



Royal Commission into Misconduct in the Banking,
Superannuation and Financial Services Industry

Aboriginal and Torres Strait Islander Consumers of Financial Products

Background Paper 19

© Commonwealth of Australia 2018

ISBN: 978-1-920838-48-5 (online)

With the exception of the Coat of Arms and where otherwise stated, all material presented in this publication is provided under a Creative Commons Attribution 4.0 International licence (www.creativecommons.org/licenses).

For the avoidance of doubt, this means this licence only applies to material as set out in this document.



The details of the relevant licence conditions are available on the Creative Commons website as is the full legal code for the CC BY 4.0 licence (www.creativecommons.org/licenses).

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are detailed on the Department of the Prime Minister and Cabinet website (www.dpmc.gov.au/government/commonwealth-coat-arms).

1. Purpose of the Paper

This paper provides information on the interactions of Aboriginal and Torres Strait Islander people with financial institutions, including banks, insurers and superannuation funds.

It is usually optional when providing information to financial institutions to indicate ethnicity, including identifying whether a person is of Aboriginal and/or Torres Strait Islander origin, or it may not be requested. As a result, there is very little publicly available information on the number of Aboriginal and Torres Strait Islander people who hold banking, insurance and superannuation products.

This paper presents general demographic statistics on Aboriginal and Torres Strait Islander people. The paper then goes on to discuss the extent to which Aboriginal and Torres Strait Islander people may face issues with, or obstacles to, accessing banking, insurance and superannuation products compared with the overall population.

This paper also discusses any legislative, regulatory or industry reforms since 2010 intended to address the issues with, or obstacles to, holding such financial products.

This paper shows that:

- a) In the 2016 Census, 649,171 people, or 2.8% of the population, identified as being of Aboriginal and/or Torres Strait Islander origin. Almost one in five Aboriginal and Torres Strait Islander people lived in remote and very remote areas, compared to around one in 100 non-Indigenous people.
- b) Research indicates there are some common causes of financial exclusion for Aboriginal and Torres Strait Islander people – including geographic location, lack of identification documents, unemployment and lower incomes, lower financial literacy, family structure and lower age and life expectancy.
- c) Some examples of Australian Government legislation or initiatives that may improve financial inclusion for Aboriginal and Torres Strait Islander people include the Closing the Gap initiative, Indigenous Business Australia, small amount lending protections, and financial literacy programs and microfinance.

- d) The Australian Securities and Investments Commission (ASIC) and the Australian Transaction Reports and Analysis Centre (AUSTRAC) have recently undertaken reforms to improve financial literacy for Aboriginal and Torres Strait Islander people and to increase the flexibility relating to identification and verification of Aboriginal and Torres Strait Islander people.
- e) There have been industry-led reforms in the banking, superannuation and life insurance industries to improve financial inclusion for Aboriginal and Torres Strait Islander people.

2. Location of Aboriginal and Torres Strait Islander people

In the 2016 Census, 649,171 people, or 2.8% of the population, identified as being of Aboriginal and/or Torres Strait Islander origin.¹ This was a slight increase from 2.5% in 2011 and 2.3% in 2006.² Of the people identifying as being of Aboriginal and/or Torres Strait Islander origin, 91% (590,056 people) were of Aboriginal origin only, 5% (32,345 people) were of Torres Strait Islander origin only and 4% (26,767 people) identified as being of both Aboriginal and Torres Strait Islander origin.³

Some demographic characteristics of those identifying as Aboriginal and/or Torres Strait Islander are below. Aboriginal and Torres Strait Islander people may have demographic characteristics which may affect their access to financial products and services, including banking, insurance and superannuation.

¹ Australian Bureau of Statistics, *2705.0 – Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, 2016*, (31 August 2017), <<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/2075.0Main%20Features52016?opendocument&tabname=Summary&prodno=2075.0&issue=2016&num=&view>>.

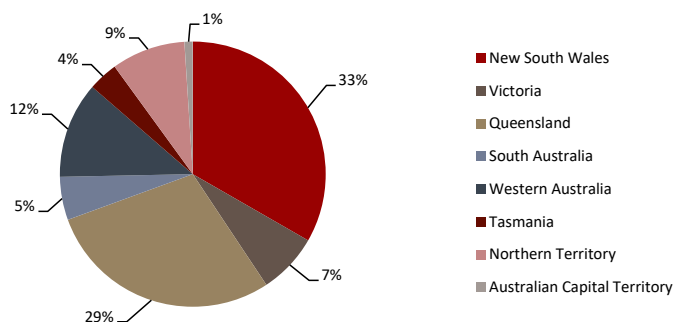
² Australian Bureau of Statistics, *2071.0 – Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016* (28 June 2017), <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/2071.0main+features102016>>.

³ Australian Bureau of Statistics, *2705.0 – Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, 2016*, (31 August 2017), <<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/2075.0Main%20Features52016?opendocument&tabname=Summary&prodno=2075.0&issue=2016&num=&view>>.

2.1. State and Territory

Around one-third (33.3%) of people identifying as Aboriginal and/or Torres Strait Islander live in New South Wales and around one quarter (28.7%) live in Queensland.⁴

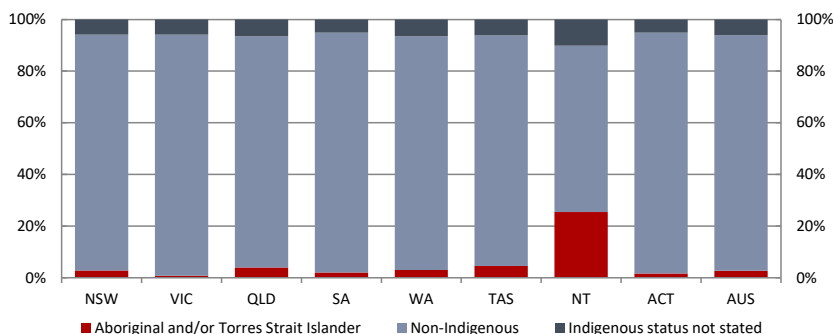
Chart 1: Aboriginal and Torres Strait Islander people, population distribution, 2016



Source: ABS⁵

As a percentage of each individual State or Territory's population, the Northern Territory had the highest percentage of Aboriginal and Torres Strait Islander people, with 25.5% of the Northern Territory population so identifying.⁶

Chart 2: Aboriginal and Torres Strait Islander people, percentage of State or Territory population, 2016



Source: ABS⁷

⁴ Australian Bureau of Statistics, 2011.0 – Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016, (8 November 2017), <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/2011.02016?OpenDocument>> (Data Cube: Aboriginal and Torres Strait Islander Population, Table 1 Indigenous Status by State and Territory).

⁵ Ibid.

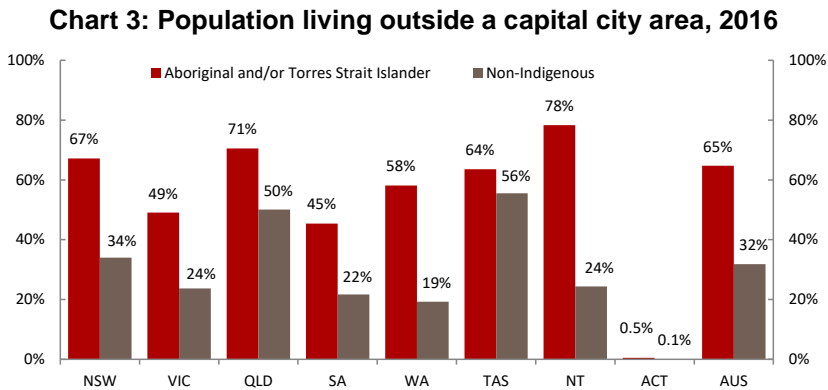
⁶ Ibid.

⁷ Ibid.

2.2. Capital city area

According to the 2016 Census, just under two-thirds (65%) of the Aboriginal and Torres Strait Islander population lived outside a capital city area, compared to just under one-third (32%) of non-Indigenous people.

