we're talking, the number of staff that work in a branch today is radically reduced from the past. I can't remember the average but it's, you know, half a dozen or so people in general.

40

And many of the branches we were talking about here was only – it may be less. It might be three. That's not to dismiss that. Obviously it's a factor and even three jobs in a small town can be meaningful, I understand that. But it is a factor. And, for example, some of the analysis that we do around restructures like that is to understand were those people offered redeployment in the ANZ network because there's other jobs available, albeit they might be some distance, etcetera, so we do take it into account.

45

Do you consider the demographics of the population catered for by the branch?---I know that we do so subjectively. I could not tell you that it's done with a high degree of objectivity in terms of any – I can't recall seeing specific analysis about age demographic, for example, but I know it's discussed.

5

Should it be discussed with a greater degree of objectivity and formality, Mr Elliott?---Perhaps. And the reason I say "perhaps" is there is a degree of generalisation that's applied to this and an assumption that older people are somehow uncomfortable with technology. That's not necessarily our experience. And so while I think we should consider it, absolutely, I would worry that it would draw us into gross generalisations around what our customers actually want.

10

All right. I want to ask you a little more about those matters, but I do see the time. And I need to tender, Commissioner, the branch closure list which is ANZ.801.377.0001.

15

THE COMMISSIONER: That becomes exhibit 7.126.

20 **EXHIBIT #7.126 BRANCH CLOSURE LIST (ANZ.801.377.0001)**

THE COMMISSIONER: 2 pm?

25 MS ORR: Yes, thank you, Commissioner.

THE COMMISSIONER: Can you be back in time - - -?---Yes.

- - - to begin at 2 pm, please, Mr Elliott?---Thank you.

30

ADJOURNED

[12.58 pm]

35 **RESUMED**

[2.00 pm]

THE COMMISSIONER: Yes, Ms Orr.

40 MS ORR: Mr Elliott, I had been asking you before lunch about ANZs consideration of the demographics of the population catered for by a branch that you're considering closing. And you had indicated that you didn't want to make an assumption that older people were uncomfortable with technology, and I want to take up the issue of technology with you a bit more. Could I ask that you look at ANZ.801.347.4804.
45 This is one of what appear to be a number of letters that have been sent by Members of Parliament to ANZ, once ANZ has announced that it proposes to close a particular branch. This one is from Mr Duluk, a member of the South Australian Parliament

and relates to your closure of the ANZ branch in Blackwood, South Australia. Now, Mr Duluk in this letter points out that the proposed closure of that branch in October this year concerned an area that was susceptible to mobile phone black spots from which the nearest branch would then be a 45 minute bus ride away. Now, I want to ask you about this problem, areas where technology does not service the community well. How does ANZ then factor those matters into its decisions about branch closures?---So it's a good example. And there's no formula here. There is no objective test, I believe, that we can apply here. It is a factor that needs to be taken into account. To be honest, I can't sit here and tell you that in every single case of a branch closure decision we consider and do sufficient research to understand the availability of technology in this particular case. We do typically consider how close the nearest ANZ alternative branches are. We do consider whether there are other bank providers in town or close by, whether they are a major or a regional bank or others. And until recently, we had also been able to consider an alternative, the Bank@Post relationship that we historically were able to offer as an alternative which we are no longer able to do. So we do consider those but not – not this black spot issue. I accept that.

And should you consider those matters further, Mr Elliott?---Potentially. I think there's merit in giving that some – some thought.

Well, it's problematic for the people of the community, isn't it, if they can't use the alternative of digital access to your banking services, because technology does not reach those communities in the way that it reaches us in metropolitan areas?---I accept that. And I think we should take it into account. As I mentioned, it's an alternative. It's not the only one. As a result of the decision we've made not to continue with the Bank@Post relationship or the alternative, we are investigating different ways of servicing customers in these communities. I can't tell you what that will resolve – or what that will result in, but, for example, there are alternative providers who remain in these towns who provide different services that could provide bank – basic banking services for us. Again, as an example, I am led to believe that some time ago ANZ had a relationship where pharmacists might be able to provide basic banking services, just like we do, until now, at the Bank@Post services. So there are other alternative providers like that. We are looking at different solutions using technology, using what we would term a smart ATM, to be able to leave machines that can cope with most of what customers need in a town, etcetera. So we're looking at alternatives.

You've talked about the discontinuation of the Bank@Post arrangement?---Yes.

What happened there?---So three or four years ago we had entered into an agreement like the other major banks and some of the other banks where if our – our customers could go to a post office. Many of them who are licensed post offices so essentially like a franchise. And they could do basic banking there. They could make a deposit, withdraw cash, etcetera, with a face-to-face, not unlike going to a branch. The post office retains 3000-odd outlets across the country, many of them in remote areas. We used to pay a per transaction fee of – forgive me but roughly somewhere between

\$2.50 and \$3 for every transaction, even if it was a balance inquiry. That was perfectly fine. It came up for renegotiation and the post advised us that they were going to impose a – what they called a community access fee of around \$25 million that we would have to pay per annum in order to avail ourselves of that service and still pay the per transaction fee. When – the other banks have signed that. We have a slightly different profile of customer. And when we did the maths, how many people were actually using it, our effective per transaction cost was approaching almost \$20 per transaction and it became, despite our attempts to reach a negotiated settlement with Aussie post, we were unable to, and so we've agreed to terminate that relationship and seek an alternative.

Are you proposing to close further branches over the next year or so?---I have not seen a prescribed list of – there may well be some that – that we have agreed. I haven't seen the latest version of that. I imagine that we will have to consider further closures in the next two years.

And will the fact that you will no longer be able to offer this service through Bank@Post bear on those decisions?---Yes, it will.

In your view, Mr Elliott, are there circumstances in which banks should continue to operate branches in regional or remote locations, even when those branches are not profitable?---I have given this some thought, not alone, but with our team. It's not an easy topic. Unlike other people or other industries that get discussed in these terms, like telecommunications, for example, we do not have a monopoly, we have a relatively small market share. ANZs share of what we would consider traditional banking is around 15 per cent. It is problematic, I think, for us to consider any obligations to provide universal service to the community. I'm not saying we should ignore it, but I think it's – it's a very complex decision for us, because it imposes cost and risk to us that must be paid for and borne by somebody.

Well, the Commission received analysis undertaken by the Financial Sector Union as part of its submissions following the module 4 round of hearings, and that analysis indicated that for the 2017 financial year, ANZs profit was \$6.938 million. And the financial contribution of branch closures to this profit was .32 per cent. Have you seen those figures, Mr Elliott?---So the – the profit you're referring to is billion dollars.

I'm sorry?---6.9 billion.

I said million?---That's okay.

I'm sorry, billion?---I'm not familiar with the other piece of data they referred to, the .32 per cent. I'm not quite sure what that's referring to.

Do you accept that it's a very, very small contribution to your profit, the financial impact on ANZ of branch closures?---Absolutely. But, again, that's not necessarily the reason we make these decisions. For example, the operating risk of running a

5 network in regional and remote Australia, it brings with it operational risk. Exactly many of the complexity factors that have led us here today. I'm not suggesting for a minute they all relate back to the branch network, but it's another example. I'm not convinced that ANZ is very good at it, in terms of running regional and remote branches.

10 Why is that?---Because it's complex, because it brings with it different requirements in terms of understanding the customers in those communities, and the various challenges that go with it. And then just a operational risk. In order to service those, we struggle with finding appropriate – again, not in all cases, but at times employees, the ability to provide, despite your comments earlier about the telecommunications network, to provide reliable bandwidth into those communities, which is essential in terms of the provision of our service, because it's, you know, we need it to be connected. We need to send and arrange for delivery of documents and cash and all sorts of things that each represent a point of operational risk.

15 And do you ever consider, when you're making these decisions, reducing the opening hours of the branch rather than closing it entirely?---Yes, we do. And I – I know for a fact that we do that in our New Zealand operation and we have done that successfully where we move, for example, to only so many days a week or only mornings, etcetera. The reality is – and I'm not totally aware it has been tested here in our Australian network – I would have to check – essentially it doesn't really change very much. The cost and risk that I am referring to exists whether the branch is open three hours a day or five hours a day or three days a week or five days a week. It can help a little bit, but it's not, I don't believe it's necessarily the long-term solution.

Could I tender this letter, Commissioner.

30 THE COMMISSIONER: What's its date?

MS ORR: It is dated 31 August this year.

35 THE COMMISSIONER: Letter from Mr Duluk to Mr Elliott, 31 August '18, ANZ.801.347.4804, exhibit 7.127.

40 **EXHIBIT #7.127 LETTER FROM MR DULUK TO MR ELLIOTT DATED 31/08/2018 (ANZ.801.347.4804)**

45 MS ORR: Now, I want to ask you some questions about changes relating to banking accessibility that ANZ has made since the fourth round of hearings of the Royal Commission. But before I turn to those changes, we see from documents produced by ANZ that prior to that round of hearings, your group general counsel commented that ANZ was expecting the issues in that round of hearings to be particularly

difficult. Have you seen that communication?---It's certainly familiar. Yes, I believe so. Yes.

5 And do you know why he considered that to be the case?---Could you just remind me the nature of the fourth round? I'm - - -

I'm sorry?---Yes.

10 The fourth round was the round that dealt with issues affecting people in rural - - -?---Yes.

- - - regional communities?---Yes.

15 In Brisbane and in Darwin, and there were ANZ case studies in both of those weeks, one relating to the Landmark cases in the first week, and then case studies in the second week relating to access - - -?---Yes.

20 - - - issues, particularly experienced by indigenous people?---Yes. No. Thank you for that. Yes, I do recall that. We had had, in addition to the email exchange, just a conversation at ANZ that, in fact, both issues were likely to be difficult because we knew we had failings in both areas. We knew that both areas were highly and understandably emotional for customers and the community, and I believe it also referred to the fact that it was likely, in the way that the issues were unfolding through the - through this Commission, that ANZ would be, if you will, front and
25 centre on those issues that, you know, we were - we were charged with being the case studies on these. And so that was particularly difficult for us. And we accepted it was things that we could have and should have dealt with better in the past.

30 After that round of hearings, you sent an email to two of your staff members, Mr Brown, the group general manager of corporate affairs, and Mr Presland, the acting managing director of retail distribution?---Yes. I remember. Yes.

We will just bring that up. It's ANZ.801.347.0130. You said to those two people:

35 *Given the recent testimony at the Royal Commission, it would be useful for the ExCo to understand the number of branches and outlets that are similar to Grootte Eylandt and Katherine where the customer base could be predominantly or with a reasonable share of customers who may be deemed to be vulnerable, likely to be Centrelink dependent and/or where financial literacy
40 may be a challenge. I realise that is broad but I assume you can use your judgment and give us a sense of the number and scale of branches in this category and where they are. Thank you. This is not urgent but we do need to understand the extent of the remediation issue ahead.*

45 ?---Yes.

Now, what motivated you to send this email, Mr Elliott?---Well, in the preparation for that round, while I had been loosely aware of the issues particularly around Groote Eylandt, it gave me the opportunity to become much more familiar with the details there. And I was, obviously, with the case study that was presented, I was
5 concerned about it. You know, it was not something we were proud of. And I wanted to understand, as a result of that, whether this was systemic, whether we – whether we had a broader issue and to help me understand that a piece of data would be the question, well, essentially, what this is – how many other places have the potential to look like this. It would certainly have the ingredients that may well lend
10 to similar problems.

And what did you mean by:

We do need to understand the extent of the remediation issue ahead.

15 ?---So in here, I guess I'm loosely – I'm not using the word “remediation” in the formal sense of the term, a compensation, etcetera, but more to say if we believe that we've had failings in term – we've let down – or failed to meet community standards and expectations with respect to the examples we saw, where else might that be. I
20 need to understand the extent. Is it isolated, is it, you know, 100 cases, is it – what exactly would the scale potentially be so that we can understand and decide what the right thing is to do.

