

**PUBLIC HEARING ON  
RESPONSIBLE LENDING GUIDANCE**



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Australian Securities & Investments Commission

**TRANSCRIPT OF PUBLIC HEARING  
MELBOURNE**

Monday, 19 August, 2019, at 9.15am

At Balmoral Room, Stamford Plaza Hotel,  
111 Little Collins Street, Melbourne

Before:           Mr Sean Hughes, Commissioner  
                      Ms Karen Chester, Deputy Chair  
                      Ms Danielle Press, Commissioner

# TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	<b>1</b>
<b>CONSUMER ACTION LAW CENTRE</b> .....	<b>9</b>
• Mr Gerard Brody, CEO	
• Ms Amanda Storey, Director of Legal Practice	
• Ms Brigette Rose, Senior Policy Officer	
<b>CONSUMER CREDIT LEGAL SERVICE WA</b> .....	<b>27</b>
• Ms Gemma Mitchell, Managing Solicitor	
• Ms Roberta Grealish, Senior Solicitor	
<b>LIXI LIMITED</b> .....	<b>45</b>
• Mr Shane Rigby, CEO	
• Mr Mike Thanos, Director	
<b>MELBOURNE INSTITUTE</b> .....	<b>57</b>
• Prof. Guyonne Kalb, Professorial Fellow	
<b>MORTGAGE CHOICE</b> .....	<b>70</b>
• Ms Susan Mitchell, CEO	
• Mr Tim Donahoo, Head of Lending Operations	
<b>CONNECTIVE</b> .....	<b>93</b>
• Mr Mark Haron, Executive Director	
• Mr Daniel Oh, Group Legal Counsel	
<b>AUSTRALIAN FINANCE GROUP</b> .....	<b>116</b>
• Mr Mark Hewitt, General Manager for Industry and Partnership Development	
• Mr Tony Bird, Head of Risk and Compliance	
<b>AUSTRALIAN FINANCIAL COMPLAINTS AUTHORITY</b> .....	<b>135</b>
• Mr David Locke, CEO and Chief Ombudsman	
• Ms Evelyn Halls, Lead Ombudsman for Banking and Finance	
• Mr Geoff Browne, Lead Ombudsman	
• Mr Geoff Bant, Banking Ombudsman at AFCA	
<b>AUSCRED (LENDI)</b> .....	<b>162</b>
• Mr David Hyman, Managing Director	
• Mr Martin Lam, Technology and Operations	
<b>NATIONAL AUSTRALIA BANK</b> .....	<b>183</b>
• Mr Paul Riley, General Manager of Home Lending	
• Mr Anthony Waldron, Executive General Manager of Broker Partnerships	
<b>ANZ</b> .....	<b>215</b>
• Ms Kate Gibson, Managing Director for Consumer Banking	
• Mr Martin Joy, Senior Manager for Public Policy	

# MELBOURNE PUBLIC HEARING

## INTRODUCTION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
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MR HUGHES: Good morning and welcome to the public hearings for consultation on ASIC's guidance on the responsible lending obligations. My name is Commissioner Sean Hughes and I'm joined by my fellow Commissioner, Deputy Chair Karen Chester, and Commissioner Danielle Press will be joining us as well today.

I want to begin by acknowledging the traditional custodians of the land on which we meet today and pay my respects to their Elders past and present. I extend that respect to Aboriginal and Torres Strait Islander peoples here today emerging as leaders as well.

These hearings are held under section 277 of the National Consumer Credit Protection Act 2009 and I will be presiding at this hearing. Before we commence with our first participants I'll provide a brief background on responsible lending, our reasons for conducting the public hearings, how these hearings will proceed, the matters we aim to address today and finally some housekeeping matters. However, it would be remiss of me not to say something about our recent responsible lending litigation against Westpac and I'll propose to start there.

As you all know the Federal Court handed down its decision on Tuesday, last week and dismissed ASIC's application. This was a test case for ASIC and it's important that we bring such cases. We took on the case because of the need for judicial clarification of a cornerstone legal obligation on lenders. As a regulator it's our role to test the law

## MELBOURNE PUBLIC HEARING

1 and its ambit. The case focused on the conduct of the unsuitability  
2 assessment. The obligation to assess whether a loan is unsuitable for a  
3 particular consumer builds on the requirement for licensees to make  
4 inquiries about a potential borrower's financial situation and to verify  
5 the information that is obtained. As you will all have read, we are  
6 carefully considering the decision and its impact more generally on  
7 responsible lending and that's all we will be saying about this case  
8 today.

9 The responsible lending obligations are principles based. Lenders  
10 and brokers are required to make both reasonable inquiries into a  
11 borrower's financial situation and to take reasonable steps to verify  
12 relevant information. Parliament introduced the responsible lending  
13 laws to ensure that anyone applying for a loan was not provided with  
14 one that they could not reasonably afford. The focus of these  
15 obligations is on each individual applicant for credit meaning that the  
16 test of what is reasonable is one that looks to the individual consumer's  
17 circumstances.