The Northern Territory and Queensland had the highest percentage of Aboriginal and Torres Strait Islander people living outside a capital city area.⁸



Source: ABS⁹

2.3. Remoteness

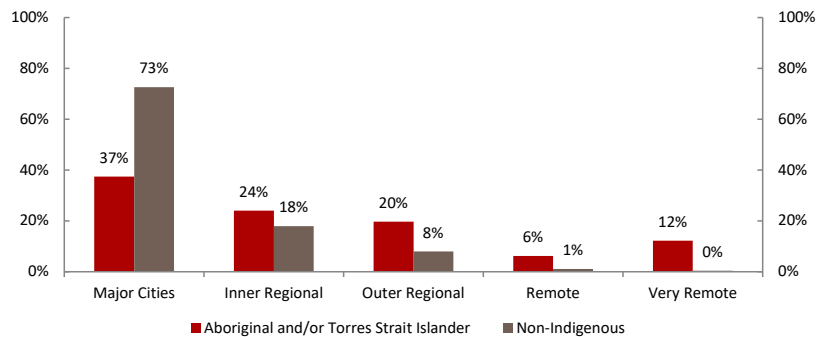
Aboriginal and Torres Strait Islander people were also more likely to live in regional and remote areas than the non-Indigenous population. Around 37% of Aboriginal and Torres Strait Islander people lived in major cities in 2016, compared to around 73% of non-Indigenous people. Almost one in five Aboriginal and Torres Strait Islander people lived in remote and very remote areas, compared to around one in 100 non-Indigenous people.¹⁰

⁸ Ibid (Data Cube: Aboriginal and Torres Strait Islander Population, Table 3 Greater Capital City Statistical Areas by State and Territory by Indigenous Status).

⁹ Ibid.

¹⁰ Australian Bureau of Statistics, *2075.0 – Census of Population and Housing – Counts of Aboriginal and Torres Strait Islander Australians, 2016* (3 April 2018), <<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/2075.0Main%20Features202016?op=endocument&tabname=Summary&prodno=2075.0&issue=2016&num=&view=>>> ('Remoteness': Table: Indigenous Status by Remoteness Area, 2016).

Chart 4: Aboriginal and Torres Strait Islander people, by remoteness area, 2016



Source: ABS¹¹

Box 1 briefly discusses the Australian Statistical Geography Standard (ASGS) definition of ‘remoteness’ and the resultant impact of remoteness on access to financial products and services (see also *Background Paper 18 – Some Features of Finance in Regional and Remote Communities*).¹²

¹¹ Ibid.

¹² See Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Background Paper 18: Some Features of Financial Services in Regional and Remote Communities*, (15 June 2018), <<https://financialservices.royalcommission.gov.au/publications/Documents/fsrc-paper-18.pdf>>.

Box 1: Impact of remoteness on access to financial products and services

The term 'rural and remote' or alternatively 'regional and remote' encompasses all areas outside Australia's major cities.¹³ The Australian Statistical Geography Standard (ASGS) defines remoteness areas into five classes, defined using a consistent definition across Australia and over time:

- Major cities
- Inner regional
- Outer regional
- Remote
- Very remote¹⁴

These classes of remoteness are calculated using the Accessibility/Remoteness Index of Australia (ARIA). ARIA is a geographic measure of remoteness, measuring the distance people have to travel to obtain services from five 'Service Centres' which are identified by population size. Localities with populations greater than 1,000 persons are considered to contain at least some basic level of services (such as health, education or retail) and these towns and localities are regarded as Service Centres. Service Centres with larger populations are assumed to contain more services.¹⁵ The further away from one or more service centres, the more remote the location.

By this definition, people who live in regional or remote areas are more likely to have a lower level of access to products and services, including financial products and services.

¹³ Australian Government Australian Institute of Health and Welfare, *Rural and remote Australians* (7 August 2017), <<https://www.aihw.gov.au/reports-statistics/population-groups/rural-remote-australians/links-other-information>>.

¹⁴ Australian Bureau of Statistics, 'Defining Remoteness Areas', 1270.0.55.005 – *Australian Statistical Geography Standards (ASGS): Volume 5 – Remoteness Structure, July 2016*, (16 March 2018), <<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/1270.0.55.005Main%20Features15July%202016?opendocument&tabname=Summary&prodno=1270.0.55.005&issue=July%202016&num=&view=>>>.

¹⁵ See University of Adelaide: Hugo Centre for Migration and Population Research, *ARIA*, (7 March 2018), <https://www.adelaide.edu.au/hugo-centre/spatial_data/aria/>.

3. Number of Aboriginal and Torres Strait Islander people who hold financial products

There is very little information about the number of Aboriginal and Torres Strait Islander people who hold financial products such as bank accounts, insurance products or superannuation. Such information usually requires self-identification and many financial institutions do not seek this information.

As there is very little information about the number or percentage of Aboriginal and Torres Strait Islander people who hold financial products, the changes in these figures over the past 10 years are also not readily available.

In general, however:

- ASIC notes that '[j]ust about everyone has an account with a bank, credit union or building society to receive pay or basic benefits, take out cash and pay bills';¹⁶
- The legislated Superannuation Guarantee means that in general, employed people aged 18 and over who earn more than \$450 per month are required to be paid 9.5% of their ordinary-time earnings into an eligible superannuation account;¹⁷ and
- all default¹⁸ superannuation funds must have a minimum level of life insurance.¹⁹

As a result, it is likely that most Aboriginal and Torres Strait Islander people have a bank account and if employed are likely to have a superannuation account and a basic level of life insurance through their superannuation.

¹⁶ Australian Securities and Investments Commission, *Transaction accounts* (14 March 2018), ASIC's MoneySmart, <<https://www.moneysmart.gov.au/managing-your-money/banking/transaction-accounts>>.

¹⁷ See Australian Taxation Office, *Super for employers*, (24 May 2018), <<https://www.ato.gov.au/business/super-for-employers/>>. See also the *Superannuation Guarantee (Administration) Act 1992*.

¹⁸ A 'default fund' is a superannuation fund selected by an employer on behalf of an employee to which Superannuation Guarantee benefits are paid, if an employee does not choose their superannuation fund.

¹⁹ Australian Securities and Investments Commission, *Insurance through super*, ASIC's MoneySmart, (15 September 2017), <<https://www.moneysmart.gov.au/superannuation-and-retirement/how-super-works/insurance-through-super>>. The Australian Government, in the 2018–19 Budget, announced that it 'will tailor insurance arrangements in super by ensuring that cover is offered on an opt-in basis for accounts of young members below the age of 25, inactive accounts that have not received a contribution in 13 months (where the member has not elected retain existing cover), and low balance accounts below \$6,000'. See The Hon Kelly O'Dwyer MP, Minister for Revenue and Financial Services, *Encouraging and rewarding Australians by protecting your superannuation*, Media Release (8 May 2018), <<http://kmo.ministers.treasury.gov.au/media-release/050-2018/>>.

However, social, cultural and economic factors can result in members of the population, including those of Aboriginal and/or Torres Strait Islander origin, suffering from a 'lack of access to banking and financial services, sometimes termed financial exclusion'.²⁰

Financial exclusion is discussed in more detail in *Background Paper 18 – Some Features of Finance in Regional and Remote Communities*.²¹ The social, cultural and economic factors that may lead to financial exclusion of Aboriginal and Torres Strait Islander people, and the ways in which Aboriginal and Torres Strait Islander people may be affected by financial exclusion, are discussed in Section 4 of this paper.

4. Access to financial products and services

Aboriginal and Torres Strait Islander people are more likely to experience financial exclusion than the rest of the community. In 2012, the Centre for Social Impact, in research commissioned by National Australia Bank, noted that Aboriginal and Torres Strait Islander people are much more likely to be either severely or fully financially excluded (43.1%) compared to the national average (17.2%).²² Similarly, the Australia and New Zealand Banking Group Limited (ANZ) noted in a 2008 study that 'Indigenous Australians are the predominant group of people consistently associated with financial exclusion'.²³

Research indicates there are some common causes of financial exclusion for Aboriginal and Torres Strait Islander people. These are summarised in the table below and in the following paragraphs.