And what did you learn as a result of the work that you requested?---So what I've learnt – and forgive me if I get the data wrong – but that we have something like 19
25 branches that would be – and two outlets that – so 21 in total – that would fit the accepted definition of something that looks like Groote Eylandt. There was 21 of those. And there was a further 22, if I'm not mistaken, branches where the demographic of that branch or the local community would tend to indicate there was
30 a high degree of customers there who had – who were reliant on Centrelink payments. And that's – it's not a – it's not a perfect definition but it's an indicator of potential vulnerability of those customers. So in total about 40 outlets of our 640 would meet this definition. That's what I have learnt. I haven't had the opportunity at this stage to take that further, to understand or – or – or make any sorts of
35 recommendations or approach to look at what – what should we do or what can we do.

I will tender that email, Commissioner.

40 THE COMMISSIONER: Email Elliott to Brown concerning branch network, 16 July '18, ANZ.801.347.0130, exhibit 7.128.

45 **EXHIBIT #7.128 EMAIL ELLIOTT TO BROWN CONCERNING BRANCH NETWORK DATED 16/07/2018 (ANZ.801.347.0130)**

MS ORR: Now, since that round of hearings, ANZ has taken several steps directed to assisting Aboriginal and Torres Strait Islander customers living in regional and remote locations?---Yes.

5 I want to - - -?---I believe - - -

- - - take you to some of those which are set out in ANZs submissions in response to the interim report. You've now committed to working with indigenous leaders to rework your security questions for customers who need to verify their identity over the phone?---I believe so, yes.

10

To make those questions more meaningful - - -?---Yes.

- - - to those customers. And you've decided to offer a telephone service staffed by employees with special training in assisting Aboriginal and Torres Strait Islander customers?---Yes.

15

Now, in ANZs submissions following the fourth – that round of hearings, ANZ expressed reservations about offering that sort of service. Are you aware of that?---I can't recall the detail of what was in the submission, to be honest.

20

ANZ told the Commission that that type of service would necessarily be relatively small in scale and it would result in fewer staff being available to assist those customers at any one time. Do you recall that?---I do, yes.

25

And that it would be particularly vulnerable to the impact of events such as staff turnover?---Yes.

But you've revised that view. Those things don't stand in the way of you now offering that service?---I can't tell you that we're currently offering that service. I know we plan to. I don't think those things get in the way. My recollection we are pointing out operational challenges of providing that securely and safely over periods of time.

30

The submissions that were filed in response to the interim report suggest that the provision of this service will be subject to consultation with indigenous community members. Does that sound right to you?---It sounds right, yes.

35

And since providing the Commission with submissions following that round of hearings, you've also now decided to cease providing informal overdraft facilities on transaction accounts that you detect are in receipt of certain Centrelink benefits?---Yes, I believe so. That's right, yes.

40

And the effect will be that from the end of this month, certain Centrelink recipients, as identified by your systems, will be unable to unintentionally overdraw their transaction accounts except in very limited circumstances?---That's my understanding, yes.

45

And why have you taken that step?---Well, I think it was a recognition that our services had the potential to cause unintended harm to customers who, perhaps, were not as familiar as they could be in terms of how to responsibly use those products. And so while there was no ill intent as far as I can determine, we felt it better to put these safety mitigants in place, if you will, to try to ameliorate that risk.

And also since that round of hearings you've committed to cease charging dishonour fees on pensioner advantage accounts?---Yes.

And finally, you're taking additional steps to comply with the 90 per cent arrangements?---Yes.

Are you familiar with the 90 per cent arrangements, Mr Elliott?---I am, in broad terms, yes.

So they're formalised in a voluntary code of operation developed by the Department of Human Services and the Department of Veterans' Affairs and signatory banks agree that the default position is that recipients of government benefits should be able to retain at least 90 per cent of those benefits in any fortnightly period?---Yes.

And the practical effect of those arrangements is that if a customer in receipt of those benefits owes the bank money, the bank shouldn't be able to deduct any more than 10 per cent of the customer's benefits to pay down the debt unless the customer consents to that?---That's my understanding, yes.

And in Mr Tapsall's evidence in that round of hearings, Mr Tapsall accepted that ANZ didn't meet best practice because it required customers to opt in to receive the benefit of the 90 per cent arrangements. Have you seen that evidence?---Yes, I do recall that evidence, yes.

And what steps are you now taking to increase the uptake of your customers on the 90 per cent arrangements?---I could not tell you with any degree of confidence, to be honest.

Right. The submissions that were filed in response to the interim report refer to updates to your website - - -?---Yes.

- - - and talking to your frontline staff about these matters and encouraging your collection staff to promote the arrangements as well?---That sounds familiar, yes.

But does ANZ still intend to offer the 90 per cent arrangements only on an opt-in basis to customers?---I would have to go and speak to my team. That's my understanding. I'm not – again, I'm not confident on this one to know whether a strengthening of that position is being considered, ie, to move away from the opt-in to being mandated. But I'm not – my only recollection here of this discussion – this issue was the team advising me of some of the operational complexity of actually applying this. It's not an excuse but just the reality, given some of our systems'

limitations. And so there was a concern to make sure that anything that we agree to do, we can actually do responsibly.

5 Well, in the submissions in response to the interim report, ANZ said that while it could technically apply the 90 per cent arrangements to all Centrelink recipients without the need for them to opt in, this would complicate the account information presented to customers and would risk confusing some customers?---Again, my – my – my limited conversations on this and understanding was to do with the fact that – and, again, I’m not an expert – but when they talked it through with me – and I
10 remember them using an example which I can’t totally retell – was there would be situations where a customer would receive a statement that says you have this amount of money, this amount of money is available, this isn’t, and you have this other debt and there was a concern that that would actually be confusing to a customer and not actually give that customer an ability to understand their financial
15 position. And, again, that doesn’t mean we shouldn’t do it, it was just a concern that was raised.

And is that a concern that you’re going to address? Are you going to fix that situation? Because if all that’s standing in the way of you moving to a system that is
20 not an opt-in system that gives the customer the benefit of this without having to opt in, if all that stands in the way is sorting out how you will present the statement to not confuse the customer, are you able to do that?---Well, again, with respect, when you say it like that it sounds very simple. And our challenge here is to not solve one problem by creating another. One of the issues that was apparent in dealing with
25 remote communities – and I don’t mean to make a gross generalisation was there was some challenges with financial literacy in some parts of that community. Therefore, we should not presume that it’s merely a matter of, you know, the presentation of a statement and everything will be okay, if we spend some time on that. We do need to think that through. And engage with the community to understand whether that is
30 a net benefit or not or as I have mentioned we’ve traded one harm for another. But we are open to that. I am open to that. I am certainly not going to rule that out.

Could each of the steps that I’ve just taken you through, the refinement of your security questions, the establishment or the upcoming establishment of the dedicated
35 telephone service, ceasing to offer informal overdrafts on particular accounts, ceasing to charge dishonour fees on particular accounts, and at least increasing the promotion of the 90 per cent arrangements, could each of those steps have been taken much earlier than following the Commission’s inquiry into these matters in the fourth round of hearings?---Of course.

40 And why weren’t they, Mr Elliott?---Because they didn’t receive sufficient attention. And – or visibility. It goes back to where we began our conversations earlier this morning. I’m not suggesting – I’m not making an excuse, but the way the business was managed, this is a relatively small number of branches, a small number of
45 customers. Therefore, this issue did not escalate through. I’m the first to acknowledge that I was not really aware of this even as an emerging or a real issue until it was discussed in preparation for this Commission.

5 Are these the sorts of matters that the customer fairness adviser could and should be on the lookout for?---Yes. And, in fact, I mentioned before the conversation I had with Mr Neave this morning was largely – not specifically, but largely related to this issue of more vulnerable customers and how we can ensure that they are utilising appropriate product in an appropriate way.

All right. I want to turn now to some questions about another acknowledged cause of misconduct by ANZ, and that’s remuneration?---Yes.

10 And in your submissions in response to the interim report you’ve said that – or ANZ said that as a generalisation over a number of years, and due to various events, the financial services industry has developed a culture that has become overly focused on revenue and sales?---Yes.

15 And this was a point I took up with you earlier today. And also in those submissions, that in cases where ANZ had engaged in problematic conduct, there was often a focus on achieving certain short-term financial objectives, including financial objectives at the expense of the longer term matters?---Yes.

20 And ANZ acknowledges that its remuneration and incentive structures have at times not adequately discouraged and may even have encouraged poor conduct. Is that right?---Yes.

25 You believe, I think, Mr Elliott, that incentives are capable of changing behaviours and that that is what they are designed to do?---Yes. The word – it is to incent the right behaviour so at a philosophical level if they do not change behaviour, one would argue they have failed.

30 And in those submissions in response to the interim report, ANZ referred to the dangers of incorrectly calibrated remuneration structures?---Yes.

35 Can you expand on what you consider to be an incorrectly calibrated remuneration structure?---Yes. That’s probably a clumsy term. We, like many organisations, not just financial institutions, use a balanced scorecard approach. I think we all understand that while there’s a simplicity value in having a goal for people, whatever that might be, in reality most people’s work is the result of achieving a number of aims. And it is our job as senior executives to ensure that there is clarity about what we ask our people and that we communicate that getting the balance right between those various objectives is as important as what those objectives are. And I think the point that was being made there is that there had been undue weighting put on financial metrics at the expense of others. And the only other thing I would add there is it is inherently difficult to weight or balance metrics when they do not have a common currency. Financials are easy for banks to understand. It’s very hard to sit and try in a mechanical way, how do I trade off good or bad revenue outcome versus a good or a bad customer satisfaction outcome, leadership quality outcome, risk management outcome, etcetera. And so there’s an element of judgment in there.

And banks, like us, had too often weighted our efforts towards the financials for a myriad of reasons.

5 Can you give an example of a situation in which this incorrect calibration of remuneration structures has led to poor customer outcomes at ANZ?---I can. I will just think of the – the most appropriate one. Well, I – probably just to continue the conversations we’ve had today, the reality is not at an individual level, necessarily, but at a team or a divisional level, a business unit level, a weighting towards financial outcome will, all else being equal, tend to deprioritise customer remediation. I think
10 that’s probably the most apt example. I don’t know that it’s out of ill intent, per se, but it does bear that risk quite clearly.

I want to ask you about remuneration, both at the executive level and at the level of your frontline staff?---Yes.

15 And I want to start with the executive level. Has this incorrect calibration that we’ve been discussing, in your view, existed in relation to executive remuneration at ANZ?---Yes, I believe it has. And I – I believe good evidence of that has been the reasonably consistent level of change that has been applied to the way we set targets
20 for the group, and in a related way to the chief executive, myself, and my team. And you will have seen, if you look at those scorecards over a period of 10 years, there has been an evolution, a change, maturity, whatever words you would like to use, but that has consistently changed. That change is as a result of attempts to get the balance right, and acknowledging that we have various stakeholders who have, out of
25 their own self-interest, talked to us or put pressure – pressure is probably too strong a word – but certainly expressed their views about how that weighting should be.

And what are those views that have been expressed?---So for example, there is a – and I know that some of my – some of the previous witnesses here have talked about
30 the fact that there are some shareholders, not all, who would prefer that our only objectives were financial, and, frankly, have no time for what they would term softer measures around customer outcomes, employee engagement, diversity, etcetera. So that would be one group of stakeholders, for example, that would have an opinion.

35 What sort of behaviours do you think executive remuneration frameworks should be designed to encourage?---So there’s a range in there, and in no particular order, one is just about living our own values. We say we stand for certain things. We should hold ourselves to account for that. We should not accept – and we have in the past – we should not accept that that is a tradeable commodity. That’s one. Two, it should
40 encourage behaviours that are in the long-term – and I use that word carefully, because there are different perspectives on what the long-term is – but that – that encourage behaviours that are in the long-term interests of stakeholders as opposed to the short term. And it should encourage behaviours particularly in a bank – I’ve never really worked anywhere else so I can’t comment – but particularly in a bank
45 that encourage behaviours around good risk management. And, again, I mean that in the broader sense of the term of “risk”. They would be three that come to mind. I am sure there are others.