18 The responsible lending obligations commenced nearly 10 years  
19 ago. At that time ASIC published guidance to assist industry to better  
20 understand their obligations and ASIC's expectations for compliance.  
21 This guidance has not been updated since 2014. We at ASIC have taken  
22 numerous responsible lending actions and these actions have tested and  
23 provided clarity on the law. We've also ensured that consumers harmed  
24 by irresponsible lending are compensated and real consequences for

## MELBOURNE PUBLIC HEARING

1 those who engage in misconduct is enforced. It's important to be clear  
2 about when responsible lending obligations apply and equally when  
3 they do not. The responsible lending obligations apply to credit that is  
4 wholly or predominantly for personal, domestic or household purposes.  
5 This extends from small amount credit contracts and consumer leases  
6 to personal loans and credit cards to home loans and loans for investing  
7 in residential property.

8 Responsible lending obligations do not extend to loans that are  
9 predominantly for other investment or business purposes even if  
10 secured over residential property and these loans are not the subject of  
11 our hearings or this consultation. The consultation paper we issued in  
12 February, and which I'll come to shortly, noted that it might be useful  
13 for our regulatory guidance to be very clear about what is and what is  
14 not covered and that is also important in the context of the process such  
15 as today's.

16 Our Regulatory Guide 209, or RG 209, has been in place since  
17 2010. This guidance sets out ASIC's expectations for meeting the  
18 responsible lending obligations. It was developed as indicative  
19 guidance rather than setting minimum standards. For example, it  
20 provides guidance on factors to consider when making a decision about  
21 the level of inquiries or verification steps that are reasonable. Since its  
22 introduction, ASIC has updated RG 209 to reflect judicial commentary  
23 and new legislative requirements for certain kinds of credit. RG 209  
24 was last updated in November 2014. We're taking this opportunity to

## MELBOURNE PUBLIC HEARING

1 update our guidance to ensure it remains relevant, clear and timely.  
2 New data sources such as open banking and comprehensive credit  
3 reporting, learnings from ASIC's reviews in recent years and  
4 importantly judicial consideration of responsible lending laws all mean  
5 this update is timely.

6 In February this year we issued Consultation Paper 309, CP 309,  
7 Credit Licensing: Responsible Lending Conduct. We've received 72  
8 submissions in response to this paper of which 64 non-confidential  
9 submissions were published on our website in July. We've reviewed  
10 each of these submissions and the participants have been invited to  
11 these hearings have been drawn from those who provided a written non-  
12 confidential submission. Our selection of participants has focused on  
13 delving deeper into particular issues which we feel would benefit from  
14 further consideration, and we consider that the participants that we have  
15 selected are best placed to assist us with our inquiries. Now, not all  
16 parties who made a submission have been invited to appear at these  
17 hearings. Each submission has been carefully considered and following  
18 these hearings we will consider further opportunities to consult  
19 including with parties who have not been invited to participate in these  
20 hearings.

21 Ladies and gentlemen, the purpose of these hearings is to provide  
22 an opportunity to explore and to seek to better understand key themes,  
23 concepts and practices including significant matters raised by  
24 stakeholders and submissions. Participants have been informed of the

## MELBOURNE PUBLIC HEARING

1 broad matters that ASIC is interested to hear from them about. This is  
2 importantly an information gathering exercise. It is not an investigative  
3 or enforcement exercise. We are not here to interrogate in an  
4 adversarial manner the business operations of the entities that are  
5 represented here today. Instead we would like to test the views raised  
6 by stakeholders in their submissions.

7 ASIC will not be providing guidance to entities through these  
8 hearings and I want to emphasise that nothing that is said today should  
9 be taken as a final ASIC position. Licensees can have confidence in  
10 relying on existing guidance and expectations. These hearings, the  
11 submissions made and any further consultation we undertake is  
12 invaluable to increasing ASIC's understanding of the current consumer  
13 lending landscape and the regulatory issues faced.

14 At the conclusion of ASIC's full consultation process, we will  
15 publish a report that outlines submissions received in response to  
16 ASIC's consultation paper including additional information provided  
17 throughout these hearings and our response. We will also publish the  
18 updated regulatory guidance setting out our views and expectations for  
19 licensees. This will provide further clarity on ASIC's position on how  
20 responsible lending obligations should be implemented with the benefit  
21 of having considered the views of stakeholders who have participated  
22 in this consultation. And we expect to publish our updated guidance by  
23 the end of this calendar year. Now, as for today's hearings the matters  
24 which we aim to address through today include: firstly, the approach

## MELBOURNE PUBLIC HEARING

1 to post-loan spending reductions, how this relates to substantial  
2 hardship and its relevance for the consumer's objectives in relation to  
3 credit; second, whether there should be a difference for the relevant  
4 importance between considering indebtedness as compared with the  
5 circumstances of the customer; third, the role of brokers and the  
6 importance of the responsible lending obligations to that role; and  
7 finally credit access. Are lower standards a reasonable starting point  
8 for credit cards and personal loans other than SACCs and home loan  
9 refinance in some circumstances?

10 Now, ladies and gentlemen, while we will conduct this hearing  
11 with as little formality and technicality as possible, I need to remind you  
12 that the audio of these proceedings is being taken and live streamed. A  
13 full transcript will be available on ASIC's website. Media  
14 representatives may take photographs and audio visual recordings of  
15 my introductory remarks but not those of the participants. Media may  
16 only use audio recording devices during the hearing for note taking  
17 purposes. Participants have each been provided with a time slot and we  
18 will endeavour to stay within the time allotted. Participants will be  
19 invited to introduce themselves, their organisation and their roles and  
20 have the option to provide very brief opening remarks, no longer than  
21 two minutes. I want to remind participants that we have read their  
22 submissions. Opening remarks should not repeat matters contained in  
23 those submissions except to highlight one or two key matters that they  
24 wish to bring to our attention.



