

## ATTACHMENT A – GOVERNMENT RESPONSE TO THE COLEMAN REPORT

Recommendation	Government response
<p><b>Recommendation 1</b></p> <p>The committee recommends that the Government amend or introduce legislation, if required, to establish a Banking and Financial Sector Tribunal by 1 July 2017. This Tribunal should replace the Financial Ombudsman Service, the Credit and Investments Ombudsman and the Superannuation Complaints Tribunal.</p> <p>The Government should also, if necessary, amend relevant legislation and the planned industry funding model for the Australian Securities and Investments Commission (ASIC), to ensure that the costs of operating the Tribunal are borne by the financial sector.</p>	<p>The Government <b>agrees</b> with this recommendation.</p> <p>Consistent with the Government's response to the Ramsay Review, a one-stop shop (funded by industry) will be established to manage all financial disputes, replacing the existing Financial Ombudsman Service, the Credit and Investments Ombudsman and the Superannuation Complaints Tribunal. All financial firms that deal with retail clients, including superannuation funds, will be required by law to be members of the new body.</p> <p>ASIC will be provided with stronger powers to oversee this new one-stop shop and to require financial service providers to report on their internal dispute resolution activity.</p>
<p><b>Recommendation 2</b></p> <p>The committee recommends that, by 1 July 2017, ASIC require Australian Financial Services Licence holders to publicly report on any significant breaches of their licence obligations within five business days of reporting the incident to ASIC, or within five business days of ASIC or another regulatory body identifying the breach.</p> <ul style="list-style-type: none"> <li>• This report should include:</li> <li>• a description of the breach and how it occurred;</li> <li>• the steps that will be taken to ensure that it does not occur again;</li> <li>• the names of the senior executives responsible for the team/s where the breach occurred; and</li> <li>• the consequences for those senior executives and, if the relevant senior executives were not terminated, why termination was not pursued.</li> </ul>	<p>The Government <b>agrees in principle</b> with this recommendation.</p> <p>The Government will legislate to introduce a Banking Executive Accountability regime, which includes registration of senior executives and directors, new powers and penalties and remuneration measures. Further information can be found in the 2017-18 Budget papers.</p> <p>The ASIC Enforcement Review will also develop options to strengthen and reform the breach reporting framework. As part of the review, a paper outlining options for significant reforms to the breach reporting framework has been released.</p>

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<p><b>Recommendation 3</b></p> <p>The committee recommends that the Australian Competition and Consumer Commission (ACCC), or the proposed Australian Council for Competition Policy, establish a small team to make recommendations to the Treasurer every six months to improve competition in the banking sector.</p> <p>If the relevant body does not have any recommendations in a given period, it should explain why it believes that no changes to current policy settings are required.</p>	<p>The Government <b>agrees</b> with this recommendation.</p> <p>We have tasked the Productivity Commission to undertake a review of competition in the financial system, commencing 1 July 2017.</p> <p>To complement the Productivity Commission review, we will provide the ACCC \$13.2 million over four years to establish a dedicated unit to undertake regular in-depth inquiries into specific financial system competition issues from mid-2018.</p>
<p><b>Recommendation 4</b></p> <p>The committee recommends that Deposit Product Providers be forced to provide open access to customer and small business data by July 2018.</p> <p>ASIC should be required to develop a binding framework to facilitate this sharing of data, making use of Application Programming Interfaces (APIs) and ensuring that appropriate privacy safeguards are in place. Entities should also be required to publish the terms and conditions for each of their products in a standardised machine-readable format.</p> <p>The Government should also amend the <i>Corporations Act 2001</i> to introduce penalties for non-compliance.</p>	<p>The Government <b>agrees in principle</b> with this recommendation.</p> <p>The Government will introduce an open banking regime in Australia. An independent review will be conducted to determine the most appropriate model to enable open banking in Australia.</p>
<p><b>Recommendation 5</b></p> <p>The committee recommends that the Government, following the introduction of the New Payments Platform, consider whether additional account switching tools are required to improve competition in the banking sector.</p>	<p>The Government <b>agrees</b> with this recommendation.</p> <p>We will consider account switching issues further once the New Payments Platform is in place and well established.</p>
<p><b>Recommendation 6</b></p> <p>The committee recommends that by the end of</p>	<p>The Government <b>agrees</b> with this recommendation.</p> <p>We will relax the legislative 15 per cent ownership</p>