The second one you mentioned, encouraging behaviours in the long-term interest
- - -?---Yes.

5 - - - of stakeholders, do stakeholders have different views? Different stakeholders
would want to see different things in the long term?---I – I would – yes, I think that’s
probably true. I mean, I take a view that says actually there is an alignment and a
coherence amongst those views if done well, that actually shareholder outcomes are
completely aligned with good customer outcomes. There is also a significant amount
10 of research and academic work that suggests that good behaviours with respect to the
environment and sustainability goals are also highly correlated with good financial
outcomes. So there is an ability to see an alignment in those. It’s not always easy.
It’s not always obvious. It takes a level of commitment and it also requires being
held to account for those. But I believe those can be aligned. It’s our job, actually,
15 in my view, and my job, is to be able to express to our stakeholders how that
alignment manifests itself and that we have the governance structures in place to – to
the extent possible – to drive that alignment.

20 What about on the other side of the coin? What are the sorts of behaviours that you
think executive remuneration frameworks should be designed to discourage?---So the
discouragement can obviously be the flip of those. We don’t want to see – we should
discourage people taking short-term tactical bandaid solutions to problems. It should
discourage people not consider – you know, not thinking through impacts on
stakeholders. So being too quick to appease or serve the needs of one stakeholder
without consideration to others. And I believe it should discourage people who are
25 not, in particular around banks, this issue around risk management, that are not
considering about the prudential – the safety and soundness of our organisation, not
just the balance sheet but actually its long-term sustainability as an organisation.

30 And are you incorporating in your description of risk management management and
appreciation of non-financial risk?---Completely.

35 How significant do you think the expectations of shareholders are in setting
remuneration structures for executives?---Well, it would be disingenuous if I did not
say they’re very significant. The nature of the system, the structure we have in terms
of corporate governance, our obligations as directors, the ability for shareholders to
vote on – particularly issues around remuneration means that they have a significant
voice. I can’t put a number or percentage on it but it is a very, very significant voice.
Perhaps the strongest of all. I am struggling to think of a stakeholder group that has
anywhere near the influence on remuneration structures as much as – and in addition
40 as to the actual absolute amounts for some like myself as a chief executive.

45 You may have heard me ask other witnesses in this round of hearings about their
views of the two strikes rule and whether or not the two strikes rule impedes creating
a remuneration structure that prioritises, in the view of the organisation, good
customer outcomes. Do you have views on that, Mr Elliott?---My views are
probably not terribly educated. I do have views. I am concerned that shareholders
today, irrespective of their size, have very few avenues for expressing their

perspectives to a company. The remuneration report is one of the few avenues given to them. And understandably, I think we've seen shareholders use that to have a voice on other issues. So I am concerned about – about that.

5 Concerned in what way? Concerned - - -?---Well, I'm not sure it's being used for the purpose it was meant.

I see?---I think, you know, the purpose was to be talking about remuneration. People use it understandably to express views on all sorts of things to do with the company because they have no other real and any significant ways or any powerful ways – I mean, the good thing about the two strikes rule, it inevitably has power to it. If – if you second strike, there is an outcome, as opposed to opposition to general issues that are voted on at an AGM. So I am concerned that it is used for incorrect purposes, if you will. But I think it is shareholders expressing the need to be heard as well.

15 Can I ask you now about your system for remunerating executives at ANZ?---Yes.

Your system involves a fixed remuneration component that's paid in cash and a variable remuneration component?---Yes.

20 And the variable component is designed to provide 200 per cent of the fixed remuneration component for on-target performance. Is that right?---That's for senior executives.

25 Yes?---This is for the most – the most senior executives, yes.

I'm sorry, I should have made clear that that is the level - - -?---Yes.

30 - - - that these questions are directed to. And does that mean, that 200 per cent variable component for on target performance, does that mean that if a senior executive does what ANZ expects of them in the performance of their role, then they will generally be entitled to receive their target variable remuneration, which is twice their fixed remuneration?---In simple terms, yes. There are some other factors that go into that, with respect to how the group has performed as opposed to you as an individual. But, yes, that is the essential design feature, yes.

35 And if the senior executive performs above target, they are entitled to up to 300 per cent of their fixed remuneration, which is also 150 per cent of their target variable remuneration?---Yes, yes.

40 Is that right?---Yes, that's correct.

45 And can I use a simple example that you used in your statement to make sure that I understand this correctly. If the fixed remuneration for a particular senior executive is \$1 million, their target variable remuneration is an extra \$2 million, but if they perform above target, they might get up to \$3 million in variable

remuneration?---That's correct. And with the other concept that it could be zero. So they may be entitled to only their fixed.

Yes?---Yes. Yes.

5

I understand. But these are the targets?---Yes, these are the targets, yes.

The targets for – the word I think used in your statement on-target performance?---Yes.

10

The 200 per cent and exceeding target performance 300 per cent. But you remunerate your chief risk officer and yourself differently from the rest of the other senior executives. Is that right?---Yes. And the head of internal audit, yes.

15 Yes. And the chief risk officer's target variable remuneration is lower. It is 170 per cent rather than 200 per cent?---Yes, that's right.

But I want to focus on the senior executives other than the head of compliance, the chief risk officer and you. The most recent reconfiguration of that remuneration structure for those senior executives was made in 2016?---I believe so. Yes, that sounds right.

20

And at that time you combined your short-term variable remuneration and long-term variable remuneration into a single variable remuneration reward?---Yes.

25

And that was to be delivered as an even split between cash, shares and performance rights?---Yes.

And why did ANZ make that change at that time?---So in my recollection there were a number of issues. One was generally in the interests of simplification, because at the same time we merged them, we also merged the deferral periods and made it a simpler formula. There was a recognition at the time or a judgment, perhaps is the better word, that in reality we were struggling to differentiate between how the short-term and the long-term determinations were made. That people's performance is a blend of factors, each of which is impacting both the short-term and the long-term. And so we found that complex to work with. So there was a benefit of the simplification. And if I'm not mistaken, I believe it was also based on some feedback about – from shareholders and also from the marketplace, just trying to understand what might be deemed as best practice or where – where alternatives were. And then finally, and possibly importantly – it was important – there was a view at the time because of the nature of the way that long-term variable was given to employees that employees were not valuing it. And so going back to our first point, Ms Orr, was it really an incentive. Was it really powerful in terms of incenting the right behaviour. And there was a sense that it was not and, therefore, there was merit in changing the fundamental structure of remuneration for senior executives.

30

35

40

45

- And at that time, that change of approach adopted by ANZ set it apart from the market on variable remuneration?---Yes, I believe it did, yes.
- 5 And that was because, in addition to the matters that we've been discussing, it's this higher weighting on cash and shares as opposed to performance rights?---Yes, I think – I believe you're right. That's correct, yes.
- 10 And in order to help balance the interests of shareholders and the executive, you decided to impose a longer deferral period on the shares. You mentioned this - - -?---Yes.
- - - a four-year deferral period?---Yes.
- 15 And you decided to remove the threshold for the deferral of short-term variable remuneration which had been \$100,000?---Yes. I – yes, that's right.
- And you capped the maximum opportunity for the combined variable remuneration at 150 per cent of the combined variable target?---Yes.
- 20 So that created a higher target opportunity but with more deferred shares and a longer deferral period. Was that the upshot?---I think that's a good summary – yes, it's a good summary.
- 25 It's very complicated?---It is very complicated, yes.
- I think what that meant was that your executives got more certainty about their variable remuneration but the trade-off for that certainty was greater deferral and a longer deferral period?---Yes. So there was, essentially, more at risk.
- 30 Because of the deferral, is that - - -?---Because of the deferral. Because the more that is deferred, that deferral is always subject to discretion from the board to downwardly adjust that after it had been granted to essentially remove it from the executive.
- 35 Have you seen any changes in the behaviour of your senior executives or within the business more generally as a result of that move to this combined variable remuneration approach with the criteria that I've just asked you about?---I think that's the first time I've been asked that question. So let me just – I'm not sure that I can point to anything specific. And the reason for that is that in that same period of
- 40 time there has been a significant degree of turnover of the individuals in my team. And so I do not – if you will, I do not have a control group. I literally, since 2016, there's – there would be an 80 per cent turnover in the people that work for me. So I don't really have a comparison group.
- 45 Why is that? Why has there been such a high level of turnover, Mr Elliott?---Because we have modified our strategy, we have, as I have mentioned, streamlined the way that we run the organisation, and we have – it sounds arrogant

but we've recognised that the operating environment we're in is different than it was in the past and we need different skills and capabilities in order to be successful.

5 Now, despite that move towards a system of single variable remuneration award for your senior executives, you personally continue to have a bifurcated system of variable remuneration which includes a distinct short-term variable award which is 50 per cent cash and 50 per cent shares, and a long-term variable component which is performance rights, deferred over three years?---That's correct.

10 And why is your remuneration structured differently from the other executives?---So it's really a question for our board. I'm not party to that – I mean, I'm on the board but I'm not party to that conversation. I believe it is in response to, again, the voice of shareholders, a desire to have more deferral in terms of amount for the most senior executive, myself so that it can be subject to clawback or malus. And I think that has
15 been recognised as we've moved into the BEAR regime as well. And I think – again, I – you know, this is a summation on my part, but I think there was a desire to have more – when I mentioned that difficulty in discerning the impact on the short-term versus the long-term, I believe there's a view that as chief executive, that is my responsibility to get those balances right and, therefore, the board should spend the
20 requisite time in making that determination, that there was utility and value in that which may not be the case for people who work for – for me.

I want to ask you about the imposition of remuneration-related consequences on ANZ senior executives. For the 2018 financial year there were four instances of a
25 current or former ANZ senior executive receiving a reduced variable remuneration outcome for reasons that related to risk, conduct or compliance?---Yes. That's correct.

30 And one of those instances was you?---Yes.

Your short-term and long-term variable remuneration were both reduced for reasons related to risk, compliance or conduct?---Correct.

35 Now, I want to come back to the details of that but I want to move first - - -?---Yes.

- - - to the other senior executives. Are you able to say in general terms why the variable remuneration was reduced for each of the other three individuals?---Yes. So accepting that it's complex and I apologise for that, but we run through, for all senior executives, a process in determining the assessment of how that executive has
40 performed and as a result, the appropriate level of remuneration. As I mentioned, we have a couple of steps in that – or maybe I didn't but the first is has this individual role-modelled our values, the ICARE values. I have made a determination with our board that as a senior executive at my table, my expectation is that they not just – that they just exhibit these behaviours, that they are a role model. Now, there's
45 always difficulty in determining what that means but they – that is the bar. So that is the first determination. So did the executives meet that definition. In this case, they did. That was not a determinant but in the past it has been. Then we look at their

balance scorecard, and you know there are four quadrants there, there is the finance and discipline, risk, people and reputation and customer. I evaluate them on their agreed scorecard. I literally score them. And that risk quadrant of that refers to their behaviour on audit, remediation, and a range of factors that are taken into account.

5 And that's how we then determine an individual's remuneration. In the three cases you're referring to, the three individuals had below target ratings with respect to that risk quadrant. In no case was it about their individual conduct. It was a recognition that we had not met the standards we had set ourselves for risk management, some of which has actually been publicly discussed here at this Royal Commission. So, for

10 example, the failure to remediate issues on time would be a good example. That was taken into account. As a result of that, those executives received less than their, amongst other – there were other factors but that was the biggest single factor – they received less than their target remuneration.

15 Substantially less?---Yes. In fact – well, that's always, again, a matter – subject of decision, but they received, I believe, [REDACTED] per cent of their target in particular.

I think the numbers are the subject of a non-publication direction?---They're

20 available in our – in our annual report and – but, yes.