²⁰ Siobhan McDonnell, *Money Talks: Overcoming the financial exclusion problems faced by Indigenous Australians* (2003), 1, <https://www.aspc.unsw.edu.au/sites/www.aspc.unsw.edu.au/files/uploads/aspc_historical_conferences/2003/paper159.pdf>.

²¹ See Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Background Paper 18: Some Features of Financial Services in Regional and Remote Communities*, (15 June 2018), <<https://financialservices.royalcommission.gov.au/publications/Documents/fsrc-paper-18.pdf>>.

²² Centre for Social Impact for National Australia Bank, *Measuring Financial Exclusion in Australia*, (May 2012), 8, <http://www.csi.edu.au/media/uploads/Measuring_Financial_Exclusion_in_Australia_-_May_2012.pdf>.

²³ Australia and New Zealand Banking Group Limited (ANZ), *Home Ownership and Indigenous Australians: Final report and response* (August 2008), 2, <<http://www.anz.com/Documents/AU/Aboutanz/Community/AN5610-Home-Ownership-August-FINAL.pdf>>.

These causes of financial exclusion can affect any person, but as a result of social and demographic differences, may be more prevalent for Aboriginal and Torres Strait Islander people.

Table 1: Causes and effects of financial exclusion²⁴

Cause of financial exclusion	Can affect access to ...
Geographic location	Banking services Appropriate financial products
Lack of identification documents	Banking services Credit Superannuation Insurance products
Unemployment and lower incomes	Banking services Credit Superannuation Insurance products
Lower financial literacy	Banking services Appropriate financial products
Family structure	Appropriate insurance products Death benefit distributions
Lower age and life expectancy	Superannuation benefits Insurance products Death benefit distributions

4.1. Geographic location

As noted in Section 2, Aboriginal and Torres Strait Islander people are more likely to live outside of capital cities, or in regional and remote areas, compared to the non-Indigenous population. McDonnell (2003) notes that a 'lack of physical access to banking and financial services, or geographic exclusion, is a key aspect of the financial exclusion faced by many Indigenous people' and that the 'removal of banking services from remote and rural communities has particular implications for the Indigenous

²⁴ See e.g. Financial Ombudsman Service Banking Code Compliance Monitoring Committee, *Special Report: Access to Banking Services by Indigenous Customers* (July 2017), 9, <<https://www.fos.org.au/custom/files/docs/ccmc-special-report-access-to-banking-services-by-indigenous-customers.pdf>>; Siobhan McDonnell, *Money Talks: Overcoming the financial exclusion problems faced by Indigenous Australians* (2003), 2–3, <https://www.aspc.unsw.edu.au/sites/www.aspc.unsw.edu.au/files/uploads/aspc_historical_confereces/2003/paper159.pdf>; Indigenous Superannuation Working Group, *Indigenous Super Summit: Report – July 2015* (July 2015), 3, <http://www.aist.asn.au/media/653940/2015_indigenoussupersummit_report_v2final.pdf>.

population of these communities'.²⁵ *Background Paper 18 – Some Features of Finance in Regional and Remote Communities*²⁶ discusses issues with accessing face-to-face banking services in regional and remote communities. This can affect Aboriginal and Torres Strait Islander people living in regional and remote communities.

The Australian Treasury ATM Taskforce, which released its final report in February 2011, found that while 'direct fees for ATMs in remote Indigenous communities are generally similar to those in metropolitan areas',²⁷ 'residents of remote Indigenous communities are more reliant on ATMs than other Australians because of their lack of access to alternative means to make balance inquiries or cash withdrawals ... alternatives [such as telephone or internet] may be unavailable or too costly'²⁸ or some residents may 'prefer to use ATMs. This may reflect a lack of financial and/or English literacy as well as concerns over privacy'.²⁹

The Australian Financial Counselling & Credit Reform Association (AFCCRA) noted in 2010 that ATMs or electronic funds transfers are likely to be used more frequently in remote communities.³⁰ For example, there may be a lack of refrigeration in some areas, requiring more frequent food purchases,³¹ or there may be 'a lack of infrastructure (telephones and computers)' and 'due to the expense ... most community members don't have access to check balances via internet banking'.³²

AFCCRA also noted that people living in remote communities may also be 'vulnerable and poor' and that 'ATM fees of \$20-\$40 are commonly incurred

²⁵ Siobhan McDonnell, *Money Talks: Overcoming the financial exclusion problems faced by Indigenous Australians* (2003), 4–5, <https://www.aspc.unsw.edu.au/sites/www.aspc.unsw.edu.au/files/uploads/aspc_historical_conferences/2003/paper159.pdf>.

²⁶ See Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, *Background Paper 18: Some Features of Financial Services in Regional and Remote Communities*, (15 June 2018), <<https://financialservices.royalcommission.gov.au/publications/Documents/fsrc-paper-18.pdf>>.

²⁷ Australian Government, the Treasury, *ATM Taskforce – Report on Indigenous ATM Issues*, (28 February 2011),6, <http://banking.treasury.gov.au/content/reports/atm_indigenous/downloads/atm_indigenous.pdf>.

²⁸ *Ibid* 8.

²⁹ *Ibid*.

³⁰ Australian Financial Counselling & Credit Reform Association, *ATM Fees in indigenous communities* (November 2010), 7, <<https://www.financialcounsellingaustralia.org.au/getattachment/Corporate/Publications/Reports/ATM-Fees-in-Remote-Indigenous-Communities.pdf>>.

³¹ *Ibid*.

³² *Ibid*.

by people on the day Centrelink payments are due'³³ which it notes is significant given that at the time of the report, 'Newstart allowance for an unemployed person [equated] to living on \$33 per day'.³⁴

As a result of the ATM Taskforce, specific policies have been put in place to minimise ATM fees in selected remote communities (see Section 5).

Additionally, the introduction of the 'Cashless Debit Card' in certain remote communities, where particular welfare payments are deposited into a restricted bank account, accessed by a debit card which does not allow cash withdrawals³⁵ means that easy access to EFTPOS facilities in those communities is necessary. The trial of cashless welfare arrangements was extended through the *Social Services Legislation Amendment (Cashless Debit Card) Act 2018*.³⁶ The Cashless Debit Card is currently available in Ceduna in South Australia, Kununurra and Wyndham in the East Kimberly region of Western Australia and the Goldfields region of Western Australia.³⁷

The Financial Ombudsman Service Banking Code Compliance Monitoring Committee (CCMC) also noted in 2017 that the loss of bank cards is a 'barrier to account access in remote Indigenous communities. Banks report that in these communities, many Indigenous customers see bank cards as having little or no value, and so do not keep them securely ... [t]he negative impact of lost cards is compounded by remoteness, which can extend the replacement delivery time to up to a month'.³⁸

³³ Ibid 3.

³⁴ Ibid.

³⁵ Explanatory Memorandum, Social Security Legislation Amendment (Debit Card Trial) Bill 2015, 3 <http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5520_ems_91404ffb-3b40-4be1-a67e-2c5f2e6a1eeb/upload_pdf/503546.pdf;fileType=application%2Fpdf>.

³⁶ See *Social Services Legislation Amendment (Cashless Debit Card) Act 2018* <<https://www.legislation.gov.au/Details/C2018A00003>>; *Social Security Legislation Amendment (Debit Card Trial) Act 2015* <<https://www.legislation.gov.au/Details/C2015A00144>>. See also Explanatory Memorandum, Social Security Legislation Amendment (Debit Card Trial) Bill 2015, 3 <http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r5520_ems_91404ffb-3b40-4be1-a67e-2c5f2e6a1eeb/upload_pdf/503546.pdf;fileType=application%2Fpdf>.