## MELBOURNE PUBLIC HEARING

1           Written opening statements or other documents which  
2 participants wish to provide or refer to will be treated as an addendum  
3 to their submission and will be published on our website. Participants  
4 are required to be truthful in their remarks. A person who appears at  
5 this hearing must not give information that is false or misleading. I also  
6 want to remind everybody here today that we will not be taking  
7 comments from the floor. For the smooth running of these hearings and  
8 to avoid disruptions, we ask all those in attendance to keep noise to a  
9 minimum. And for those who are not called as participants who wish  
10 to provide further information or feedback to ASIC or on our proposed  
11 guidance about these hearings, we ask that you please speak to the ASIC  
12 staff at the registration desk.

13           And one final comment on the submissions more generally. I  
14 indicated earlier that we have received 72 submissions. There are  
15 indeed some matters raised in the submissions that we factually,  
16 fundamentally or otherwise disagree with, but we do not intend to  
17 address or respond to all of these matters in these hearings. We may  
18 refer to some of these matters as relevant and important to today's  
19 discussion, but I want to emphasise that our silence on a matter raised  
20 must not be inferred as acceptance of it. Similarly, statements may be  
21 made throughout the course of today that are contrary to our  
22 understanding or indeed our view. Our purpose through these hearings  
23 is to listen and not to make decisions. Our position on these matter,  
24 where relevant, will be published in the report that outlines our response

## MELBOURNE PUBLIC HEARING

1 to submissions made through the consultation process and our updated  
2 guidance.

3 Now, finally some quick housekeeping matters. We ask that  
4 everybody in attendance please switch off or put on silent any mobile  
5 phones or other devices. In the event of an emergency requiring the  
6 evacuation of this building, please follow the instructions of the  
7 wardens and head towards the green exit signs at the back of this room.  
8 Your emergency assembly point is on the corner of Little Collins Street  
9 and Exhibition Street. And if you believe that you need assistance  
10 evacuating, it's important that you advise the wardens, who will be able  
11 to assist you. If otherwise you require assistance, please speak to one  
12 of our staff members at the registration desk outside the hearing room.

13 Without any further introductory remarks, I would now like to  
14 welcome the representatives from Consumer Action Legal Centre to  
15 introduce themselves and to commence this hearing. Thank you.

## MELBOURNE PUBLIC HEARING

### 1 CONSUMER ACTION LAW CENTRE

2 MR BRODY: Good morning. My name is Gerard Brody, the CEO at Consumer  
3 Action Law Centre, and with me is Amanda Storey, our Director of  
4 Legal Practice, and Brigette Rose, our Senior Policy Officer. Consumer  
5 Action is an independent not-for-profit consumer organisation with  
6 direct experience of people's experiences through our phone advice  
7 lines and casework. Our financial counsellors run the National Debt  
8 Helpline in Victoria and our lawyers provide legal advice through our  
9 legal helpline and in representing clients.

10 Our primary point today is that the regulatory guidance should be  
11 based on what the law actually says and help clarify aspects of what is  
12 meant to lend responsibly. While the law is principles-based, it appears  
13 to us that the recommendations offered by lenders, including most of  
14 the major banks, reiterate that a principled approach to responsible  
15 lending is not working. More clarity and detail is required.

16 However, as noted by Commissioner Hayne in his interim report  
17 in the royal commission, responsible lending isn't about loan  
18 serviceability and a lender's credit risk appetite. These assume a  
19 proportion of borrowers will default. It's about compliance with the  
20 legal requirements to ensure a credit contract is not unsuitable for the  
21 individual consumer, that it is affordable for the consumer without  
22 putting them into substantial hardship and it meets their requirements  
23 and objectives.

## MELBOURNE PUBLIC HEARING

1                   That's our primary concern with the decision of the Federal Court  
2                   last week, that it seems to suggest that the law doesn't require lenders  
3                   to look at the position of the individual applicant in front of them. To  
4                   look at that applicant's requirements and objectives and whether the  
5                   repayments will cause hardship for that particular applicant. We look  
6                   forward to answering your questions.

7                   MR HUGHES: Thank you, Gerard. And welcome to you and your colleagues.  
8                   At the Sydney hearing on Monday last week, we heard from a number  
9                   of lenders that the question of the customer's financial situation should  
10                  be focused more on income and indebtedness than on expenses, which  
11                  can be subject to change. Can you give us your views on the balance  
12                  of those two issues?

13                 MR BRODY: Our position is that to understand someone's financial position,  
14                 you necessarily have to look at what income indebtedness as well as  
15                 living expenses. And to understand, you know, whether it is possible  
16                 in that particular consumer circumstances that there is room to cut down  
17                 on expenses. That may be a possibility for some applicants but it may  
18                 not be for other applicants. And to understand that, you need to look at  
19                 their expenses, you need to have a conversation with them about their  
20                 financial position. Amanda has a bit of case study that I might ask her  
21                 to [indistinct]

22                 MS STOREY: Yes. I wanted to touch on one of the witnesses, that is also our  
23                 client, Robert Regan, who gave evidence about ANZ's home loan. And  
24                 he was given a \$50,000 home loan that was secured against his

## MELBOURNE PUBLIC HEARING

1                   previously unencumbered home. The royal commission found that his  
2                   expenses were underestimated by half. But, critically, he also had very  
3                   significant withdrawals leading up to the loan, which were evidenced  
4                   in the bank statements. And the commission found that they assessed  
5                   the income by verifying the statements but looked at none of the very,  
6                   very large withdrawals. And, so, if the focus were to shift as the lenders  
7                   propose, to just income indebtedness, this situation would definitely  
8                   arise again. And the evidence from Robert was that he went quite  
9                   quickly into quite severe financial hardship, he relied on charities for  
10                  food. And that's just not acceptable.