We're told that they're not and that was the basis for the application - - -?---Okay. All right.

25 - - - for a non-publication direction, Mr Elliott. I do want to take that up with you. Do you say that someone reading the remuneration report in your annual report can see that each of those three individuals had their variable remuneration reduced – not just reduced but reduced because of risk, compliance or conduct reasons?---No, they cannot.

30 And why not?---Well, that's a good question. I can say it's not market practice. I'm not sure that's a terrific answer but it hasn't been. We do talk about, I think, in the remuneration report from the directors, they do refer – I would have to refresh my memory but they do talk about the generic decisions they've made about how they

35 come to determine the appropriate pool and ranking for people. I think they even talked about – and maybe we will talk about it later – that it had applied downward adjustment to equity that had previously been awarded to previous executives. So they talk in general terms but not in specific. I accept that on reading the annual report it would be difficult, if not – well, impossible for anybody to determine why

40 an executive received what they did, whether that was below, at or above target. There is no subjective description of that for them. For myself, it's slightly different, in the sense that while it may not be in the formal report, there is dedicated, deliberate time at an AGM where my own remuneration or parts of it have to be

45 approved and there is generally a discussion at – of my performance, if you will, on those factors at that time. But the others, you are correct.

Wouldn't it be a powerful way, Mr Elliott, to admonish your senior executives for failings in relation to risk, compliance or conduct, to identify those remuneration consequences that had been taken in response to those failings, publicly?---It might be. I think we would have to consider unintended consequences, procedural fairness, etcetera. Remember, at some level these are judgments on my part and the part of the board. Yes, there may be a value in having that subject to public scrutiny. I'm not sure that's the most effective way to do that. I think we can achieve that – remember, the audience here we're trying to change behaviour is not the public. The audience we have here for change of behaviour is staff at ANZ. And we have many avenues for doing that and talking to them about decisions. For example, as we speak – just because of the time of year it is when we've paid people's remuneration, we will be publishing – I will be publishing a letter to our staff explaining why we took the decisions we did in terms of the pool, how it was allocated. We will talk, without naming individuals or roles, we will talk about the decisions we made in getting the balance right between risk, for example, and customer outcomes.

Well, why not – you've answered my question about public - - -?---Yes.

- - - identification of these consequences. Why not, within ANZ, send a message to your staff by identifying the people who have been the subject to remuneration consequences for risk reasons?---So – and I understand the attraction of that idea. However, going back to something we talked about before, we're here to manage the company for the long term. I would hope that its understood that – that implicit in our decisions is my decision that they are the right executives to build the company for the long term. So I wish to retain their engagement and their motivation. That does not mean I do not hold them accountable when things have gone wrong. But I think some sort of ritualistic public shaming of individuals would be of little value and, in fact, potentially a significantly negative consequence in terms of attracting, retaining, motivating the very best people for the future. Now, the onus is on me with the board – and I'm accountable to the board on this – to ensure that I get that balance right between sufficient – you know, that I'm holding individuals to account, that they understand why, and that I have given consideration to their long-term value for the future of the organisation. Now, there will be other situations where executives no longer remain at ANZ where implicitly we have made it not – not in all cases – where in some cases we made a decision that they are not the right people for driving long-term value for our customers or shareholders.

Can I suggest to you that it's not so much about a public shaming; it's just a part of holding them accountable?---And, again, with respect, I understand the attraction of that. I am suggesting there are – there are risks with that approach that I think outweigh the benefits. And, again, why do I say that. We run an organisation that is large. I have 40,000 people who come to work every day at ANZ in 33 countries. They have all sorts of backgrounds. They are all sorts of circumstances, beliefs, religions, ethnicity, etcetera. For me to be able to confidently assess that I can nail that communication and it not to be misunderstood, that it not to create a culture of fear, I think would be extraordinarily difficult. And I believe that we can do that in

more general communication, rather than, to your suggestion, of essentially publishing performance assessments of the most senior executives of this company.

5 What is the nature of the general communication that you would make?---So it will be we will be putting out a letter, if you will, or a – or an email that will – as I said, it’s being drafted as we speak – that I will talk to our company about our people, why our pool was down significantly, what factors I took into account, and we will talk about how we assess certain individuals. Not by name.

10 So you will say that there were - - -?---By reference – we will not - - -

- - - three senior executives?---No.

15 No?---We will say these were the things that we determined when we considered the pools and the allocation of the pool. We considered performance on remediation, we considered performance on customer outcomes, we considered, etcetera, etcetera.

So that’s quite distinct from individual remuneration - - -?---Yes, it is.

20 - - - outcomes?---Yes.

Okay. Could I ask that we bring up ANZ.801.315.8040, which is an email that you sent to Margot Dargan in September this year. We saw Ms Dargan’s name before. Can you explain who she is?---Yes. Ms Dargan is the head of remuneration so she works in our talent and culture team. So she has the responsibility for the carriage of remuneration issues at ANZ.

25 I assume this email was sent to Ms Dargan alone?---Yes, this was not an all staff communication, you are right.

30 We see here in the first three numbered paragraphs at the top – so you are saying to Ms Dargan:

35 *I hear the board. They essentially raised three issues from my perspective: to reconsider –*

Now, the name is not here but it is one of the three individuals that we’ve been speaking of?---Yes.

40 Continuing:

And possibly push lower.

45 ?---Yes.

To reconsider another person who is not one of the individuals we’ve been speaking of:

And possibly lower.

And 3:

5 *To consider the overall spread between the highest and lowest and see if it is sufficiently wide to reflect relative performance.*

?---Yes.

10 And you say:

These are reasonable questions and I have given them a lot of thought. However, at this stage I am not recommending changes.

15 And you point out that:

At 70 per cent of target –

20 One of the three people –

... will have the lowest rating of any full year ExCo or MB

?---Management board it was the predecessor term we used for ExCo.

25 Continuing:

...any management board member in at least 10 years. To assess any lower in a highly public forum will essentially undermine that person's ability to drive the changes we need.

30

Do you see that?---Yes, I do.

Continuing:

35 *Yes, that person could do better but a 70 per cent of target rating is very low and I feel takes this into account.*

?---Yes.

40 Now, these were the views that you expressed in response to the board's suggestion that you push this person lower?---Yes. Could you just assist – can I just see the date of the email.

Yes, of course?---That would help me that - - -

45

If we pan back?---I remember the note but I just - - -

It was 13 September?---Yes. Yes.

5 And these were the views you took back to the board?---Yes. And to give this some context, this – our financial year is 30 September. So the year has not closed at this stage.

10 Yes?---This is very early stages we make – I think it was the next day, actually, on the 14th, we had a meeting with the HR committee. We make – I make early recommendations as to the size of the overall pool or the bonus pool, the variable remuneration pool for the company and for my direct reports, name by name. So it's very early in that process. I don't – we had had a meeting and, yes, I'm – I'm sharing with Margot the feedback from the board. I had thought about it. And at this stage – and, again, early on, that was my determination. It's fair to say that subsequent to that we – we continued with our analysis and we ended up in a very different place to – to this.

15 What is the highly public forum that you were referring to in this email?---The remuneration report in the annual report.

20 But the remuneration report doesn't tell the reader why the variable remuneration has been reduced?---No, it does not, but I can tell you it's the remuneration report of the disclosed executives is probably the most read page in the annual report, and it is a very public forum, essentially showing the bank's overall assessment of individuals. You are right, that people can draw their own conclusions as to why it may be but it is a very public forum.

25 But they may well draw the conclusion that it was reduced for financial reasons?---They may.

30 Do I take the answers that you were giving before about the consequences of publicising these results, do I take your position to be that the fact that an executive remuneration – executive – an executive's remuneration has been reduced for risk might undermine their ability to do their job?---No.

35 You don't think that?---Not without clarification. Again, with respect, even the way you asked your question, if we were simply to say this person's remuneration was impacted by risk, conduct and compliance considerations, I put it to you that people can jump to conclusions about what conduct. So we would have to give some level of specificity, which part of that, what exactly was that, and that would, again, I think, require a significant amount of communication and clarity to be able to be effective.

40 And do you have concerns that that would affect or undermine their ability to do their job?---I didn't – I'm not sure that I said it would undermine anybody's ability to do their - - -

45

No, no, you didn't. And I want to understand - - -?---No, no I'm just trying to think out loud.

5 I'm sorry?---I'm not sure I'm saying that. If I believe that if people were unable to do their job, they wouldn't have their job, they would be somewhere else, essentially. I'm making a balanced judgment here as how do I send the right signal and hold people to account while retaining, if I see fit with the board's approval, while retaining them to be an effective executive for long-term value for the company.

10 THE COMMISSIONER: Well, can I inject this idea, Mr Elliott: at the moment, the discussion has proceeded from a premise, I think unstated, that the remuneration consequences are necessarily personal to the executive concerned, in the sense that it is concerned only with what he/she directly and immediately has done. Now, rem
15 consequences, I would have thought, at the senior executive level at the bank, are the more likely to be applied where, in the division, the section, the stream of business for which that executive is responsible, an issue has emerged?---Yes.

20 And that what it – the signal being sent is the senior body in that stream of the bank's work is accountable for the fact that within that section of the bank there was, here insert nature of issue, there was an issue about processing errors - - -?---Yes.

25 - - - concerning X product, costing the bank Y dollars, affecting Z customers. That sort of description?---I think that's a very good description. And you're – you're correct. And perhaps my – perhaps I'm being overly reticent on this. As I said, it's the first time I've had this – the nature of this discussion. I think – I totally understand your perspective. And in this case, I can tell you that it was much more in your description these executives were being held to account for things that have emerged within their remit. They are ultimately accountable.

30 Yes?---They have to be. There are always going to be questions, quite rightly, about had that individual executive done sufficient, in terms of recognising, managing, remediating, whatever that might be, and there will always be a blend of both that go into that determination.

35 You can't be accountable without being responsible?---I agree.

If you're accountable, you're responsible for what happened and responsibility carries with it the observation by the external viewer he/she did/didn't - - -?---Yes.

40 - - - what was required?---So I see – look, if – I see merit in what you're saying. And I – I – with respect, I can understand that perspective to give a richer evaluation or – or a summation of how decisions were made or how to make linkages between the outcomes and performance. All I'm suggesting is that there could be – and I'm not
45 being defensive – but there could be unintended consequences. And I would just want to think that through. And if I may, I – I think it's a reasonably well accepted – it may not be – but reasonably well accepted view that actually the regime of

disclosing senior executive compensation has actually led to inflation in executive compensation.

Well, there's an inevitable arm's race aspect to it?---Correct.

5

But I was particularly struck by an answer you gave now quite some minutes ago about the change in – to draw together short-term and long-term variable remuneration for the upper echelons of the bank. And you were asked, in effect, well, did that change behaviours. Am I – I took it that the question, in effect, surprised you. It was not one you had thought about before. Am I wrong about that?---No, you're not wrong. I had not been asked in that specific way.

Yes?---I think part of that – and, again, part of my answer is it's too early to tell, essentially, because just – of ANZ and the nature of change that we have had. Clearly, we hope it changes behaviour. That was the – that was the idea. The idea was to make it more balanced and, frankly, longer term, and that may seem strange to say we've removed a long-term incentive but we expect the outcome to be more focused on the long term but that is actually what we expect, because of the deferral. Now, what we have not done well in the past – and like all these things, none of these measures work in isolation and they are, essentially, an amalgam of issues or changes in behaviours – we can defer all we like. If we don't actually use downward adjustment and future, it's sort of – there's some value in deferral because it still aligns with shareholder outcomes in terms of linkage to the share price, so it's about getting the balance of these tools right. And we have not always done that well.

20
25

But is the bottom line that if you want to affect behaviours, an element – not the only element – an element in affecting behaviours is telling people other than the immediate recipient that this consequence happens. There has been a failure in this division/section/branch of the bank, the person at the top has suffered a consequence. Why? Because the bank doesn't approve of what happened. The conduct that – or the event that happened is something that is discountenanced?---Yes. There is absolute value in that. All I am suggesting is we just need to get the tone of that right.