³⁷ Australian Government Department of Human Services, *Cashless Debit Card*, (12 May 2018) <<https://www.humanservices.gov.au/individuals/services/centrelink/cashless-debit-card>>.

³⁸ Financial Ombudsman Service Banking Code Compliance Monitoring Committee, *Special Report: Access to Banking Services by Indigenous Customers*, (July 2017), 10, <<https://www.fos.org.au/custom/files/docs/ccmc-special-report-access-to-banking-services-by-indigenous-customers.pdf>>.

4.2. Identification documents

The CCMC, in its 2017 report, noted that those of Aboriginal and/or Torres Strait Islander origin ‘sometimes do not have the proof of identity documents ordinarily needed to access banking products and services’.³⁹ In 2012, the Centre for Social Impact noted that people ‘trying to access credit struggled to provide documentation or had poor credit records’.⁴⁰

It found that of those who were severely excluded from access to mainstream financial services, 17.9% of Aboriginal and Torres Strait Islander people had difficulties in opening a bank account because they were unable to provide identity documents, compared with 8.7% of non-Indigenous people in the survey.⁴¹

In 2015, the Indigenous Superannuation Working Group, a cross industry initiative that seeks to improve superannuation outcomes for Aboriginal and Torres Strait Islander people,⁴² found that identification problems occur because for many Aboriginal and Torres Strait Islander people, particularly older generations, ‘births were not recorded in the official register resulting in no birth certificate’⁴³ and traditional marriages ‘are also often not performed in accordance with Australia’s marriage laws and are accordingly not registered. The same lack of registration can occur at the time of death where, if there is no funeral director, the actual step of registration can be missed. These circumstances pose problems for the identification of members and beneficiaries under the superannuation legislative framework’.⁴⁴

A lack of identification documents can also mean individuals cannot open a bank account and gain access to mainstream credit. McDonnell noted in 2003 that ‘[w]ithin many Indigenous communities the historical lack of access to banking services means that individuals are often forced to rely on informal credit providers. Many Indigenous people become a captive

³⁹ Ibid 11.

⁴⁰ Centre for Social Impact for National Australia Bank, *Measuring Financial Exclusion in Australia*, (May 2012), 7, <http://www.csi.edu.au/media/uploads/Measuring_Financial_Exclusion_in_Australia_-_May_2012.pdf>.

⁴¹ Ibid 27.

⁴² Indigenous Superannuation Working Group *Indigenous Super Summit: Report – December 2016* (December 2016), 5, <http://www.aist.asn.au/media/921956/2016_indigenoussupersummit_report_web.pdf>.

⁴³ Indigenous Superannuation Working Group, *Building better superannuation outcomes for Aboriginal and Torres Strait Islander people: Discussion Paper*, (February 2015), 10–11, <<http://www.aist.asn.au/media/14204/Indigenous%20Working%20Group%20-%20Discussion%20Paper.pdf>>.

⁴⁴ Ibid.

market for informal credit providers, such as hotels, stores, hawkers and taxi drivers.¹⁴⁵

The Australian Treasury in 2012, citing Whyley (2010) noted that financial exclusion can lead to 'serious hardship, including going without food, fuel, school uniforms, disconnection from utilities and increased social exclusion'⁴⁶ as well as 'increased use of sub-prime lenders with high costs, confusing and punitive terms and conditions, being drawn into a cycle of borrowing and debt'.⁴⁷

4.3. Employment and incomes

In the 2016 Census, there was a significant difference in employment outcomes for Aboriginal and Torres Strait Islander people compared to non-Indigenous people. 47% of Aboriginal and Torres Strait Islander people aged 15 to 64 years were employed, compared with 72% for non-Indigenous people, with more employed Aboriginal and Torres Strait Islander people in urban areas (49%) compared with those in rural areas (39%). A higher percentage of males aged 16 to 64 years of age were employed (49%) compared with females (45%).⁴⁸

In the 2016 Census, Aboriginal and Torres Strait Islander people were half as likely as non-Indigenous people to report an equivalised weekly household income⁴⁹ of \$1,000 or more in 2016 (20% compared with 41%).⁵⁰

⁴⁵ Siobhan McDonnell, *Money Talks: Overcoming the financial exclusion problems faced by Indigenous Australians* (2003), 2, <https://www.aspc.unsw.edu.au/sites/www.aspc.unsw.edu.au/files/uploads/aspc_historical_confereces/2003/paper159.pdf>, citing Taylor & Westbury, 2000: 48.

⁴⁶ Australian Treasury, *Strategies for reducing reliance on high-cost, short-term, small amount lending: Discussion Paper*, (April 2012) 2, <<https://static.treasury.gov.au/uploads/sites/1/2017/06/discussion-paper-5.pdf>>.

⁴⁷ Ibid.

⁴⁸ Australian Bureau of Statistics, *2011.0 – Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016*, (31 October 2017) <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2011.0~2016~Main%20Features~Aboriginal%20and%20Torres%20Strait%20Islander%20Population%20Article~12>>. ('Aboriginal and Torres Strait Islander Population, 2016: 2016 Census Article: Work')

⁴⁹ 'Equivalised total household income' is household income adjusted to compare income levels between households of differing size and composition, reflecting that a larger household would normally need more income than a smaller household to achieve the same standard of living. See Australian Bureau of Statistics, *2901.0 – Census of Population and Housing: Census Dictionary*, 2016 (23 August 2016), <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/2901.0Chapter31502016>> (Definition of 'Equivalised Total Household Income (weekly) (HIED)').

⁵⁰ Australian Bureau of Statistics, *2011.0 – Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016*, (31 October 2017) <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2011.0~2016~Main%20Feat>>.

Bianchi et al (2016), in a working paper for the CSIRO-Monash Superannuation Research Cluster, note that Aboriginal and Torres Strait Islander people ‘experience lower levels of education, employment and income in comparison to non-indigenous Australians’⁵¹ and that lower superannuation balances are likely a result of lower incomes ‘since superannuation contributions are, by construction, a function of salary levels’.⁵²

The 2015 Report of the *Indigenous Super Summit* noted similar results, as seen the table below.

Table 2: Average superannuation balances, 2010

	Aboriginal and Torres Strait Islanders	Non-Indigenous
Male	\$55,743	\$110,000
Female	\$39,909	\$63,000

Source: 2015 *Indigenous Super Summit Report*, citing R Clare (2012:17), Association of Superannuation Funds of Australia (ASFA)⁵³

The 2016 Report of the *Indigenous Super Summit* noted that the retirement outcomes ‘of non-Indigenous workers are approximately 27% more than the typical Indigenous worker’ and that in order to achieve commensurate retirement outcomes with non-Indigenous people, suggested that Aboriginal and Torres Strait Islander people ‘would require a 12% super guarantee contribution rate’.⁵⁴

The 2016 Census notes that in 2016, ‘the rate of Aboriginal and Torres Strait Islander people not in the labour force was 44 per cent’ with females more likely than males to be out of the labour force (48% versus 41%) across all age groups.⁵⁵ People who are not participating in the labour force

ures~Aboriginal%20and%20Torres%20Strait%20islander%20Population%20Article~12>. ('Aboriginal and Torres Strait Islander Population, 2016: 2016 Census Article: Income').

⁵¹ Robert J Bianchi, Michael E Drew, Adam N Walk and Osei K Wiafe, *Retirement Adequacy of Indigenous Australians*, CSIRO-Monash Working Paper No 2016-1, Griffith Business School, Department of Accounting, Finance and Economics, Griffith University, (8 March 2016), 3, <http://www.superresearchcluster.com/__data/assets/pdf_file/0009/439758/CP72016-01-Indigenous-Superannuation.pdf>.

⁵² Ibid 9.

⁵³ Indigenous Superannuation Working Group *Indigenous Super Summit: Report – July 2015* (July 2015), 35, <http://www.aist.asn.au/media/653940/2015_indigenoussupersummit_report_v2final.pdf>, citing Clare (2012:17).