11               MR HUGHES: Thank you.

12               MS CHESTER: So on the issue of expenses then, we hear from some lenders –  
13               not all the lenders, but some lenders – that using bank statements is  
14               quite manual, it's intrusive, and not highly automated, and a suggestion  
15               that valuable insights can't be really gleaned from them. It would be  
16               good to get a sense of what other risk factors you'd identified based on  
17               consumer experiences and the case studies that you got that you think  
18               could be gleaned from some review of, perhaps not forensic, but some  
19               review of bank statements.

20               MR BRODY: Yes, there is a range of things that can be gleaned by looking at  
21               bank statements that, I firstly would say that it's important to look at  
22               overall expenses and just do a simple mathematical calculation of  
23               income and outgoings to determine to see if there's any really an  
24               amount to be able to service the loan.

## MELBOURNE PUBLIC HEARING

1                   But beyond that, I think the bank statements also provide a range  
2                   of potential indicators of issues that affect that consumer's financial  
3                   situation and whether repayments will cause substantial hardship. So,  
4                   for example, if the bank statements disclose that there is regular  
5                   over-drawing of an account, that might be an indicator. If there are  
6                   regular gambling transactions, that itself might be an indicator. Or in  
7                   the case, for example, that Amanda talked about, unexplained, large  
8                   withdrawals, that also might be an indicator, that would invite a lender  
9                   to take further inquiries and steps to verify and understand that  
10                  applicant's financial position in more detail.

11                 MS STOREY: I would also add, if there are debits that are coming out from,  
12                 say, debt collection agencies, that would suggest that that borrower has  
13                 been in a position of arrears potentially recently and also with the point  
14                 of with SACCs in particular, you do actually need to look at whether or  
15                 not there have been withdrawals from other payday lenders in order to  
16                 comply with the law as well.

17                 MS CHESTER: So, I guess from what you're saying, a little bit more of a  
18                 risk-based assessment through the lens of the consumer, similarly  
19                 we've had feedback in some submissions and indeed we heard in the  
20                 hearings in Sydney last week, the concept of inquiry and verification  
21                 being scalable based on a risk-based assessment. And an example there  
22                 was scaling up the assessment for the size of the credit, so greater  
23                 inquiry and verification around, say, a mortgage versus that of a 10,000,  
24                 \$20,000 credit card.

## MELBOURNE PUBLIC HEARING

1                   It would be good to get your assessment based on the experience  
2                   that you had through the debt hotline and helpline and other case studies  
3                   that come your way with legal advice in terms of what are the most  
4                   problematic forms of credit, looking at it again through the lens of the  
5                   consumer. And if we're taking a risk-based assessment, how would you  
6                   view different forms of credit and requirements under responsible  
7                   lending obligations?

8                   MR BRODY: Well, the first thing to say is we wouldn't agree that the size of  
9                   the loan is the sole indicator about whether more inquiries and  
10                  verification steps should be taken and we support the existing guidance  
11                  and directory guide and in fact small amounts of loan, like small amount  
12                  loans can actually be more impactful for a consumer's financial  
13                  position, including causing substantial hardship.

14                 We did conduct a bit of analysis of our calls to the National Debt  
15                 Hotline over a two year period, leading up to June, 2019, and in fact  
16                 unsecured credit is the primary reason people call. So, out of 18,730  
17                 files where financial difficulty was recorded in the call notes, 37 per  
18                 cent of those had related to a credit card debt, 20 per cent with a personal  
19                 loan and 12 per cent with both.

20                 Credit cards themselves can be, you know, a real problem with  
21                 people because of the very design of that product in the fact that the  
22                 minimum repayments can be set at a very low level and people can be  
23                 paying, you know, complying with the terms of the product but paying  
24                 large amounts of interest over time, causing them financial difficulty.

## MELBOURNE PUBLIC HEARING

1 So we don't think that, yeah, that the small amount or the type of the  
2 credit is necessarily the main concern to consider whether there should  
3 be a lesser inquiry for a particular product. I mean, we have released a  
4 report, last week in fact, with some colleagues looking at the way in  
5 which some small loans become a huge problem for customers. For  
6 example, in the context of where they go into arrears and a judgment's  
7 obtained and then bankruptcy action is taken. We see, we've seen time  
8 and time again of people who has had a small amount of, a small credit  
9 card of \$5,000 rack up to, you know, a debt of \$60,000 once legal costs  
10 and trustee fees arise. So I would not say that, you know, a small  
11 amount of credit is the main reason to be not taking those inquiries.

12 MS STOREY: And to take that further, that is actually, ultimately leads to sale  
13 and seizure of their home and the borrower becoming homeless and also  
14 their family members as well, and the flow-on effects of if they've got  
15 children, for them not be able to go to that school anymore. So the idea  
16 that it's just a small loan, it's contained, it's not what we see with our  
17 telephone advice lines.