30
35 Sure?---We have seen in the past if we get that wrong, we actually drive behaviour underground. As I said.

Yes?---It's about balance. I don't think it's insurmountable. It's far from insurmountable. And I think we are – I actually think we've been moving in that direction anyway. Maybe not to the extent of naming people or even roles, but even talking more generally why we've made decisions. So, for example, this year – actually it's not just the fact that these individuals are down, essentially, everybody in the bank has had some consequence as a – as a result of, if we will, the failures in terms of remediation. Now, it's not shared equally, and neither should it be, but we are getting better at making better explanations of those linkages.

40
45

MS ORR: We know why your variable remuneration has been reduced, Mr Elliott. You tell us in your statement that it has been reduced on account of conduct issues raised in the Royal Commission and consequent reputational damage?---Yes.

5 And I just want to, to complete this questioning, ask you to reflect on what the difference is between publication of the consequences for you and publication of the consequences for your senior executives?---Well, it's a simplistic answer but I am the chief executive. I'm the ultimate accountable person beside our board for this. I have a higher degree of responsibility and accountability than anybody else in the
10 company. What comes along with that is more public scrutiny and involvement in – in – in this case shareholder – requiring of shareholder approval. I think that's entirely appropriate. Could it go deeper in the organisation? That's open to discussion. But I think I am – it is different for the chief executive.

15 How much was your variable remuneration reduced by?---My variable remuneration in total again was reduced – I think it was 23 per cent year on year, if I'm not mistaken, or something like that.

20 It looked to us as though it was reduced to 75 per cent of your short-term target and 83 per cent of your long-term target. Is that right?---So that's versus target but I didn't receive target last year.

I understand?---So year on year the blend was down, I think, 23 per cent.

25 I understand?---Yes.

Now, before I move to another document, could I tender this email, Commissioner.

30 THE COMMISSIONER: Email Elliott to Dargan, 13 September '18 concerning ExCo, ANZ.801.315.8040 becomes exhibit 7.129.

**EXHIBIT #7.129 EMAIL ELLIOTT TO DARGAN DATED 13/09/2018
CONCERNING EXCO (ANZ.801.315.8040)**

35

MS ORR: Could I take you to an email that you wrote about your reduction in variable remuneration this year, Mr Elliott?---Yes.

40 ANZ.801.316.0778. Now, the second email on the page, the main email here is an email that you wrote to Mr Gonski, the chairman of the board and perhaps others – we're not able to see from this presentation of the email – a month or so ago on 16 October?---Yes.

45 And you said:

I will be making downward adjustments to the ExCo rem recommendations at human resources committee.

?---Yes, that's what that refers to.

5

Continuing:

They mean the average percentage of target is 77 per cent for published execs. I feel it's very important that my own remuneration is at no higher than this. It's about unity, accountability and frankly credibility, externally but even more importantly internally. I can't ask my people to be down 22 per cent unless my own rem reflects a similar number. I want you to reassess your recommended CEO rem as a result and have time to consider.

10

15 ?---Yes.

Now, I want to ask you about a few aspects of this email. Why did you recommend downwards adjustments to your executives leading to an average percentage of target of 77 per cent?---So as I mentioned before, since about middle of September when we do serious work on these recommendations, there is a lot of to and fro between myself and the HR committee, of which Ms Atlas is the chair and obviously David Gonski our chairman. So there is a lot of discussion to calibrate those numbers, and acknowledging that at that time the year hasn't finished. So we're still in receipt of new information along the way. That typically take – there are two elements to that. One is what's the total – the pool for the company, which includes people like me in this team, and then the individuals on my team. And essentially, there is a spreadsheet, if you will, which includes performance assessments, ratings, all those things, and then ultimately the financial recommendations. That is a working document. And at this point on the 16th – and I can't remember – I think it was the 23rd was going to be the final decision – at this point as part of that working I had done yet another rethink. It's a living document. And I had gone back to the HR – to Mr Gonski and Ms Atlas to suggest that I was continuing to make further adjustments because of the new information I was receiving. The only other thing I would say in this particular case, timing was important, and a little bit different than most years. If I'm not mistaken, on 8 October we had announced to the market a provision charge for remediation in particular, but also an accelerated amortisation of software and some other charges. They were significant, many hundreds of millions of dollars. That in and of itself was new information that was now confirmed. And I had made sure that I had taken it into account in these assessments. So sorry for the long answer but that's what – again, I am not even sure if this is the final numbers because by the time we actually – I gave this feedback there was a further adjustments before the final recommendation or the final number was agreed.

And do you know what the final number was for average percentage of target for your executives?---I believe in the disclose – it's actually very close to this number – it's either one per cent higher or lower. It's close. But the distribution of it certainly did change between individuals.

45

And in that final sentence where you ask Mr Gonski to reassess his recommendation for you, what level of variable remuneration reward had Mr Gonski recommended for you before this time?---I honestly don't recall. I – I don't recall the number. I recall – again, they are working through their recommendations and I remember it
5 being – it was just different. And I felt out of line with two points of data here. And just to be clear, when I say I can't ask my people to be down 22 per cent, that actually reflects the entire company, not just these executives here. So I was looking at my team and, obviously, the group, and wanting to ensure there was a sense of equity and accountability reflected in my remuneration.

10 THE COMMISSIONER: Well, am I wrong to infer that the suggestion you were repelling was that it should be higher?---Yes.

I'm wrong?---No, no, no the recommendation, I believe, was that it was going to be
15 higher and I'm asking that they bring it down.

Yes. That's what I had taken it to be?---Yes.

20 Yes.

MS ORR: Why did you consider that the perception created internally was more important than the perception created externally?---That's a matter of judgment on my part, I guess. I think it's really important, as the leader of a company, a group, that I am seen to share in the benefit but also the pain of any adjustments. You
25 know, I'm ultimately accountable. It is not acceptable – it would drive a really bad culture if the CEO is somehow seen to be doing a great job but somehow everybody else has let the company down. And so I think it's an alignment. Now, we discussed this at length. I am a member of the HR committee. I am not for a minute suggesting that there should be total equality in that number, like we should all be
30 exactly the same. I am not suggesting that for a minute. It could be that I should be more harshly treated or less but it should be taken into account. It is a relevant piece of information for consideration.

35 What was Mr Gonski's response to your request that he reassess his recommendation?---My recollection was we – at the next day he agreed to reassess and took that on board. And, again, just to be clear, this was – they were still – had not made their final recommendation. So it is part of the normal process, and I was just wanting to share my views with him.

40 And what message do you think your ultimate position, for your variable remuneration, sent to your senior executives?---I – I guess that's a question for them, but I believe it sent a message of team work, as I mentioned about unity, that we – one of the difficulties in managing a team like this – not my team but any team of executives, is to what degree are you effective because you're a team and to what
45 degree are you effective because you do your own individual pieces. It's the same old classic conundrum for any sports team or any other business team. And we have many shareholders who really push hard to see a lot of – and I refer to it, I think, in

previous notes we've talked about, who want to see real differentiation between members of the team. Who did well and who did not. I understand that. There should be differentiation. But we are actually a team. We're not a confederation of individual contributors. I need the – I need the people who run our talent team to be
5 working arm in arm with the team in technology working collaboratively with the people who run the retail branch network. So we sort of all live or die together. It's about us getting the balance right. How much is shared accountability and how much do we differentiate within there. And I have to be part of that. I am not separate to that consideration.

10 And do you feel that you've got the balance right for this financial year?---For the – this previous year that we've just closed?

Yes?---It would be easy for me to sit here and nod and say yes. I think we're getting
15 closer to it. I think – well, I know that we continue to have this debate in a good way with the HR committee about this very issue. How much of a senior executive's remuneration in this case should be reflective of their – of the group outcome versus their individual contribution. I don't know that there's a scientific answer to that. It is a matter of judgment. It will depend on the individuals themselves. And it
20 requires a high degree of, I think, subjectivity from the HR committee.

Could I tender this email chain, Commissioner.

25 THE COMMISSIONER: Emails between Gonski and Elliott, 16 October '18, ANZ.801.316.0778, exhibit 7.130.

**EXHIBIT #7.130 EMAILS BETWEEN GONSKI AND ELLIOTT DATED
16/10/2018 (ANZ.801.316.0778)**

30

MS ORR: Now, Mr Elliott, you mentioned earlier the importance of exercising the powers that you have in relation to deferred remuneration?---Yes.

35 And I want to ask you about the downward adjustments to deferred remuneration that were made for the 2018 financial year at ANZ. There were downwards adjustments for remuneration that was due to vest for three former senior executives?---It was actually more than that, but the terms of reference and your definition of a relevant senior executive, it was three but it was broader than that, yes.

40

I see. And how many beyond that?---It was two others who were not – who were not in your defined list of a relevant senior executive but who were, in any other sense, peers of that group.

45 I see. And you tell us in your statement that those downwards adjustments were made because the board considered that accountability should be shared amongst both the current members of ExCo and the former ExCo members for the risk

compliance and conduct issues that have been examined here in the Royal Commission?---Yes, that's correct.

5 As well as the substantial customer remediation that we've been speaking of and the associated costs with that?---Correct.

10 Now, in your statement you say that the decision to impose consequences on the three people that you deal with in the statement was not made on the basis of any particular conduct on their part, but to reflect collective failures in ANZS senior executive team over the relevant period?---Yes.

And does that extend to the other two senior executives - - -?---Yes.

15 - - - not dealt with in your statement?---Yes, it does.

Now, one of the three referred to in your statement had their unvested deferred remuneration reduced by 100 per cent?---That's correct.

20 And the two others had theirs reduced by 25 per cent?---That's correct.

And what about the two not dealt with in your statement?---They were also – they were also 25 per cent.

25 And how many other senior executives at ANZ have had this type of consequence applied to them in the last 10 years?---So if we are looking at equivalent level people, I – I think it's none.

30 None. And why is that the case? Why is it that it has taken until the last financial year for ANZ to exercise this important power of withholding deferred - - -?---Yes.

- - - remuneration?---Well, I think it's a failing on our part. I – I think, again, we did not utilise this – sorry, let me step back a little bit. We have not had a good track record at ANZ in terms of documenting and directly drawing a linkage between performance. Certainly at a senior executive's individual performance and their remuneration outcomes. We have not. When you are unclear as to why you granted somebody remuneration, it makes it much more difficult to consider why you should remove it. That is a failing on our part. We have strengthened that. We – in the last few years, we go through a much more thorough process, a documented performance assessment that, for example, in these cases I write and discuss with the board. So we are attempting to do that. And in this particular year – there's one other factor, sorry. Every year that we grant equity or performance rights to individuals, that is under a deed of grant. That deed of grant has changed over time, ie, our legal rights in there have been further clarified. It's fair to say in the past they were quite narrowly defined, ie, the circumstances in which we were legally allowed to apply malus or clawback were very, very limited. Over time, we have broadened those definitions and we continue to do so. And so this was the first time that we felt (a) we had new information at hand which was, in effect, the misconduct that we were

referring to and the remediation issues; (2) we felt we had good legal grounds, and I will say that not only did the bank seek legal advice on this, our board, the HR committee, sought independent legal advice to guide them through that decision. And so it was an amalgamation of those factors.

5

Has the – has it been the case that downward adjustment has only been considered, even with the constraints that you’ve just identified, has it been considered in circumstances where termination of the executive was another potential consequence? Has it been reserved for consideration for things of that level of seriousness?---Maybe I – could I ask you to – just to clarify. Are you suggesting – are you asking a question where in the past where we have terminated an executive for performance reasons have – no, maybe I don’t understand, sorry.

10

No, I’m sorry, I put that very poorly. I’m trying to understand the circumstances in which you’ve even considered exercising this power in the past. Have you considered it prior to this last financial year?---Yes, we have but not at this level. So just, again, we’ve had a what we used to call a clawback review group.