⁵⁴ Indigenous Superannuation Working Group *Indigenous Super Summit: Report – December 2016* (December 2016), 8, <http://www.aist.asn.au/media/921956/2016_indigenoussupersummit_report_web.pdf>.

⁵⁵ Australian Bureau of Statistics, *2016.0 – Census of Population and Housing: Characteristics or Aboriginal and Torres Strait Islander Australians, 2016* (19 February 2018),

(whether this is a result of child rearing or for other reasons) will also not be accruing superannuation savings during this time.

Unemployment can also affect a person's ability to access debt from mainstream financial institutions. The Centre for Social Impact noted that in 2012, 30.8% of Aboriginal and Torres Strait Islander people had difficulties in getting credit from a mainstream provider, compared with 15.4% of non-Indigenous people.⁵⁶ The report also noted that 25.6% of Aboriginal and Torres Strait Islander people used fringe credit in the previous 12 months, compared with 7.2% of non-Indigenous people.⁵⁷

In addition to lower superannuation balances and a lack of access to credit, Aboriginal and Torres Strait Islander people on low incomes may be excluded from access to banking services because of the costs involved.⁵⁸ The Centre for Social Impact estimated that 'the average annual cost of basic financial services is \$1794 ... \$88 for a basic bank account, \$808 for a low cost credit card, and \$898 for general insurance (basic motor vehicle and basic home contents combined)'.⁵⁹

4.4. Financial literacy levels

In 2016, 47% of Aboriginal and Torres Strait Islander people aged 20 to 24 years reported having completed Year 12 or its equivalent, compared with 79% for non-Indigenous people of the same age.⁶⁰ Aboriginal and Torres Strait Islander people aged 25 to 64 years were more likely than non-

<<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/2076.0Main%20Features512016?op=endocument&tabname=Summary&prodno=2076.0&issue=2016&num=&view=>> ('Persons not in the Labour Force').

⁵⁶ Centre for Social Impact for National Australia Bank, *Measuring Financial Exclusion in Australia*, (May 2012), 27,

<http://www.csi.edu.au/media/uploads/Measuring_Financial_Exclusion_in_Australia_-_May_2012.pdf>.

⁵⁷ Ibid 27–28.

⁵⁸ Financial Ombudsman Service Banking Code Compliance Monitoring Committee, *Special Report: Access to Banking Services by Indigenous Customers*, (July 2017), 9,

<<http://www.ccmc.org.au/2017/07/26/ccmc-special-report-access-to-banking-services-by-indigenous-customers/>>.

⁵⁹ Centre for Social Impact for National Australia Bank, *Measuring Financial Exclusion in Australia*, (May 2012), 7,

<http://www.csi.edu.au/media/uploads/Measuring_Financial_Exclusion_in_Australia_-_May_2012.pdf>.

⁶⁰ Australian Bureau of Statistics, *2071.0 – Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016*, (31 October 2017),

<<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Aboriginal%20and%20Torres%20Strait%20islander%20Population%20Article~12>> ('Aboriginal and Torres Strait Islander Population, 2016: 2016 Census Article: Education: Year 12 completion').

Indigenous people of the same age to have left school at Year 9 or below (19% compared with 6.7%).⁶¹

A 2015 study by Gordon and Boyle notes that 'lower levels of literacy are present among Indigenous adults, particularly those from regional and remote communities where children have only participated in formal education in relatively recent generations'⁶² and that lower levels of literacy and numeracy 'disproportionately impact on the financial exclusion levels of Aboriginal and Torres Strait Islander people, who are continuously overrepresented in this category.'⁶³

Gordon and Boyle (2015) noted that:

'Lower levels of literacy and numeracy ... contributes to the lack of ability of many Indigenous consumers to properly understand their superannuation ... understanding relatively complex superannuation products becomes almost impossible without adequately tailored information and educational services, very few of which exist'.⁶⁴

Lower financial literacy may also result in inappropriate insurance products being sold to consumers. In 2015, ASIC's *Report 454: Funeral insurance: A snapshot* indicated that '[w]hile over half (51.2%) of consumers with funeral insurance were aged 50–74, funeral insurance sold to Indigenous consumers had a much younger age profile (50% were aged under 20)'.⁶⁵

The Consumer Action Law Centre notes that funeral insurance 'has been singled out as a problematic product because it is difficult for consumers to assess the real value of the product ... a policy may pay out an amount significantly less than the total amount paid over the insured period, which may be years or decades'.⁶⁶ ASIC's MoneySmart website similarly cautions

⁶¹ Ibid ('Aboriginal and Torres Strait Islander Population, 2016: 2016 Census Article: Education: Leaving school early').

⁶² Alya Gordon and Nathan Boyle, *Superannuation: A more collaborative Approach Needed to Overcome Indigenous Disadvantage*, *Indigenous Law Bulletin*, Vol 8, Issue 21, (2015), 10, <<http://www.ilc.unsw.edu.au/publications/indigenous-law-bulletin-821>>, citing Kral and Schwab (2003).

⁶³ Ibid, citing Hems et al (2011:4).

⁶⁴ Ibid 11.

⁶⁵ Australian Securities and Investments Commission, *Report 454: Funeral insurance: A snapshot* (October 2015), 6, <<https://download.asic.gov.au/media/3393361/rep454-published-29-october-2015.pdf>>.

⁶⁶ Consumer Action Law Centre, *Time to end the funeral insurance rip-off: a Consumer Strategy for a fairer deal*, <<https://consumeraction.org.au/time-to-end-the-funeral-insurance-rip-off-a-consumer-strategy-for-a-fairer-deal/>>.

that funeral insurance may give consumers peace of mind, but that over time, premiums may cost a consumer more than the funeral itself.⁶⁷

Lower financial literacy may also discourage Aboriginal and Torres Strait Islander people from accessing credit (including home loans), or may result in inappropriate credit products being provided to consumers.

A report by ANZ in 2008 stated that:

‘Many Indigenous people in urban and regional centres meet bank lending criteria but may not consider home ownership due to preconceptions of not receiving approval for a loan, or fear of not being welcome or understood. Banks may inadvertently discourage approaches by Indigenous customers by applying standard customer and credit processes that are unsuited or not tailored to personal circumstances’.⁶⁸

4.5. Cultural factors such as family structure

Aboriginal and Torres Strait Islander families can have different structures than non-Indigenous families, and are often ‘larger, non-nuclear and more fluid’.⁶⁹ According to the 2016 Census, Aboriginal and Torres Strait Islander people were more likely to reside in a family household (80%) than non-Indigenous people (71%).⁷⁰ Aboriginal and Torres Strait Islander people were also more likely to report having more than one family living together (5.1%) compared to those in other households (1.8%) and reported living in larger households on average (3.2 people) than those living in other households (2.6 people).⁷¹

⁶⁷ Australian Securities and Investments Commission, *Funeral insurance*, ASIC’s MoneySmart (25 May 2017), <<https://www.moneysmart.gov.au/insurance/funeral-insurance>>.

⁶⁸ Australia and New Zealand Banking Group Limited (ANZ), *Home Ownership and Indigenous Australians – Final report and response*, above, 2, <<http://www.anz.com/Documents/AU/Aboutanz/Community/AN5610-Home-Ownership-August-FINAL.pdf>>.

⁶⁹ Indigenous Superannuation Working Group, *Building better superannuation outcomes for Aboriginal and Torres Strait Islander people: Discussion Paper*, (February 2015), 9, <<http://www.aist.asn.au/media/14204/Indigenous%20Working%20Group%20-%20Discussion%20Paper.pdf>>.

⁷⁰ Australian Bureau of Statistics, *2011.0 – Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016*, (31 October 2017), <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2011.0~2016~Main%20Features~Aboriginal%20and%20Torres%20Strait%20islander%20Population%20Article~12>> (‘Aboriginal and Torres Strait Islander Population, 2016: 2016 Census Article: Households and Families’).