18 MS CHESTER: So in that sense, for a lot of those sorts of smaller unsecured  
19 credit loans, there is a high usage, we're seeing in the statistics around  
20 the process for assessment being fully automated. How do you see that  
21 in terms of balancing the risk for the prospective consumer and what  
22 could and could not be missed with respect to responsible lending  
23 obligations?



## MELBOURNE PUBLIC HEARING

1 MR BRODY: Well, I think that, that automated credit decision making models  
2 can be really problematic. I think that they possibly can be built in a  
3 way that is better than others and I guess we've seen some really poor  
4 examples where assumptions are made about a person's ability to, you  
5 know, expenses. So relying on a benchmark rather than people's actual  
6 position which then doesn't allow for that inquiry to see if those risk  
7 factors that we talked about before. So I think necessarily an automated  
8 process is, is insufficient to, to meet the requirements of the responsible  
9 lending laws.

10 MS STOREY: And some of our case studies in our submissions talked about  
11 the circumstance of family violence in particular and so there you've  
12 got a particular dynamic where if you have more of a human  
13 intervention and looking at, well, who's getting this loan, who's the true  
14 beneficiary of this loan and does this loan meet both the borrower's  
15 objectives and if it's fully automated that won't be detected.

16 MR BRODY: The other thing to say about automated processes is that, you  
17 know, the law actually talks about inquiries and verifications about  
18 financial position but it's also a requirement to inquire about borrower's  
19 requirements and objectives and automated processes or processes  
20 which rely on tick a box approach to what a consumer's requirement  
21 objectives are, we think that insufficient and actually do not comply  
22 with the law. That's more about determining the borrower's  
23 requirements and objectives, rather than seeking to understand it.

## MELBOURNE PUBLIC HEARING

1 MR HUGHES: That leads then into the next question around what value you  
2 see the broker relationship providing, particularly in terms of the  
3 preliminary assessment that they undertake. So you can talk to us about  
4 your experience from your client's perspective of using brokers?

5 MR BRODY: In terms of the clients that we assist that use brokers, our  
6 assessment would be that brokers are more often than not used to help  
7 people obtain unaffordable credit. People that have difficulty getting  
8 loans may turn to a broker and get access to credit that may cause them  
9 substantial hardship and that's common in our casework.

10 MS STOREY: The legal team in particular looks at when it all goes wrong. So,  
11 and when brokers have been involved in those cases in particular, there  
12 is an element of fraud involved or family violence where the, the  
13 brokerage interaction helped perpetrate further family violence.

14 MR BRODY: And I think when it comes to brokers, we can't remove the  
15 misaligned incentive that exists in that channel, where brokers get a  
16 commission for placing the loan, they don't get any payment if the  
17 consumer is ineligible for a loan or they might get a smaller loan then  
18 they'll get a reduced return. So that, it's provides the incentive for  
19 brokers to prefer their interest over their duty when it comes to  
20 responsible lending. But we would say, and we agree with the royal  
21 commissioner again, that these, you know, there is independent duty for  
22 brokers compared to lenders when it comes to responsible lending.  
23 They are meant to do their own steps as part of inquiry and verification  
24 about financial position. And importantly, brokers are perhaps better

## MELBOURNE PUBLIC HEARING

1 placed than lenders to do the inquiry about requirements and objectives  
2 because they're more likely to meet with the customer and so they  
3 should be, you know, having those discussions and understanding what  
4 the borrower's purpose is when, when taking out a loan.

5 MR HUGHES: So I think you're describing what the royal commission  
6 recommended and what the Treasurer has announced today as a best-  
7 interests model. Do you then suggest that the role of the broker should  
8 be to perform a gatekeeper assessment role?

9 MR BRODY: Yes. I mean, absolutely. The, the brokers do need to, as I said,  
10 because they are likely to be meeting with the client and more likely to  
11 understand their position, I think that the lender ultimately, they have  
12 their duties as well and that perhaps they're more incentivised than the  
13 broker to ensure that repayments are payable because it's their loan at  
14 the end of the day. But they, they definitely do have an important  
15 gatekeeper role.

16 MS CHESTER: So in terms of discharging that gate-keeper role, whether it's  
17 the broker or ultimately the lender, the other part of the discussion,  
18 especially when it potentially could be a larger sized loan, is the pre-  
19 and post-loan expenses of the individual. I think you touched on the  
20 issue of making sure that the credit product is going to meet the needs  
21 and objectives but lifestyle, right through to the issue of being exposed  
22 to issues of hardship is a discussion that has been raised with us needing  
23 to take place. What role do you see that in responsible lending equation

## MELBOURNE PUBLIC HEARING

1 and the role of a broker perhaps in new public policy settings as Sean  
2 has intimated and the role of the lender?

3 MR BRODY: I just, firstly, further on the idea about people's assumptions that  
4 people can cut expenditure post-loan. I guess that we would say that's  
5 an assumption and it needs to be actually tested for veracity. While  
6 some people may be able to be in a position to change their lifestyle  
7 post-loan, many people that we assist are simply not in the position of  
8 doing that, they're already, you know, at a low expenditure level or a,  
9 for a range of reasons, have higher expenses than other, maybe due to a  
10 health issue or other issues in their lives or caring for children and so  
11 forth.