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<p>2017:</p> <ul style="list-style-type: none"> <li>the Government review the 15 per cent threshold for substantial shareholders in Authorised Deposit-taking Institutions (ADIs) imposed by the <i>Financial Sector (Shareholdings) Act 1998</i> (the FSSA) to determine if it poses an undue barrier to entry;</li> <li>the Council of Financial Regulators review the licensing requirements for ADIs to determine whether they present an undue barrier to entry and whether the adoption of a formal 'two-phase' licensing process for prospective applicants would improve competition; and</li> <li>APRA improve the transparency of its processes in assessing and granting a banking licence.</li> </ul>	<p>cap, whether through the existing ministerial discretion or legislative change.</p> <p>We are supportive of a phased approach to licensing new and innovative banking entrants. We note that the Australian Prudential Regulation Authority (APRA) is reviewing its prudential licensing arrangements in 2017, including those for ADIs. APRA is also reviewing and updating its publicly available materials on licensing to ensure they are useful and accessible to potential new entrants as well as more traditional applicants such as foreign banks.</p> <p>In addition, we will also legislate to remove the prohibition on the term 'bank' by ADIs with less than \$50 million in capital, to allow them to benefit from the reputational advantages of the term.</p>
<p><b>Recommendation 7</b></p> <p>The committee recommends that the major banks be required to engage an independent third party to undertake a full review of their risk management frameworks and make recommendations aimed at improving how the banks identify and respond to misconduct. These reviews should be completed by July 2017 and reported to ASIC, with the major banks to have implemented their recommendations by 31 December 2017.</p>	<p>The Government <b>does not agree</b> with this recommendation.</p> <p>We will not proceed with this recommendation in light of the existing risk management review requirements in place for prudentially-regulated entities - imposed by APRA's prudential standard CPS 220: Risk Management (CPS220). This standard requires entities to have a robust risk management framework in place; to perform or commission an annual audit of their framework; and to ensure that their framework is subject to comprehensive independent review at least every three years. While CPS 220 does not explicitly require risk management frameworks to cover misconduct risks, all material risks relevant to the institution are to be covered.</p>
<p><b>Recommendation 8</b></p> <p>The committee recommends that the Government amend relevant legislation to give ASIC the power to collect recurring data about Australian Financial Services licensees' Internal Dispute Resolution (IDR)</p>	<p>The Government <b>agrees</b> with this recommendation.</p> <p>Consistent with its response to the Ramsay Review, to improve transparency, the Government will provide ASIC with additional powers to allow it to</p>

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<p>schemes to:</p> <ul style="list-style-type: none"> <li>enable ASIC to identify institutions that may not be complying with IDR scheme requirements and take action where appropriate; and</li> <li>enable ASIC to determine whether changes are required to its existing IDR scheme requirements.</li> </ul> <p>The committee further recommends that ASIC respond to all alleged breaches of IDR scheme requirements and notify complainants of any action taken, and if action was not taken, why that was appropriate.</p>	<p>set standards in relation to IDR and to collect information on the IDR activities of financial firms.</p>
<p><b>Recommendation 9</b></p> <p>The committee recommends that ASIC establish an annual public reporting regime for the wealth management industry, by end-2017, to provide detail on:</p> <ul style="list-style-type: none"> <li>the overall quality of the financial advice industry;</li> <li>misconduct in the provision of financial advice by Australian Financial Services Licence (AFSL) holders, their representatives, or employees (including their names and the names of their employer); and</li> <li>consequences for AFSL holders' representatives guilty of misconduct in the provision of financial advice and, where relevant, the consequences for the AFSL holder that they represent.</li> <li>The committee further recommends that ASIC report this information on an industry and individual service provider basis.</li> </ul>	<p>The Government <b>agrees in principle</b> with this recommendation.</p> <p>The ASIC Enforcement Review Taskforce is consulting on a preliminary position that is consistent, in principle, with recommendation 9.</p> <p>The Government notes that ASIC already includes, in its annual report, data on breach reporting at an aggregate industry level, as well as data on number of criminal convictions, civil actions, and amounts of fines or civil penalties imposed, and administrative actions such as banning of individuals, in respect of misconduct in financial services.</p>

<b>Recommendation 10</b>  The committee recommends that, whenever an AFSL holder becomes aware that a financial advisor (either employed by, or acting as a representative for that licence holder) has breached their legal obligations, that AFSL holder be required to contact each of that financial adviser's clients to advise them of the breach.	Please see the Government's response to recommendation 2.
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