⁷¹ Ibid (‘Aboriginal and Torres Strait Islander Population, 2016: 2016 Census Article: Households and Families: Average number of people in households’).

The 2016 Report of the *Indigenous Super Summit* noted that the superannuation system ‘doesn’t take into account the different family structures or community structures in Indigenous society’.⁷²

As a result, access by beneficiaries to life insurance and superannuation benefits may be complicated as a result of ‘overlapping and extensive kinship networks, with both adults and children commonly moving between different households’.⁷³

4.6. Age and life expectancy

In the 2016 Census, Aboriginal and Torres Strait Islander people had a much younger age profile and structure than the non-Indigenous population. More than half (53%) Aboriginal and Torres Strait Islander people were under 25 years of age, compared with 31% of the non-Indigenous population. Similarly, only 4.8% of Aboriginal and Torres Strait Islander people were aged 65 and over, compared to 16% of the non-indigenous population.⁷⁴

The Australian Institute of Health and Welfare notes that for ‘the Aboriginal and Torres Strait Islander population born in 2010–2012, life expectancy was estimated to be 10.6 years lower than that of the non-Indigenous population for males (69.1 years compared with 79.7 [years]) and 9.5 years for females (73.7 years compared with 83.1 [years])’.⁷⁵

The 2015 Report of the *Indigenous Super Summit* notes that Aboriginal and Torres Strait Islander people may, ‘with lower life expectancies than non-Indigenous Australians, have less opportunity to benefit from their compulsory [superannuation] savings’.⁷⁶

⁷² Indigenous Superannuation Working Group *Indigenous Super Summit: Report – December 2016* (December 2016), 14,

<http://www.aist.asn.au/media/921956/2016_indigenoussupersummit_report_web.pdf>.

⁷³ Indigenous Superannuation Working Group, *Building better superannuation outcomes for Aboriginal and Torres Strait Islander people: Discussion Paper*, (February 2015), 9, <<http://www.aist.asn.au/media/14204/Indigenous%20Working%20Group%20-%20Discussion%20Paper.pdf>>.

⁷⁴ Australian Bureau of Statistics, *2011.0 – Census of Population and Housing: Reflecting Australia – Stories from the Census, 2016*, (31 October 2017), <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2011.0~2016~Main%20Features~Aboriginal%20and%20Torres%20Strait%20Islander%20Population%20Article~12>> (‘Aboriginal and Torres Strait Islander Population, 2016: 2016 Census Article: Population Size Over Time: Population structure’).

⁷⁵ Australian Institute of Health and Welfare, *Life Expectancy: Life Expectancy of Aboriginal and Torres Strait Islander people* (17 August 2017), <<https://www.aihw.gov.au/reports/life-expectancy-death/deaths-in-australia/contents/life-expectancy>>.

⁷⁶ Indigenous Superannuation Working Group *Indigenous Super Summit: Report – July 2015* (July 2015), 3, <http://www.aist.asn.au/media/653940/2015_indigenoussupersummit_report_v2final.pdf>.

The Report also notes that '[w]here they do have superannuation savings, or insurance cover with their super fund, Indigenous people experience greater difficulties than non-Indigenous Australians in accessing their benefits',⁷⁷ for example, because 'the definitions in claiming death benefits are confusing and often unhelpful in an Indigenous cultural setting',⁷⁸ or as the 2016 Report of the *Indigenous Super Summit* noted, because 'funds experienced difficulty identifying members and their beneficiaries due to inconsistent names and dates of birth on documentation'.⁷⁹

5. Policy reforms since 2010 to address financial exclusion of Aboriginal and Torres Strait Islander people

5.1. Legislative reforms

No major legislative reforms since 2010 have been identified that specifically address financial exclusion of Aboriginal and Torres Strait Islander people. Below are some general examples of Australian Government legislation or initiatives that may improve financial inclusion for Aboriginal and Torres Strait Islander people.

5.1.1. Closing the Gap

The Closing the Gap framework was established by the Council of Australian Governments (COAG) in 2008.⁸⁰ There are seven Closing the Gap targets: child mortality, early childhood education, school attendance, reading and numeracy, Year 12 or equivalent attainment, employment and life expectancy.⁸¹ Noting that higher education, employment, and life expectancy may improve financial literacy and increase income, superannuation balances and access to superannuation at retirement (see Section 4), meeting the Closing the Gap targets should also improve the financial inclusion of Aboriginal and Torres Strait Islander people.

⁷⁷ Ibid.

⁷⁸ Ibid 15.

⁷⁹ Indigenous Superannuation Working Group, *Building better superannuation outcomes for Aboriginal and Torres Strait Islander people: Discussion Paper*, (February 2015), 6, <<http://www.aist.asn.au/media/14204/Indigenous%20Working%20Group%20-%20Discussion%20Paper.pdf>>.

⁸⁰ Australian Government, Department of the Prime Minister and Cabinet, *Closing the Gap*, <<https://www.pmc.gov.au/indigenous-affairs/closing-gap>>.

⁸¹ Australian Government, Department of the Prime Minister and Cabinet, *Closing the Gap: Prime Minister's Report 2018*, (2018), 10, <<https://closingthegap.pmc.gov.au/sites/default/files/ctg-report-2018.pdf?a=1>>.

5.1.2. Indigenous Business Australia

The *Aboriginal and Torres Strait Islander Act 2005* (Cth) (ATSI Act) establishes Indigenous Business Australia (IBA). Its objective is to ‘provide quality leadership in facilitating and enabling Aboriginal and Torres Strait Islander engagement in the wider community’.⁸² IBA notes that it works in partnership with the Government’s Indigenous Economic Development Strategy, which aims to ‘increase the wellbeing of Indigenous Australians by supporting greater economic participation and self-reliance’.⁸³

IBA is established under the ATSI Act to ‘assist and enhance Aboriginal and Torres Strait Islander self-management and economic self-sufficiency’⁸⁴ and to ‘advance the commercial and economic interests of Aboriginal persons and Torres Strait Islanders by accumulating and using a substantial capital asset for the benefit of the Aboriginal and Torres Strait Islander peoples’.⁸⁵

IBA notes that its programs ‘attempt to remove some of the obstacles that may prevent [its] customers from creating wealth, accumulating assets and fulfilling their aspirations’⁸⁶ and ‘assist Indigenous Australians to buy their own homes, own their own businesses and invest in commercial ventures that provide strong financial returns.’⁸⁷

5.1.3. Small amount lending protections

The *National Consumer Credit Protection Act 2009* (Cth) (‘National Credit Act’) imposes ‘responsible lending requirements on all licensees so that they do not provide credit products and services that are unsuitable for consumers’,⁸⁸ including Aboriginal and Torres Strait Islander consumers.

In March 2015, ASIC, in its *Report 426: Payday lenders and the new small amount lending provisions* (‘Report 426’) noted that small amount loans ‘were identified by the Commonwealth Government as a product that held

⁸² Indigenous Business Australia, *Our Commitment*, (2 June 2016), <<http://www.iba.gov.au/about-us/our-commitment/>>.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid. See also *Aboriginal and Torres Strait Islander Act 2005*, s146.

⁸⁶ Indigenous Business Australia, *About Us*, (9 January 2017), <<http://www.iba.gov.au/about-us/>>.

⁸⁷ Ibid.