15

Yes?---We’ve now changed that. It’s now a consequence review group. In that group, that group which I had been a member on as CFO and – and now chair it actually as CEO but I haven’t in the intermediate period – that group would always meet prior to any – we have certain vesting dates during the year. Prior to any vesting to any executive, any person, that group will meet and say, “Should we allow this vest?” I would say that our – our interpretation of the rules in the past was – and our practice was it was in very rare circumstances. It was, essentially, gross misconduct or gross – actually, it’s gross misconduct, I would suggest, it was the only times. It has happened but not to – to the peer group of – or the list that you would define as relevant senior executives. That has not been applied in my knowledge.

20

25

And will your approach to the exercise of that power change going forward?---And it already has. So we have strengthened that consequence review group. We have broadened and changed the deeds of grant to give us greater power and give the board ultimately, essentially, almost universal rights to downward adjust. We have sought to broaden the – the data that is considered in those decisions. So it is not just gross misconduct. It does now cover, for example, failings in remediation, failings in audit, any behavioural flag. So we’re broadening – it’s not perfect but we’re getting better at looking at that. And we now require all of our executives, all the way up, for any release of equity for all of those things to be considered, and there’s a much more formal process where there’s a formal attestation and a sign-off as to those decisions.

30

35

Does ANZ currently have a clawback mechanism in respect of its Australia and New Zealand executives, that is to say, of course, a mechanism to reclaim remuneration after it has been delivered or paid?---So I would have to get some advice on this. My recollection is that in – we – in practice we do not. Now, whether it’s legally it’s somewhere in the deed. In reality, it is not our belief that that – that is effective. Our

40

45

5 understand – well, there are just practical issues with it in terms of employment law and my – our advice is that would be extraordinarily difficult to impose it. I couldn't tell you with any confidence whether that – whether that clause actually exists in the deed. It may well do but our advice is it's – it would be extremely difficult to impose that, because to your point somebody has already taken the equity or the cash.

Are you aware that it exists in other parts of the world?---I believe it does, yes.

10 And - - -?---In the UK, I believe.

Yes. And in fact in relation to your UK executives it exists?---Yes. Yes.

15 And are you aware that the panel that conducted the prudential inquiry into CBA recommended that CBA move to introduce the potential for clawback in respect of serious misconduct?---Yes, I am.

20 But you say it's not possible for you to do it?---Well, it's not that it's not possible. What I – again, this is the subject of debate at the moment. My recollection of the latest status on that internally is we would like to. I totally understand why the board would like to reserve that power. I can see certainly hypothetical cases where we would want to apply that. What I'm advised is it would be extraordinarily difficult, expensive, etcetera, to do so. It doesn't mean we shouldn't. I'm not saying, but there are lots of complexities. It continues to be and it will be a discussion with the board.

25 So it continues to be under consideration at ANZ?---Yes. I can't tell you there's an active working group on it but I know that we talk about it at that – at that review group and certainly at the HR committee I'm sure we will continue to – to do so.

30 I want to ask you some questions, Mr Elliott, about the size of the incentive pool, which you've mentioned a few times already in your evidence?---Yes.

35 The pool that was made available for the payment of variable remuneration for this last financial year?---Yes.

The amount available to be allocated for variable remuneration and the allocation of that amount to relevant executives is determined under your ANZ incentive plan?---That's correct, yes.

40 And generally speaking, the size of the pool is determined by two things, but you will correct me if I'm wrong about this, it seems to me to be determined by your economic profit and by the group balance scorecard?---Yes.

45 And economic profit, in your statement you explain, is a recognised risk-adjusted financial measure of value created for shareholders in a particular year?---Can I just clarify something, if I may. The – the way I answered that question may well imply that this is a formula. It isn't. At the end of the day, the pool is determined by the

board using its judgment. It is a subjective evaluation by them. What they use to inform them and about an appropriate level of pool is the formula that you discussed. And the reason I qualify that is there are limitations with any scorecard. There are matters of judgment there. The scorecard is set in advance of the year. Things
5 happen in the year that were not foreseen. That should be taken into account. And economic profit, your description is an accurate one, the definition of it, but it is not without its own flaws. And so it is of importance and it must – and it should be considered by the board, but it is not an algorithm and neither should it lock the board into a number, and – and neither has it.

10 So the second part of the – we will continue calling it a formula?---Yes, that's fine.

Even though I heard what you say about the fact that the formula is not necessarily determinative. The second part of the formula that relates to the group balance
15 scorecard, that scorecard is approved by the board at the start of the year. Is that right?---Yes. Yes.

And the human resources committee with input from you and the chief risk officer and the chief financial officer and others then assess the group's performance against that balanced scorecard at the end of the year?---Yes.
20

And for this last financial year, the weighting in the scorecard was 50 per cent for financial and discipline, 25 per cent for customer, and 25 per cent for people and reputation?---That's true, although we have a – this risk multiplier.
25

Yes?---Which I'm sure you're aware of.

I was coming to that?---Yes. Correct.

30 But in addition to that breakdown there's then this risk multiplier that's capable of adjusting the overall performance assessment, either upward or downward?---Correct.

Now, is the financial and discipline metric set at the start of the financial year as a target?---So without making this even more complicated than it needs to be, there are two scorecards. There is a run the bank well scorecard, which is weighted two-thirds, and then there is a strategic scorecard. They have the same components and each has slightly different metrics. And this is to try to avoid exactly what we've talked about before, the weighting, you know, getting – make sure we take both into
40 account. So that scorecard that refers to finance and discipline will have, from memory, three or four metrics within it. In the run the bank well piece, they will be things like return on equity, operating expenses, etcetera, balance sheet strength, yes. And then the strategic will be far more are we reshaping the bank strategically for the long term.

45 So the group balance scorecard that you refer to in your statement, is that an amalgam of the two or - - -?---Yes.

Yes?---Yes.

Okay. So what about – I want to ask you to consider a different approach to this, Mr Elliott, where instead of setting these things at the start of the financial year, ANZ
5 waits to see what profit it has made at the end of the financial year and then determines the size of the incentive pool based on a percentage of that profit?---Yes. What would you like me to comment on?

Whether that’s a better way of doing it?---Well, no, I do not believe it’s a better way.
10 I think that’s diametrically opposed to what we’ve been talking about all day. There is only one incentive then for the executive which is to maximise profits in this year. And in a bank like ours, that would lead, I would suggest, to very poor outcomes, and – yes, anyway, I think that would be a very dangerous thing to do.

15 In the 2017 financial year the board determined that the incentive pool should be reduced by \$8 million?---Sorry, can you repeat which year?

The 2017?---Okay. Yes.

20 The pool - - -?---Eight million, okay.

Well, as I understand it from your statement, \$8 million to account for the impact of the BBSW settlement?---Yes. I thought you meant overall. It was much more than \$8 million reduction. Yes.

25 I see?---Yes, eight million was to do with BBSW, yes.

Yes. And in the two thousand and – I think I’m prevented, unfortunately, by a non-publication direction from asking you questions about the broader reduction in the pool, Mr Elliott?---Okay. Okay.

In the 2018 financial year did the board approve a smaller incentive pool than the 2017 pool. That’s the best I can do to navigate around - - -?---No, just to give you some comfort around – you’re not – it’s actually reasonably public on this particular
35 issue. So, yes, it was significantly lower. In fact, the – the pool – I think it’s in our rem report we talk about – and we’ve made it on the public record it was - - -

The size - - -?---The reduction was over \$120 million.

40 Yes, the size of the reduction is public, as I understand it - - -?---But not the pool.

- - - but not the size of the pool?---Correct.

45 That’s the point that I understand ANZ has taken in support of the non-publication direction. So we do know from publicly available information that the 2018 incentive pool determined by the board was \$124 million less than the amount paid out from the incentive pool for the 2017 financial year?---Yes, that’s correct.

And why was there that reduction to the pool for 2018?---So in simple terms, going back to the formula, it reflects two things: (1) the economic profit, the starting point, was lower. I can't remember the amount but the economic profit was substantially lower. Why? I will come back to that. So the economic profit was lower,
5 substantially. And secondly, our scorecard rating was different. I can't remember exactly what the change was but there was a change in our rating out of 100, what percentage we applied to it. So both changed. But the single biggest driver – and we can talk about within the scorecard there was some movement, some things were better, some things were worse – but the single biggest driver was economic profit. I
10 think it's important to understand what drove that lower. There were a number of factors. The single biggest – well, yes, the single biggest driver of the change and the reduction in economic profit was the decision to take the charges for software impairment, remediation and restructuring. They themselves had a significant impact. As a rule of thumb, they will have cost the – of the 124, about 100 reduction
15 as a result of that decision.

And the remainder?---The remainder is due to the change in the performance rating – actually, a lot of it is to do with the performance rating, I believe.

20 Now, the remuneration consequences applied this year haven't been limited to the executive level. Your chairman, Mr Gonski, announced that ANZs non-executive directors would take a 20 per cent reduction in their fees for the 2019 financial year, in recognition of the board's accountability for ANZs failures?---Yes.

25 And to the best of your knowledge, has the board taken that type of reduction in their fees before?---Not to my knowledge.

And do you think that that type of reduction was appropriate?---I was only a small part of that conversation. Obviously, I'm not affected by it. I'm on the board so I
30 wasn't party to all the conversations. I think it was. I think it showed, again, a sense of unity, a sense of accountability. The number is always problematic. Should it be 20, 30, whatever. I think on balance it's an appropriate number. It's broadly aligned with the impact on the group, as we talked about, and how executives had been reduced versus targets. So I think there was some strong logic in it.

35 I want to move now, Mr Elliott, to talking about the frontline remuneration. And in recent years, ANZ has undertaken a series of pilot programs - - -?---Yes.

- - - and made a series of changes it appears in an attempt to improve the way in
40 which it incentivises or incents its frontline staff. Now, some of those changes have been made in response to regulatory shifts, a shift following the Sedgwick report. Do you agree with that?---Yes, I do.

45 But ANZ appears to have taken other steps of its own accord?---Yes.

Now, I want to start by taking you to the submission that ANZ made in response to the Sedgwick review issues paper in February last year to discuss one of those steps.

That's ANZ.800.473.0893. Now, if we turn to 0894, we see as part of this submission – are you familiar with this document, Mr Elliott?---Yes, I am, yes.

5 I want to take you to the part of this document that deals with the role of targets, and the question posed by Mr Sedgwick was:

Is there a realistic alternative to setting targets as an aid to the management of a large organisation?

10 And this was ANZs response to that question. ANZ referred to having conducted:

15 *...a test and learn trial in one of our retail banking districts (consisting of 10 branches and about 50 branch sales staff) over the past 15 months. During the trial, staff performance measures and objectives were changed so that sales targets were removed from the incentive plans and replaced with customer-based metrics.*

And we see from the next paragraph that:

20 *Staff who took part in the trial were assessed on the net promoter score as well as staff responsiveness to offers and the quantity and quality of conversations with customers*

25 And the trial, we see from the paragraph underneath:

...was well received by customers with feedback showing increased levels of customer satisfaction with their branch experience. There was good staff engagement.

30 Now, that was an encouraging start for the pilot?---Yes.

And then we see further down that:

A number of performance objectives –

35 Recognising that encouraging start:

A number of performance objectives from the pilot have been incorporated into incentive plans for frontline staff in the FY17 financial year.

40 But then we get to the following paragraph:

45 *Overall, sales numbers declined across deposit products, home loans, wealth management products and business products, compared to the same period prior to the trial. The district also performed worse on sales than the average across the entire branch network.*

?---Yes.

And you then told Mr Sedgwick in the following paragraph that:

5 *The trial highlighted the challenge of tracking and coaching performance for frontline staff in the absence of sales results and sales targets.*

That was something that your staff found frustrating as the loop was never closed:

10 *They could not be sure if they had successfully helped the customer. Data on customer feedback and processes are available but customer outcomes are unclear.*

?---Yes.