12 So I think that we would say that it would be more responsible of  
13 a broker or a lender to, particularly you know, when it comes to  
14 something like a home loan, to be asking, having a conversation with  
15 the customers and getting them to demonstrate, you know, a period  
16 where they're able to have, live within a lower standard of living, build  
17 up a savings amount and contribute that to the loan. That would be  
18 more akin with responsible lending than a mere assumption that the  
19 borrower will be able to cut their expenses in every instance.

20 MS STOREY: And I think borrowers are often driven by an optimism bias, that  
21 things, nothing bad can go wrong, that everything's going to be perfect  
22 and what we do see often with our telephone advice and legal advice  
23 line is that things do go wrong, people get sick, marriages fall apart and  
24 those things are meant to be part, you know, hardship procedure. And

## MELBOURNE PUBLIC HEARING

1 so that already happens in the current landscape, so if you're going to  
2 move to a new future landscape where the borrowers are also expected  
3 to reduce their spending, I think that could lead to a lot of loans falling  
4 in default.

5 MS CHESTER: So say if the borrower doesn't have a past track record of  
6 achieving that lower level of expenses, what other sort of inquiry or  
7 verification do you think would be required if the serviceability of the  
8 loan is working off the assumption that there will be a reduction in  
9 expenses post-loan? What conversation or what do you think needs to  
10 occur to get comfort around it, as opposed to being an assumption made  
11 by the lender, that it hadn't been inquired and verified or at least  
12 inquired upon?

13 MR BRODY: I mean, I think that very much this does go to the inquiry around  
14 requirements objectives as well. While that also talks about product  
15 type and features and so forth, if, if the borrower does, is able to, or says  
16 that that's their objective is to cut their expenses, then that should be a  
17 conversation and understanding that the consumer has. But our  
18 experience is that, particularly in automated loan processes and, and  
19 loan application processes that rely on tick a box confirmations, that  
20 you will do certain things, that doesn't allow for the customer or doesn't  
21 really help bring about customer understanding about what they're  
22 agreeing to, so it militates against that. So I think it would be more  
23 responsible of lenders to actually be working with the customers so they

## MELBOURNE PUBLIC HEARING

1                   are demonstrating that reduction in expenditure. So it's more substance  
2                   over form.

3           MS STOREY: And sometimes loans are also structured in a way to encourage  
4           further spending after loans. For example, you've seen brokers  
5           particularly encourage larger loans and place it into the, in the offset  
6           just for a rainy day and you also see credit cards being issued in  
7           conjunction with the home loan. So if you're having a conversation that  
8           you need to reduce expenditure as part of this loan, you would expect  
9           that kind of ancillary packaging of additional loan products or credit  
10          products would have to fall away.

11          MR BRODY: Yeah, we have had complaints from people who have gone  
12          through a home loan process and, you know, the credit card is bundled  
13          with the package. They can't actually not take it out. They're forced  
14          to take it out. I can't see how that aligns with responsible lending  
15          [indistinct] actually doesn't want the product. And people then, you  
16          know, some people who are trying to be responsible actually cancel the  
17          credit card the next week after getting the loan. But it's part of the  
18          package of lending.

19          MS CHESTER: And in terms of that discussion occurring, suggestions that have  
20          been made certainly in the hearings last week and some of the  
21          submissions that we've received were about the role of the customer  
22          making some form of acknowledgement to the bank about what they  
23          would see as the necessary reduction expenses post-loan and the

**MELBOURNE PUBLIC HEARING**

1 consumer sort of undertaking or acknowledging that they recognise that  
2 that that's what's required.

3 MR BRODY: I mean, I think that, as Amanda said, there is a lot of optimism  
4 bias, so people might acknowledge that that's going to happen but  
5 whether they actually have the capacity to follow through. I think a  
6 responsible lender should be requiring that people are able really to  
7 demonstrate that.

8 MS STOREY: And I think for us, myself, I can't really point to an example in  
9 our casework where that would arise because there simply was no  
10 buffer for them to reduce their expenses. The problem was that the  
11 basic verification as required now was simply not done. Even the basics  
12 like food and a home and like your actual rental. That wasn't  
13 happening. And so it's hard for us to kind of comment on how that  
14 would play out in our casework because even looking, going back to  
15 those royal commission clients, there was no way they could tighten  
16 their belts. What they had to do was go without food.

17 MR HUGHES: So you're suggesting that the reduction would have had to have  
18 taken place in relation to essential living expenses - - -

19 MS STOREY: Yes.

20 MR HUGHES: - - - as opposed to what others have described as discretionary  
21 living expenses or the quality of the expenses that they incur.

22 MS STOREY: And also to have a an actual understanding of what the essential  
23 expenses were. Both of those case studies of the ANZ home loan and

## MELBOURNE PUBLIC HEARING

1                   also the Westpac car loan in the royal commission showed there was  
2                   very little verification or none at all. And so the idea that you'd have  
3                   to have that baseline understanding if you're going to go further and  
4                   suggest that consumers should then tighten their belts post-loan.

5                   MS CHESTER: We've also heard from the lenders that it's very difficult to  
6                   discern what are truly discretionary expenses versus what others might  
7                   call the essential expenses of life getting by day-to-day. What role do  
8                   you see in terms of that discussion or that discernment being made as  
9                   part of the assessment of the appropriateness of the credit product to the  
10                  customer at hand?