⁸⁸ Australian Government, The Treasury, *Background Paper 5: Request for Information Reforms To Consumer Lending*, prepared in response to a request made by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, (19 March 2018), 2, <<https://financialservices.royalcommission.gov.au/publications/Documents/Treasury-Request-for-Information-Reforms-to-Consumer-Lending-Background-paper-5.pdf>>.

specific risks of financial detriment or harm to vulnerable consumers'.⁸⁹ ASIC noted that the aim of its enforcement is 'to ensure that consumers are not trapped in a cycle of disadvantage and that vulnerable consumers are protected from practices which reduce financial and social inclusion.'⁹⁰

The small amount lending provisions introduced in the *Consumer Credit Legislation Amendment (Enhancements) Act 2012* (Cth) introduced additional obligations for small amount loans, including: presumptions of the unsuitability of a loan if a consumer is in default under another small amount loan, or if the consumer has had two or more other small amount loans in the last 90 days; a cap on fees and charges of the loan; and protections for consumers who receive 50% or more of their income under the *Social Security Act 1991*.⁹¹

5.1.4. Financial literacy programs and microfinance

Governments can also improve the financial inclusion of Aboriginal and Torres Strait Islander people through programs designed to improve financial literacy, as well as providing access to microfinance. The Australian Government Department of Social Services notes on its website that 'the Australian Government, in partnership with community organisations, provides support to vulnerable individuals and families experiencing financial crises. People can acquire budgeting and financial literacy skills to help navigate through debt and learn strategies to better manage their money and become financially independent'.⁹²

Programs include Commonwealth Financial Counselling, including the National Debt Helpline and the National Gambling Helpline,⁹³ Financial Capability services (some of which may deliver the Indigenous Home Ownership Education (HOME) program aimed at increasing the understanding of the financial commitment of home ownership),⁹⁴ as well as

⁸⁹ Australian Securities and Investments Commission, *Report 426: Payday lenders and the new small amount lending provisions*, (March 2015), 4, <https://download.asic.gov.au/media/3038267/rep-426-published-17-march-2015.pdf>.

⁹⁰ Ibid.

⁹¹ Ibid 5.

⁹² Australian Government Department of Social Services, *Financial Wellbeing and Capability*, (7 December 2016), <<https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/financial-wellbeing-and-capability>>.

⁹³ Australian Government Department of Social Services, *Commonwealth Financial Counselling*, (7 December 2016), <<https://www.dss.gov.au/our-responsibilities/communities-and-vulnerable-people/programs-services/commonwealth-financial-counselling-cfc>>.

⁹⁴ Australian Government Department of Social Services, *Financial Capability*, (4 April 2016), <<https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/financial-wellbeing-and-capability-overview-of-changes/financial-capability>>.

Financial Resilience, or microfinance which is not available through mainstream providers of financial services, such as No Interest Loans (NILS) and Low Interest Loans (StepUP), savings opportunities through the Saver Plus program and Microenterprise Development services.

These products are offered as an alternative to other high risk, high interest products.⁹⁵

5.2. Regulator reforms

5.2.1. ASIC's Indigenous Outreach Program and *Knowing, Growing, Showing* teaching resource

ASIC's Indigenous Outreach Program 'provides support to Aboriginal and Torres Strait Islanders who want to know more about money matters ... [the] Indigenous Outreach staff are able to assist with complaints, provide copies of any of ASIC's Indigenous educational materials and provide general assistance and financial literacy education'.⁹⁶ ASIC also provides a series of guides and fact sheets designed specifically for Aboriginal and Torres Strait Islander people on its MoneySmart website, including fact sheets on credit, insurance and superannuation.⁹⁷

On 16 March 2017, ASIC launched a new financial literacy teaching resource called *Knowing, Growing, Showing* to support authentic learning opportunities for Aboriginal and Torres Strait Islander students. ASIC noted in its media release that its commitment to Aboriginal and Torres Strait Islander people 'is to help them grow their financial capabilities in school so that they are better prepared to make confident and informed financial choices'.⁹⁸ The resource 'is aligned to the Australian Curriculum and addresses cultural and community values around money, finances and consumer issues'.⁹⁹ The three learning stages are knowing (an introduction to the basics of money), growing (developing an understanding of money and the skills needed to make smart choices with money) and showing

⁹⁵ Australian Government Department of Social Services, *Financial Resilience*, (9 September 2016), <<https://www.dss.gov.au/communities-and-vulnerable-people/programmes-services/financial-wellbeing-and-capability-overview-of-changes/financial-resilience>>.

⁹⁶ Australian Securities and Investments Commission, *Indigenous Outreach Program*, ASIC's MoneySmart, (14 May 2018), <<https://www.moneysmart.gov.au/life-events-and-you/indigenous/indigenous-outreach-program>>.

⁹⁷ See Australian Securities and Investments Commission, *Publications: Indigenous*, ASIC's MoneySmart, (3 April 2018), <<https://www.moneysmart.gov.au/tools-and-resources/publications#indigenous>>.

⁹⁸ Australian Securities and Investments Commission, *17-066MR ASIC launches new teaching resource to build the financial capability of Indigenous students*, (16 March 2017), <<https://asic.gov.au/about-asic/media-centre/find-a-media-release/2017-releases/17-066mr-asic-launches-new-teaching-resource-to-build-the-financial-capability-of-indigenous-students/>>.

⁹⁹ Ibid.

(engaging students in applied learning to demonstrate an understanding of money and enterprise).¹⁰⁰

5.2.2. AUSTRAC updated guidance

On 4 July 2016, AUSTRAC, Australia's financial intelligence agency which has regulatory responsibility for anti-money laundering and counter-terrorism financing,¹⁰¹ updated its online compliance guide to clarify obligations relating to the identification of people of Aboriginal and/or Torres Strait Islander background.

The new guidance 'aims to overcome difficulties faced by many Aboriginal and Torres Strait Islander customers in accessing financial services such as superannuation entitlements'.¹⁰² AUSTRAC 'recommends that, where appropriate, reporting entities consider adopting a flexible approach to the identification and verification of persons of Aboriginal and/or Torres Strait Islander heritage, while remaining mindful of social and cultural sensitivities'.¹⁰³

5.3. Industry-led reforms

5.3.1. Banking

On 8 November 2012, the Australian Competition and Consumer Commission (ACCC) authorised an initiative coordinated by the Australian Bankers' Association (ABA) to provide fee-free ATM withdrawals and balance inquiries at 76 selected ATMs across very remote Aboriginal and Torres Strait Islander communities in the Northern Territory, Queensland, Western Australia and South Australia. The ACCC authorised the initiative for five years.¹⁰⁴ The ACCC noted that the project is 'a response to the ATM Taskforce Report which found that people living in very remote Indigenous

¹⁰⁰ Ibid.

¹⁰¹ Australian Government, AUSTRAC, *About AUSTRAC*, (13 July 2016), <<http://www.austrac.gov.au/about-us/austrac>>.

¹⁰² Australian Government, AUSTRAC, *Improved access to financial services for Indigenous customers*, (4 July 2016), <<http://www.austrac.gov.au/media/media-releases/improved-access-financial-services-indigenous-customers>>.

¹⁰³ Australian Government, AUSTRAC, *Aboriginal and/or Torres Strait Islander people*, (4 May 2018), <<http://www.austrac.gov.au/aboriginal-and-or-torres-strait-islander-people>>.

¹⁰⁴ Australian Competition and Consumer Commission, *Determination: Application for authorisation lodged by the Australian Bankers' Association in respect of a proposal to reduce ATM fees in selected very remote Indigenous communities*, (8 November 2012), i, <<https://www.accc.gov.au/system/files/public-registers/documents/D12%2B163344.pdf>>. The Australian Government announced the initiative in May 2012. See Wayne Swan, Deputy Prime Minister and Treasurer, *Fairer Deal on ATMs for remote Indigenous Communities*, joint media release with the Hon Jenny Macklin MP, Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform, (25 May 2012), <<http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2012/040.htm&pageID=003&min=wms&Year=2012&DocType=0>>.

communities pay relatively high levels of total ATM fees, due to frequent ATM usage and a lack of access to alternatives'.¹⁰⁵

In December 2017, the ACCC granted re-authorisation for 10 years. Under the arrangement, 'participating banks and ATM deployers provide fee-free ATM withdrawals and balance enquiries at up to 85 selected ATMs for customers of those banks' and '[a]dditional banks and ATM deployers may be added over time'.¹⁰⁶

