

## THE MOST SERIOUS FINANCIAL SCANDAL OF MODERN TIMES

### 6. COMPARISON BETWEEN THE LLOYDS AND AUSTRALIAN BANKING SCANDALS

Both countries have witnessed serious bank wrongdoing. The difference is that Australia took some action to address it including appointing a Royal Commission. The UK has done nothing and has preferred to cover it up.

- **The Australian banking scandal** included the charging of fees for no service<sup>1</sup>; an estimated A\$1bn scandal involving banks and the wealth manager AMP; breaching money laundering regulations (Commercial Bank of Australia: 50,000 times)<sup>2</sup>; rigging the benchmark bank bill swap rate; forging loan documents; lying to regulators<sup>3</sup> and interfering with supposedly independent reports. The Australian and Lloyds banking scandals therefore have shared a number of common features.
- **Interference with independent reports:** AMP's chairwoman Catherine Brenner, CEO Craig Meller and group general counsel Brian Salter allegedly modified a report by the law firm, Clayton Utz in late 2017 and submitted it to the regulator as "external and independent". (cf. Lloyds and the Turnbull report). Their intention was to limit the report's findings about the involvement of AMP's senior executives in misappropriating customer fees. The firm lied to the regulator, the Australian Securities & Investments Commission (ASIC) twenty times<sup>4</sup>. They later tried to distance themselves by stating that "the board, including the former chairman, were unaware of and disappointed about the number of drafts and the extent of the group general counsel's interaction with Clayton Utz during the preparation of the report".
- **Australia's response:** The Australian Government resisted calls for a Royal Commission investigation for two years but was finally forced to concede one by other parties in Parliament. Commissioner Kenneth Hayne's scathing criticism, which was contained in a 530-page report<sup>5</sup>, issued 24 referrals to regulators and 76 recommendations. He cited over 20 potential prosecutions, criminal and civil and some both.

Hayne stated that "the fees-for-no-service" scandal should result in at least A\$850 million being paid to clients in compensation and was so serious that it should fall under section 1041 of the Corporation Act, which covers dishonest conduct and attracts penalties of up to ten years in jail for individuals, and fines of up three times the amount involved, or 10 per cent of a company's annual turnover.

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<sup>1</sup> <https://www.theguardian.com/australia-news/2018/apr/18/banking-royal-commission-cba-agrees-it-is-the-gold-medallist-at-fees-for-no-service>

<sup>2</sup> <https://uk.reuters.com/article/us-australia-cba-moneylaundering/australias-commonwealth-bank-says-records-of-nearly-20-mln-accounts-lost-idUKKBN1I40I?il=0>

<sup>3</sup> <https://www.smh.com.au/business/banking-and-finance/just-appalling-amp-misconduct-and-lies-exposed-20180417-p4za67.html>

<sup>4</sup> <https://www.theguardian.com/australia-news/2018/apr/27/amp-could-face-criminal-charges-for-misleading-asic-banking-inquiry-hears>

<sup>5</sup> <https://www.royalcommission.gov.au/sites/default/files/2019-02/fsrc-volume-1-final-report.pdf>

He singled out National Australia Bank (NAB) for criticism, prompting the resignations of Chairman Ken Henry, formerly Australia's Treasury Secretary (2001-2011) and its Chief Executive, Andrew Thorburn<sup>6</sup>. Other resignations included the Chairwoman, CEO and group general counsel of AMP (April 2018), and Commonwealth Bank of Australia's CEO (April 2019).

- **Comparison between the Australian and UK banking scandals**

	Australia	UK Lloyds Asset Theft Frauds
Government	Resisted Royal Commission for two years <sup>7</sup>	Complete resistance to all investigation of bank wrongdoing. Dedication to cover up.
Regulators	ASIC – reasonably independent APRA – sheltered wrongdoing from investigation AUSTRAC – penalised CBA	FCA – complicit with banks at request of Government and HM Treasury. FRC – deliberate failure. Regulator still in existence, despite review which called for its abolition.
Resignations	Five chairpersons and CEOs forced out <sup>8</sup>	None – retirement on full pay, with thanks for their service.
Apologies	Yes <sup>9</sup>	No - Lloyds still mistreating victims of its frauds.
Compensation	Yes <sup>10</sup>	Determined efforts by Lloyds Bank <u>not</u> to compensate victims of its frauds properly or in a timely manner.

- **Australian quotes equally applicable to the UK**

“As custodians of Australia's most profitable companies, bank chiefs have a duty to maintain the highest standards.” Martin Farrer / Guardian Australia.

Gareth Hutchins / Guardian Australia:

“The biggest banking scandal is that everyone knew – but still did nothing”.<sup>11</sup>

“Why has Australian Prudential Regulation Authority (APRA) hidden systemic financial misconduct and dereliction from the public eye ?”

<sup>6</sup> <https://www.theguardian.com/australia-news/2019/feb/08/nabs-bosses-andrew-thorburn-and-ken-henry-have-quit-what-took-them-so-long>

<sup>7</sup> <https://www.theguardian.com/australia-news/2018/apr/20/scott-morrison-wont-apologise-for-resisting-banking-inquiry>

<sup>8</sup> Eg. <https://www.theguardian.com/australia-news/2019/nov/26/westpac-chief-executive-brian-hartzer-resigns-over-money-laundering-scandal>

<sup>9</sup> <https://www.cnbc.com/2016/10/07/australias-big-four-bank-ceos-apologize-to-parliament-for-consumer-scandals.html>

<sup>10</sup> <https://www.afr.com/companies/financial-services/banks-plan-bigger-payouts-to-end-fee-scandal-20200618-p5540f>

<sup>11</sup> <https://www.theguardian.com/australia-news/2018/nov/24/the-biggest-banking-scandal-is-that-everyone-knew-but-still-did-nothing>

“It has also allowed banks to conduct business outside of the scope of laws they are supposed to uphold”.

“History tells us that regulatory neglect is just as dangerous as the financial crime committed.”

“Regulators, who presided over this banking mess, must be named and shamed”.<sup>12</sup>

“The reality is there has been no proper prosecution of systemic deceit and fraud committed against retail customers of our financial institutions.”

“Australian bank CEO’s face day of reckoning for years of scandals”. Peter Vercoe / Bloomberg.

Former deputy chairman of Macquarie Bank: “What has shocked people the most is the extent to which banks have become indifferent to their customers, even all the way to engaging in dishonest behaviour.”<sup>13</sup>

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<sup>12</sup> <https://www.theguardian.com/commentisfree/2018/nov/19/regulators-who-presided-over-this-banking-mess-must-be-named-and-shamed>

<sup>13</sup> <https://www-ft-com.btpl.idm.oclc.org/content/01f8c178-4867-11e8-8ee8-cae73aab7ccb>