11                 MR BRODY: Well, I think the lending industry actually have a wealth of data  
12                 about the performance of loans and the ability of people to make  
13                 repayments. And so it's not clear to me that they've used their insights  
14                 and intelligence and data to inform themselves about those questions.  
15                 But at the very least, you know, I think, we would say that relying on  
16                 consumers past behaviour and past conduct in terms of their  
17                 expenditure is likely to be a good predictor of their future conduct,  
18                 rather than to assume that people are going to cut expenses.

19                 MS CHESTER: Do you think it could also be a sort of a function of income  
20                 here in terms of the bandwidth of people to reduce expenses pre- and  
21                 post-loan or do your case study show examples of people on what we  
22                 might consider to be relatively high income still finding themselves in  
23                 substantial hardship after taking an inappropriate credit product?



## MELBOURNE PUBLIC HEARING

1 MR BRODY: Yeah, I mean it all depends on, I guess, it goes back to our point  
2 at the beginning. That it depends on the individual position of the  
3 applicant and their financial position. Some people may be on a  
4 reasonable income but because they might have other fixed outgoings  
5 like, you know, private school fees, which can be very expensive or  
6 they've got multiple loans in fact. That means that, you know, an  
7 additional loan will be unaffordable for them.

8 MR HUGHES: I just wanted to pick you up on a comment you made before in  
9 relation to brokers sometimes encouraging customers to take out loans  
10 that may ultimately be unaffordable for them. Who do you think  
11 customers think the broker acts for?

12 MR BRODY: I think customers think the broker acts for them, absolutely. I  
13 think they think that they're there to get them a loan.

14 MS STOREY: And I think also they're there to get them the right loan. So  
15 they're kind of going you're the subject matter expert, I'm coming to  
16 you for some guidance and some help and you're going to give me the  
17 road map as to what's the best outcome for me. And so there's going  
18 to be an implied trust and that trust is sometimes is let down or broken.

19 MS CHESTER: So setting aside some of the potential legislative changes that  
20 will adjust incentives and behaviour as well within [indistinct] what in  
21 the domain of our responsible lending guidance that are sort of the three  
22 or four must haves, going forward, given the sort of the case studies and  
23 insights that they've gone through your work?

## MELBOURNE PUBLIC HEARING

1 MR BRODY: We think the guidance could be really enhanced by ensuring that  
2 it's clear about what the minimum steps that a lender should take, both  
3 to inquire about someone's financial position and verify information  
4 and also then inquire about their requirements and objectives are really  
5 clear, and that should include looking at both the income side of the  
6 ledger, the expenses side of the ledger and any sort of liabilities and  
7 indebtedness.

8 Rather than, I guess, our concern about regulatory guidance at the  
9 moment is the use of things like scalability where it appears to us that  
10 that lenders use that concept to scale, to always scale down. Never to,  
11 or rarely to scale up inquiries where there might be certain red flags or  
12 risk factors, rather they use it to scale down, and so, you know, an  
13 example was again, you know, again relating to the case studies in the  
14 royal commission around car lending, for example. You know, one  
15 lender said in their submission that in the context of car lending it was  
16 reasonable for them to take no verification steps. We just don't  
17 understand that that scalability could be used in that way. There is a  
18 level of discretion given to lenders, that's what the term "reasonable"  
19 means. But it must turn on the individual applicant in front of them.

20 MS CHESTER: Thank you.

21 MR HUGHES: Did you have any closing remarks that you wanted to make?

22 MR BRODY: The only other thing I would say is that it's not currently in your  
23 guidance at the moment but we in our submission encouraged you to  
24 include more guidance around what appropriate remedies might be for

## MELBOURNE PUBLIC HEARING

1 responsible lending breaches. Our concern is that there is perhaps a  
2 conservative or approach to responsible lending which means that a  
3 consumer is not fully recompensated in certain circumstances. And that  
4 goes against, I guess, the incentive for lenders to comply with the law  
5 in the first place. Because they can still, they still get their, be paid and  
6 that doesn't drive better behaviour in lending responsibly.

7 MS STOREY: And to return to the royal commission case study of Robert  
8 Regan and ANZ. Their remedy that was provided a couple of days  
9 before he appeared was effectively the FOS responsible lending  
10 remedy. And Commissioner Hayne said, "I believe that falls below  
11 community standards/expectations because you're basically putting all  
12 of the risk on Robert and taking, accepting none of the blame in that  
13 type of remedy." And that's what we see time and time again with our  
14 casework. And it's also very, very hard fought. So, you know, we get  
15 nervous as to people who don't get access to legal representation or  
16 financial counsellors. How are they being treated if this is how the  
17 customers are being treated when they've got a legal advocate in their  
18 corner?

19 MR BRODY: And in fact in some circumstances it would not proceed with  
20 making a complaint because it doesn't seem to be worth it.

21 MS CHESTER: Well, you'll be pleased to know that we are hearing from AFCA  
22 this afternoon and they've got some guidance coming out which also  
23 goes to the heart of what you're talking about there and I think we also  
24 need to be careful that we're in a world where people occasionally

## MELBOURNE PUBLIC HEARING

1 manage to conflate roles of regulators with roles of complaints  
2 authorities. But we hear you loud and clear on that. So thank you.

3 MR HUGHES: Thank you, Gerard, Amanda and Brigitte. And thank you for  
4 the submission and the very clear list of 30 recommendations for us to  
5 take away. Thank you to the participants from the Consumer Action  
6 Legal Centre.