The ABA has released an *Indigenous Statement of Commitment*, which outlines efforts to enhance financial inclusion, banking support and access to basic bank accounts and services for Aboriginal and Torres Strait Islander consumers.¹⁰⁷ The ABA released its first *Indigenous Statement of Commitment* in 2007, and it was revised in July 2015.¹⁰⁸

The ABA's *Indigenous Statement of Commitment* notes that the ABA's member banks have responded with initiatives and programs targeted at improving access for Aboriginal and Torres Strait Islander people, including:

- Reconciliation Action Plans by the four major banks and commitments in customer service charters by other banks;
- financial literacy activities and programs, including money management programs and workshops in Aboriginal and Torres Strait Islander communities across Australia;
- financial support for Aboriginal and Torres Strait Islander people and Indigenous business enterprises via micro-finance programs and other partnerships;
- specialised service support for Aboriginal and Torres Strait Islander customers;
- fee-free bank accounts for eligible customers; and
- fee-free ATMs in certain very remote Aboriginal and Torres Strait Islander communities.¹⁰⁹

¹⁰⁵ Australian Competition and Consumer Commission, *ACCC authorises fee free ATMs in remote Indigenous Communities*, (8 November 2012), <<https://www.accc.gov.au/media-release/accc-authorises-fee-free-atms-in-remote-indigenous-communities>>.

¹⁰⁶ Australian Competition and Consumer Commission, *Remote Indigenous communities to remain ATM fee-free*, (21 December 2017), <<https://www.accc.gov.au/media-release/remote-indigenous-communities-to-remain-atm-fee-free>>.

¹⁰⁷ Australian Bankers' Association, *Indigenous Statement of Commitment, 1–2*, <<https://www.ausbanking.org.au/images/uploads/ArticleDocuments/113/ABA%20Indigenous%20Statement%20of%20Commitment.pdf>>.

¹⁰⁸ Australian Bankers' Association, *Indigenous accessibility*, <<https://www.ausbanking.org.au/customers/indigenous-accessibility/>>.

¹⁰⁹ Points summarised from Australian Bankers' Association, *Indigenous Statement of Commitment, 1–2*,

Additionally, the *Code of Banking Practice* aims to assist Aboriginal and Torres Strait Islander customers in remote communities by making information about banking services available in an accessible manner, providing details of services which may meet the needs of consumers in remote locations, assisting with meeting identification requirements, and training staff to be culturally aware.¹¹⁰

An Independent Review of the Code of Banking Practice was completed on 31 January 2017. The Review was provided with examples of insufficient support for vulnerable customers, including Aboriginal and Torres Strait Islander people and residents from remote communities.¹¹¹

The Review noted that submissions ‘also proposed the broadening of clause 8 to apply more generally to Indigenous Australians (that is, not necessarily in remote communities)’.¹¹² The Review also noted that there ‘was a view that the Code should link to Industry Guidelines: these were seen as important in setting out in more detail what signatory banks should do to meet the needs of different customer groups’.¹¹³

5.3.2. Insurance

There is no mention of Aboriginal and Torres Strait Islander people in the General Insurance Code of Practice. However, the *Life Insurance Code of Practice* (‘Life Insurance Code’), a binding code of practice on life insurance companies, recognises that some groups, including Aboriginal and Torres Strait Islander people, may have unique needs when accessing insurance, making an inquiry, claiming on their insurance, making a complaint or communicating with the industry. Clause 7.1 states that reasonable measures will be taken to ensure that additional support is provided.¹¹⁴

Clause 7.4 of the Life Insurance Code recognises that ‘some groups of consumers (for example, people from Indigenous communities or those from non-English speaking backgrounds)’ may require support in meeting identification requirements when buying insurance or making a claim or

<https://www.ausbanking.org.au/images/uploads/ArticleDocuments/113/ABA%20Indigenous%20Statement%20of%20Commitment.pdf>.

¹¹⁰ Australian Bankers’ Association, *Code of Banking Practice*, (2013), Clause 8, 11, https://www.ausbanking.org.au/images/uploads/ArticleDocuments/172/ABA_CODE_MANDAT E_FINAL_MID.pdf.

¹¹¹ Phil Khoury, *Independent Review: Code of Banking Practice* (31 January 2017), 22, <http://cobpreview.crkhoury.com.au/wp-content/uploads/sites/2/2017/02/Report-of-the-Independent-Review-of-the-Code-of-Banking-Practice-2017.pdf>.

¹¹² *Ibid* 165.

¹¹³ *Ibid*.

¹¹⁴ Financial Services Council, *Life Insurance Code of Practice*, Clause 7.1, 14, <https://www.fsc.org.au/policy/life-insurance/code-of-practice/life-code-of-practice>.

complaint. Clause 7.4 notes that signatories to the Life Insurance Code ‘will undertake reasonable measures to assist those consumers and still meet [their] obligations under the law’.¹¹⁵

Clause 7.5 of the Life Insurance Code recognises that ‘people living in remote and regional communities may have trouble meeting their obligations’ to provide documents and take part in assessments within the timeframes set. Clause 7.5 notes that signatories to the Life Insurance Code ‘will take this into account when going through the underwriting and claims processes’.¹¹⁶

The Insurance in Superannuation Voluntary Code of Practice (‘Insurance in Superannuation Code’) was released by the Insurance in Superannuation Working Group on 18 December 2017,¹¹⁷ with a proposed date of commencement of 1 July 2018. The Insurance in Superannuation Code, similar to the Life Insurance Code, recognises the need to support vulnerable consumers, including Aboriginal and Torres Strait Islander people, as well as a need for a flexible approach to verification and identification, and providing information within set timeframes.¹¹⁸

5.3.3. Superannuation

The Indigenous Superannuation Working Group was established in May 2013 and is ‘a cross industry initiative that seeks to improve superannuation outcomes for Indigenous people. The Working Group’s members include superannuation industry bodies, superannuation funds and representation from the First Nations Foundation’.¹¹⁹ The 2016 Report of the *Indigenous Super Summit* notes that the Terms of Reference of the Working Group are:

1. To collect data
2. To assess the superannuation industry’s ability to meet specific needs of Indigenous Australians, for example, identification issues
3. To consider self-regulation initiatives or industry guidance

¹¹⁵ Ibid, Clause 7.4.

¹¹⁶ Ibid, Clause 7.5.

¹¹⁷ Australian Institute of Superannuation Trustees, Association of Superannuation Funds of Australia, Financial Services Council, *Release of Insurance in Superannuation Voluntary Code of Practice*, Media Release, (18 December 2017), 1, <http://www.aist.asn.au/media/1099898/2017_18_12_release_of_code_of_practice_for_life_insurance_in_superannuation_iswg_final_003_.pdf>.

¹¹⁸ Australian Institute of Superannuation Trustees, Association of Superannuation Funds of Australia, Financial Services Council, *Insurance in Superannuation Voluntary Code of Practice*, Clauses 6.1, 6.4, 6.5, 11–12, <http://www.aist.asn.au/media/1099546/insurance_in_superannuation_voluntary_code.pdf>.

¹¹⁹ Indigenous Superannuation Working Group *Indigenous Super Summit: Report – December 2016* (December 2016), 5, <http://www.aist.asn.au/media/921956/2016_indigenoussupersummit_report_web.pdf>.

4. To conduct a stock-take of relevant legislation, analyse relevant legislation and make recommendations to Government on the status of relevant legislation.¹²⁰

After its Summit in December 2016, the Indigenous Superannuation Working Group reported that over the next 12 months, it would look to implement the new AUSTRAC guidelines on Aboriginal and Torres Strait Islander identification into superannuation fund practices, improve engagement with Indigenous communities, focus on simplifying the system and reducing jargon and encourage a greater collection and sharing of statistics.¹²¹

The 2016 Report of the *Indigenous Super Summit* also noted that the Indigenous Superannuation Working Group wanted to 'cast the net wider and engage administrators and insurers in the discussion'.¹²²

¹²⁰ Ibid 6.

¹²¹ Ibid 4.

¹²² Ibid.