15

That led to, at the top of the next page, ANZs position that:

20 *The overriding conclusion is that there is a role for sales targets and that incentive plans that take into account whole of role performance through a balance scorecard approach are likely to be optimal.*

?---Yes.

And further down from that, under the heading:

25

Is there a realistic alternative to setting any type of targets?

30 *Our view is that it would be very difficult to operate a commercial enterprise that has obligations to its customers, bankers, shareholders, community and regulators without some form of targets.*

Now, this was ANZs position at this point in time based on this trial?---Yes.

35 And following this, the Sedgwick report was published. And it contained a number of recommendations relating to the remuneration of frontline staff, including a recommendation that banks remove variable reward payments and campaign-related incentives that were directly linked to sales or the achievement of sales targets?---Yes.

40 And ANZ is in the process of implementing those recommendations?---That's right. Yes.

All right. Could I tender this document.

45 THE COMMISSIONER: ANZ response to Sedgwick issues paper, ANZ.800.473.0893, exhibit 7.131.

**EXHIBIT #7.131 ANZ RESPONSE TO SEDGWICK ISSUES PAPER
(ANZ.800.473.0893)**

5 MS ORR: Now, ANZ is also undertaking a broader project in addition to implementing the Sedgwick recommendations which appears to be named Reimagining Reward. And it seems to be about assessing whether ANZs rewards – and I will come back to that term – properly aligned to your purpose, culture and strategic direction?---That’s correct.

10 Is that a fair assessment?---Yes.

And the conception of reward that’s used includes salary and financial incentives but also includes matters such as growth, performance, management, recognition, things of that nature?---Yes. That’s right.

15 And I want to take you to a presentation from August this year that sets out the changes that ANZ was at that point proposing to make to its reward framework as part of that piece of work. ANZ.801.175.6676. Now, we see that these are slides for a presentation on 6 August this year. Was this a presentation delivered to you or by you? We see it’s for a meeting with Shayne Elliott?---So the Reimagining Reward project is part of a number of strategic initiatives we have across the group. And each of them have a executive committee sponsor. I happened to be the sponsor of this because we deemed this to be of great importance in terms of the culture, in particular, that we’re building. So I am the sponsor of it. This was a presentation to me.

20 I see. Now, if we turn to 6684, we see that as part of this project ANZ was looking to make three key remuneration changes for its frontline staff which would underpin a single remuneration model at ANZ, and the first related to the remuneration mix: increasing the level of fixed remuneration and decreasing the level of variable remuneration for your staff?---Yes, and, again, just one piece of context. This Reimagining Reward is for essentially for everybody at ANZ. This is not just frontline

35 I see?---This is all – this is a view not yet implemented or even agreed but it is an entire group perspective and that remuneration mix question, yes, the concept here behind the design is to rebalance that towards more fixed. And that is based on all sorts of inputs including staff feedback.

40 So is that the plan moving forward, to increase fixed remuneration across the group and decrease variable remuneration?---It is an unapproved plan. So this program of work, as you may imagine, is a significant piece of work. The risk of getting this wrong is high because, you know, obviously this really matters. And we need to be – to proceed with confidence. We meet every month. This is only one of many reports. This is an update. The board – HR committee get updates of this. It’s our plan at the moment to finalise the model in the coming months with a view to

5 implement it for our next financial year, so that by 30 September we would have, all going well, communicated what we're doing with people, have the systems in place to be able to operationalise this. But I – you know, the short answer to your question, I would be very surprised if that concept did not make it through to the final design.

10 And can you explain – you mentioned feedback from customers before, but can you explain in general terms the reason – the reason why you are looking to change the remuneration mix to higher fixed and lower variable?---Yes. So just to correct, the feedback was from our staff so we did – rather than - - -

15 Sorry?---No, so we – we have had exactly the same questions that you have been alluding to here today. What is the purpose of variable remuneration for many of our people. We have gone through – I – look, I've had the benefit of working in the industry for 25, 30 years. I've seen the evolution of it. In ANZ, in particular, there was a move towards far more focus on individual contribution, and a sense and a philosophy, that we were not alone in, that high-performing cultures, high-performing organisations needed to have high degrees of variable remuneration. That if this was an incentive you needed to maximise the leverage of that incentive. I think that what we have learnt is that that is flawed in an organisation like ours where we require far more collaboration and team work to achieve good outcomes than individual – than, you know, the – the summation of an individual. So we feel that we've become too reliant on variable remuneration. Our people tell us the same, essentially, that they feel it – it exposes them to uncertainty and risk, and to use a – a term, the concept here and supported by much literature is to remove this issue from the table, ie, if we can give our people a sense of financial security and predictability, as long as we augment that with all sorts of other governance structures, clarity of goals, strong performance assessments, good leadership, we need to take this off the table and get our people focused on doing the right thing.

30 And when you're referring to taking it off the table, what is it that you are talking about taking off the table there?---The people, worried, concerned, thinking about my bonus, my – my variable rem at the end of the year.

35 So do I take from that then that you are considering a model that not only reduces variable remuneration but eliminates variable remuneration?---So what we're – and you might see – we're seeing – we're considering that too many of our people have individual variable rem as part remuneration in their – in their total remuneration. What I mean by that is – and I think it may have been – may have been discussed during a previous session at this Royal Commission – we're looking at, perhaps, we're better for many of our people to say, “Look, you will get a bonus at the end of the year but it's largely fixed and we all get the same”. I'm making this up “a week's pay, two days' pay, a thousand dollars”, whatever it might be, but we all get it or we all don't. We all get the same. And it's largely as a result of how the group does. It's not about what you as an individual have done. We will perform – we will use other tools to engage you as an individual and make sure that you contribute as fully as you can to the group's objectives.

So that's what we see from the second row here, where we see the basis for allocating variable remuneration increasing the group's performance focus and decreasing the individual performance focus?---So it's both. This is part, again – this is both – this is saying even for those who do retain an element of variable remuneration, we want the determinant of that to be more thought given to how the group has done rather than you as an individual. But it may well be an extreme for some people that it's only about group, ie, their only remuneration, the only variable I get is related to the group's performance.

10 And we see that from the reference to a portion or all - - -?---Yes.

- - - of variable rem allocated based on group performance, not on individual?---Yes.

15 So who are you thinking would be in each category. Who are the people who would - - -?---That's the difficult question. So what we are thinking in broad terms – and, again, we have a broad range of people at the bank who do all sorts of things. Essentially, we haven't solved that argument but we are not – I want – I think it's worth making clear we're not talking about a minority. I am not talking about a few that would be all group, we're talking about a lot. So there would be, I think, really good argument for our people who work in call centres, our people who work in branches, perhaps with some exceptions, our people who work in operational centres, customer complaints, technology. So a lot of the – those areas. The areas that it causes the most pause for thinking through, frankly, are less related to the things we're talking about here in the Royal Commission. They're more to do with our institutional bank, our market's operations, our corporate finance teams. That's more where we're having conversation around getting this balance right.

20

25

30 Sorry, I just want to understand which is which there. So the call centres, the branches, the operational centres, the customer complaints and technology as opposed to the institutional - - -?---Would be more towards group.

Who would be more towards group?---The – the long list I gave you.

35 Yes, the first list?---Yes.

Whereas you're thinking that variable remuneration for the institutional banking operations might still retain an individual focus?---Yes. And there will inevitably be exceptions, even within the Australia retail network, etcetera, and we've got to work that through. For example, the person who runs that division. You know, I – are we really prepared to abandon variable rem for them; I don't think we are. So it's just a question of under – you know, how far down that will work through the organisation. As I say, this is a huge amount of work. We're committed to making change but we haven't sorted the details.

40

45 Now, can I first tender this document, and then ask you some more questions about this.

THE COMMISSIONER: Reimagining Reward 6 August '18, slide pack,
ANZ.801.175.6676, exhibit 7.132.

5 **EXHIBIT #7.132 REIMAGINING REWARD 6 AUGUST '18, SLIDE PACK
(ANZ.801.175.6676)**

10 MS ORR: Now, is part of the thinking about this, Mr Elliott, that variable
remuneration can incentivise or incent poor conduct and poor customer
outcomes?---Yes.

15 And if you move towards this group focus for your variable remuneration, what does
that mean for your ability to deter poor individual conduct through the remuneration
mechanisms?---Again, that's a very insightful question and a difficult one. We have,
as leaders, a range of tools in terms of managing the performance of our people.
Setting objectives, holding people to account, recognition, advancement, and
20 financial remuneration. At the end of the day, the most, in our experience and
research, the most powerful tool is your manager. Is this person taking an interest in
me? Do they have my best interests at heart? Are they coaching me? Are they
giving me feedback? Am I clear in what is expected of me? And secondly, in an
organisation like a bank where we are not a collection of individuals, in order to
achieve almost anything that we do well, it requires collaboration and, therefore,
rather than rewarding individual behaviour and inadvertently rewarding competitive
25 behaviour, we want to reward collaboration. One of the – if I may, one of the
examples – we've run another pilot where we have moved many of our branches
towards team-based goals, and we may get there, but it's very interesting – we've
done this in New Zealand as well as here – early feedback, one of the unexpected but
positive outcomes there were people were more likely to refer the customer to an
30 expert in that environment. So why. Well, when I was individually assessed I had to
– I was incented to try and serve the customer and solve all their needs myself. Now
that it's a team based I'm actually better to call on my colleague who is better at this
and refer. I am not losing by doing that. And that again in theory anyway should
result in a better outcome for a customer and actually a better outcome for ANZ.

35 I want to ask you about that pilot because the results of that pilot are very interesting
results. You've started trialling the removal of individual financial targets and
moving towards group financial targets for your frontline staff?---For team financial
– team targets for the – so the branch or the call centre.

40 Yes?---Yes. Yes.

Yes. And you've rolled out a pilot program in 50 of your branches?---Yes, I think
so, yes. It's 50, yes.

45 And there seems to be plans to expand that pilot throughout next year. Is that
right?---So we are going to expand that. My recollection is, talking to the team the

other day, we're going to expand this to about a quarter of our network, continue the test through to end of April, and then if successful we will roll it out unilaterally – well completely across - - -

5 Across?---Across the network.

Can I take you to a presentation about how that pilot has been working?---Sure.

10 Which is ANZ.801.242.0048. This is a presentation from August entitled Simplifying Performance Management Pilot CCC Roll Out. What's the CCC, Mr Elliott?---The customer contact centre.

I see. Now, could I ask you to look at 0049?---Yes.

15 We see that you started this pilot with an express purpose, which was to test a hypothesis:

20 *...to test the hypothesis that having team financial targets will improve customer experience and banker experience, without adversely impacting business performance.*

?---Yes.

25 Then we see under The Journey So Far that you've:

...implemented the pilot across 50 branches in Greater Melbourne - - -

?---Yes.

30 *...and Victoria and Tasmania.*

And:

35 *The pilot tested the removal of the individual financial objectives. Bankers contributed to a collective branch target as part of their performance review which took into account all aspects of their role, most importantly customer feedback but also ANZ values, behaviours, competencies, risk and compliance.*

?---Yes.

40

Now, could I ask you to move to 0050. We see that under the pilot:

All aspects of your existing performance management framework remain the same.

45

But the performance objectives switched from an individual target to a team target for financial performance?---Yes. So this is talking about the – the operational aspects, the rituals, if you will - - -

5 Yes?--- - - - remain in place.

Yes?---So we've only changed one variable.

10 Yes?---Which is the metrics. Yes.

To test this hypothesis?---Correct.

We see from this slide that the incentives remained the same?---Yes.

15 Now, can I ask you, firstly, I want to take you to some slides about this but how would you summarise the results of this pilot and the testing of that hypothesis?---Well, in simple terms, they're very encouraging. They have – they appear to – and it's always difficult testing anything. We need a control group. No
20 two districts that are alike, there are local factors, environment, the economy and all those things but I think the team have done a very good job of keeping this as scientific as they can. That's why we're moving to the next phase. It's encouraging. I mean, it's hard to argue with the results. We are seeing customers appear to be achieving better outcomes or certainly better experience. The outcomes is always difficult because it takes time to – to see that. There's no diminution in business
25 performance. Our people say they prefer it. There's – there's a lot to like about that as a result.

Can we go back to that 0049 page that I took you to about the purpose?---Yes.

30 And if we go, again, into The Journey So Far and look to the second paragraph there we see that since the commencement of the pilot:

...no material drop in financial performance has been detected - - -

35 ?---Correct.

Continuing:

with two particular branches retaining their momentum - - -

40

?---Yes.

Continuing:

45 *and other branches moving in line with the rest of the area over the pilot period. Pleasingly early indications are positive for customer experience, banker experience and overall financial performance to target.*

?---Yes.

Now, could I take you to some of the feedback from individual bankers involved in the pilot. But before I do that, this summary suggests – and I think this is the case –
5 that there are a large number of positives that have flowed from this pilot and no obvious drawbacks?---No. You're – you're absolutely right.

So if we look at what the individual bankers told you at 0052, the feedback from them was also positive. We see in the top left-hand corner someone said to you:
10

Having no personal targets enables us to help the customer in exactly the way they need, with no expectation of a "sale" from the interaction or conversation. It means I can spend as much time with each client as needed to ensure they leave the bank satisfied.
15

?---Yes. The only caution I would say here is, obviously, there will be a bias in what's presented to us because the team have an interest in the success of this. And we – we need to, as part of the pilot, to do our own due diligence to make sure we're not being told a good story and that was – there are – there are – you know, there's a
20 hidden page of all the bad things but, yes, the feedback here is positive.

Have you had any interactions with the team to suggest that there are some hidden poor results?---No. No, I haven't. I – I did have some with the first pilot you referred to.
25

Yes. Well, this is the interesting thing, isn't it, because this pilot has sent you in a very different direction from the pilot that you did - - -?---Yes.

- - - pre the Sedgwick report?---And hence that term test and learn. You try things. You learn and you adjust. I did have some discussions – I happened to have been in
30 that district – it was out of Brisbane, the one in the original pilot – and I had the opportunity to speak to some of the bankers and I did hear some of the – some of the – not negatives but some of the drawbacks of that. I haven't done the same here and, again, it won't be up to me necessarily but I do think we do need to do a little bit of
35 work but on the face of it, this is good.

Well, one of the other points of feedback on this page at the top of the right-hand side is that it seemed to encourage better team work and utilisation of everyone's individual areas of expertise. Your point from before?---Yes.
40

As well as incentive for better education between staff resulting in a more seamless experience for our customers?---Yes.

And then if we turn to 0053, over the page, we see more sentiments to similar effect. But we do see down the bottom of the page someone saying:
45

I think targets help setting a benchmark, and I feel that in this transition phase some people, including myself, have trouble adjusting to the no target. In saying that, this is a far better experience for the customer.

5 ?---Yes.

10 So it's a big shift for your people, is that right, to move away from targets?---I think it's a big shift because it's a change. But I also think human nature being what it is, there are many – not everybody – there are many who like to be able to define their success in some way and they like to have individual targets. What we have to do as part of this is invest in some of those other mechanisms we talked about in terms of recognising those teams that do well rather than individuals, reward – you know, rewarding them in a broader sense rather than just money. So there's some work to do in that. But, yes, people will find it difficult.

15

THE COMMISSIONER: Well - - -?---And I noticed that – sorry.

20 No, go on?---One of my experiences in that branch when I was in Brisbane is that what some of the people were doing – and they showed me – was on the inside of their folders they had their own targets. So they had, essentially, felt the need to set themselves some motivating targets and a sense of scorecard and so they had done it for themselves. Sorry.

25 No. In a sense, to adopt a military metaphor, which is always unwise, it depends on the quality of your junior leaders, doesn't it?---Totally.

30 You can have the general staff and the senior leaders off in the chateau but what really matters is how the junior leaders in the trenches are dealing with the troops?---A hundred per cent. And what goes with this – and I think if we explored further in the reimagining Reward work, it does talk, I believe, in those documents about the requirement to upskill and support our leaders because their role changes in this environment. Far more to be a coach, far more involved and observing. Now not all of them will naturally have those skills and that's something we need to invest in.

35

MS ORR: Do you think there's a chance that even with team financial targets rather than individual targets, it's going to be hard to shift individualistic sales behaviour. The example you gave before of the person who had set their own targets?---Well, we have to decide what we care about and whether we think it's important. There will be some people out there who are, by nature, motivated. They're very competitive, they see themselves as individuals. I'm not saying they don't have value in the community but we may decide that the team is more important. I – you know, it's easy for me to say that but I believe that's true, and I think there will be a natural readjustment of our workforce as a result of this. Like we have seen by already early signs of removing individual bonuses, if you will, is already starting to see a shift. We have seen what historically we would have described as high performing individuals move to other industries or other aspects of the industry

45

because, you know, they prefer that kind of culture where their individual performance is directly rewarded.

5 What about – do you think individuals will still feel pressure – I’m talking about a
different set of individuals than the ones we were just talking about then – still feel
pressure to meet team-based sales targets because that leads to remuneration and
incentive outcomes for them and the rest of the team?---Yes. There’s no perfect
10 system. And, you know, you could take this to some logical conclusion and say now
we will just have – you know, competitive teams but they will still be benchmarking
themselves against each other. That’s why I think in isolation this is a good thing in
and of itself does not resolve the problem. It’s an important element and it goes back
to where – where we were discussing before about reimagining reward. The
15 hypothesis is if we marry this with, for example, a remuneration system which is not
individually or even team assessed, for that matter, but is largely about the group,
ANZ, you know, in this case the branches – and I mentioned this would be a part of
the population that may well have very little individual – their individual metric
would be very small or zero in determining their annual bonus, if you will, that may
20 actually reinforce this. There’s no value in me competing with the branch next door.
I’m here for the good of ANZ and I just do my best and we will all win together.
That sounds a little naive but that’s, I think, the direction we’re going.

Would you consider undertaking a pilot that removes all financial metrics from your
employee scorecards for your frontline people?---So that was the pilot that we did in
25 – out of Brisbane. All the financials got taken away. And that was the one where we
saw – and part of the difficulty there was – and we talk about retaining customer
metrics. We’ve got relatively immature metrics there. We tend to – we use net
promoter score, like many of our peers or customer satisfaction. That’s a measure.
It’s not a terribly – it’s useful. I would rather our customers were happy with the
30 experience than not but that in and of itself does not define the right outcome. So
while we took away the financials and we replaced it just with these limited tools on
customer, we did see a fall off in financial performance. Now, it might be easy to
say, “Well, does that matter?” At the end of the day it does. We are a commercial
enterprise. If that is the end game then we will not be able to afford to keep branches
and services going. So it’s about getting the balance right.

35 So that – when you refer to the Brisbane pilot, is that the pilot that underpinned your
submission to Sedgwick?---Yes.

40 Yes, I understand?---Sorry, yes. That was the one where we removed all. Now –
yes, that was the one, yes.

45 Yes?---And we removed – just to be clear, my recollection is not only did we remove
it in the branches, we removed it from their managers as well. So I know there has
been questions in the past it might be nice that I don’t have a metric but if my boss
does I – it is a derived metric. It will be made clear to me. So we removed it some
levels up. That was our first pilot and that was the one pre-Sedgwick, yes.

And that was the one where the results were observed in the submission to Mr Sedgwick?---Yes. Yes.

Commissioner, could I tender this document.

5

THE COMMISSIONER: Simplifying performance management pilot CCC roll out August 2018, ANZ.801.242.0048, exhibit 7.133.

10 **EXHIBIT #7.133 SIMPLIFYING PERFORMANCE MANAGEMENT PILOT
CCC ROLL OUT AUGUST 2018 (ANZ.801.242.0048)**

15 MS ORR: Commissioner, I see the time. I do have some time left with Mr Elliott. So I think that might be an appropriate time to break.

THE COMMISSIONER: What time should we begin tomorrow?

20 MS ORR: 10 o'clock.

THE COMMISSIONER: 10 o'clock. Can you be back at 10 o'clock, Mr Elliott?---Yes, of course. Thank you.

25 Thank you very much. We will adjourn until that time.

<THE WITNESS WITHDREW

[4.18 pm]

30 **MATTER ADJOURNED at 4.18 pm UNTIL
THURSDAY, 29 NOVEMBER 2018**

Index of Witness Events

MICHAEL JOHN WILKINS, ON FORMER OATH	P-7233
CROSS-EXAMINATION BY MR HODGE	P-7233
THE WITNESS WITHDREW	P-7247
SHAYNE CARY ELLIOTT, AFFIRMED	P-7247
EXAMINATION-IN-CHIEF BY DR COLLINS	P-7247
CROSS-EXAMINATION BY MS ORR	P-7249
THE WITNESS WITHDREW	P-7328

Index of Exhibits and MFIs

EXHIBIT #7.117 MEMORANDUM OF AMP CUSTOMER ADVOCATE TO MR WILKINS DATED 04/06/2018 (AMP.6000.0287.4832)	P-7238
EXHIBIT #7.118 BOARD PAPERS FOR AMP LIMITED, AMP LIFE AND NMLA MEETING 21 JUNE '18 (AMP.6000.0329.0254)	P-7246
EXHIBIT #7.119 SUMMONS TO MR ELLIOTT	P-7248
EXHIBIT #7.120 STATEMENT OF MR ELLIOTT AND ITS EXHIBITS IN RELATION TO RUBRIC 7.03	P-7248
EXHIBIT #7.121 STATEMENT OF MR ELLIOTT AND ITS EXHIBITS IN RELATION TO RUBRIC 7-14	P-7248
EXHIBIT #7.122 RESPONSIBLE BANKING APPROACH TO REMEDICATION, JANUARY 2018 (BRP.0030.0002.0123)	P-7258
EXHIBIT #7.123 EMAIL FROM ELLIOTT TO ALL ANZ STAFF DATED 29/10/2018 CONCERNING RESPONSE TO INTERIM REPORT (ANZ.801.326.7811)	P-7271
EXHIBIT #7.124 NEAVE MEMORANDUM CONCERNING RECOMMENDATION ABOUT ANZ ASSURED (ANZ.801.351.0008)	P-7273
EXHIBIT #7.125 EMAIL FROM LAURENT CONCERNING RCROG DATED 19/10/2018 (ANZ.801.339.2386)	P-7277
EXHIBIT #7.126 BRANCH CLOSURE LIST (ANZ.801.377.0001)	P-7284
EXHIBIT #7.127 LETTER FROM MR DULUK TO MR ELLIOTT DATED 31/08/2018 (ANZ.801.347.4804)	P-7287

EXHIBIT #7.128 EMAIL ELLIOTT TO BROWN CONCERNING BRANCH NETWORK DATED 16/07/2018 (ANZ.801.347.0130)	P-7289
EXHIBIT #7.129 EMAIL ELLIOTT TO DARGAN DATED 13/09/2018 CONCERNING EXCO (ANZ.801.315.8040)	P-7307
EXHIBIT #7.130 EMAILS BETWEEN GONSKI AND ELLIOTT DATED 16/10/2018 (ANZ.801.316.0778)	P-7310
EXHIBIT #7.131 ANZ RESPONSE TO SEDGWICK ISSUES PAPER (ANZ.800.473.0893)	P-7319
EXHIBIT #7.132 REIMAGINING REWARD 6 AUGUST '18, SLIDE PACK (ANZ.801.175.6676)	P-7322
EXHIBIT #7.133 SIMPLIFYING PERFORMANCE MANAGEMENT PILOT CCC ROLL OUT AUGUST 2018 (ANZ.801.242.0048)	P-7328