**MELBOURNE PUBLIC HEARING**

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**CONSUMER CREDIT LEGAL SERVICE WA**

MR HUGHES: I'd now like to invite the Consumer Credit Legal Services WA to join us. Gemma and Roberta, welcome to a typically brutal Melbourne winter's day. Thank you for making the effort to travel from Western Australia to join us here today. If you'd like to introduce yourselves and make a brief opening remark?

MS MITCHELL: You're welcome. Thank you. So my name is Gemma Mitchell, and I'm the managing solicitor of the Consumer Credit Legal Service.

MS GREALISH: My name is Roberta Grealish, and I'm a senior solicitor at Consumer Credit Legal Service.

MS MITCHELL: So, the CCLSWA is a not-for-profit, charitable organisation that provides legal advice and representation to consumers in WA in the areas of banking and finance and consumer law. In the past week the Federal Court has handed down its decision in the ASIC responsible lending test case. The focus in that case and in subsequent reporting of that case, has been on the responsible lending laws applying to potential borrowers who have been excluded from obtaining credit as the amount they are spending on discretionary expenses is too high.

Our clients are people who should never have had loans approved. These people are already in financial hardship and just about keeping their head above water. They have become masters at budgeting and so to distinguish their expenses between fixed and discretionary, is completely false. We see clients who are dealing with addiction. They

## MELBOURNE PUBLIC HEARING

1 gamble, they shop online, they smoke and they drink alcohol. We see  
2 clients who have to eat out or buy takeaway food every day, because  
3 their electricity has been cut off and they have no fridge or oven.

4 So to assess people as having expenses which can be reduced by  
5 trimming their sails once they get the loan starts from the assumption  
6 that these expenses are discretionary for everyone and everyone has the  
7 choice whether or not to spend money on these expenses. We do not  
8 want the focus of the responsible lending laws to move towards those  
9 class of people who may be excluded from credit because of their  
10 particular expenses and away from the people who are being given  
11 credit, when they should not have been and who the responsible lending  
12 laws are designed to protect. We're happy to take any questions?

13 MR HUGHES: Thank you for that introduction. So, as I think you've picked in  
14 your opening remarks, there was evidence given at the hearings in  
15 Sydney last week, that lenders think that there should be more of a focus  
16 on income and indebtedness, than on expenses which vary, and I think  
17 you've just made some remarks on that. Your view, given your client  
18 base on that balance and how it should be managed from the point of  
19 view of the lender and the consumer, can you just tell us a bit more  
20 about that?

21 MS MITCHELL: Yeah, absolutely. So, with our clients, very much like the  
22 Consumer Action Law Centre's clients, they are coming to us because  
23 they are struggling to make ends meet, they're in financial hardship.  
24 And when we do a deeper dive into why they're in financial hardship,

## MELBOURNE PUBLIC HEARING

1 in some cases there are irresponsible loans that were given. And  
2 because of the optimistic nature of people, rather than when they first  
3 started to get in to trouble, they start to belt tighten, what we see is that  
4 people tend to borrow their way out of debt. That's what they tend to  
5 do, they don't cut back on their lifestyle, they might have really, really  
6 high expenses, as Gerard Brody said in relation to things like, private  
7 school fees and the higher their income is, the higher their borrowing  
8 capacity. So they're already maxed out their credit.

9 So, we really see like a very broad range of people who have  
10 varying degrees of income, various levels of indebtedness already and  
11 have already cut back on as many expenses as they can do by the time  
12 they see us. When we do the responsible lending assessments, when  
13 we look at the loans that were granted, we see that people, the lenders  
14 haven't even done the basic assessment in terms of looking at the level  
15 of indebtedness that the clients already have.

16 MS CHESTER: That raises the issue, I guess, of the role of the bank statement.

17 And I have to say there's a huge spectrum of views across the 72  
18 submissions that we've received about what role the bank statement  
19 should play in terms of making an assessment of the individual financial  
20 circumstances of the consumer.

21 From one end, we hear of folk using new data applications and  
22 algorithms to try to get the most from bank statements, through to others  
23 we have some large lenders telling us that the use of bank statements is  
24 intrusive, manual and expensive. It would be good to get your sense,

## MELBOURNE PUBLIC HEARING

1 given you're a lean, mean machine in WA, what role you see the bank  
2 statement playing and what insights you can provide into the financial  
3 circumstances of the individual.

4 MS MITCHELL: Certainly. So, I think bank statements are a great starting  
5 point to look at anybody's income or expenses, you know, we see cases  
6 where pay slips have been forged, for example, and, you know, a look  
7 at a bank statement would have seen that the person's income was not  
8 exactly as had been declared or proved by the bank statement, because  
9 the incomes have been paid into a bank.

10 When we do our calculations to determine whether a loan was  
11 irresponsibly lent or not and whether we want to proceed with an IDR  
12 or an EDR complaint. We do manually go through some of these bank  
13 statements and we find that, like I said in my first response, that things  
14 like other loans are not even disclosed, like put on the application form,  
15 and a simple review of the bank statement would have revealed that  
16 there are already high levels of indebtedness and quite often people, you  
17 know, they're getting paid and their money is going straight out of their  
18 account. Either their Centrelink benefits or their salary that they are  
19 receiving, it's going straight out of the account and that's an indicator  
20 that they're already in financial hardship and the same with the accounts  
21 getting overdrawn quite often and we find, you know, people's not just  
22 bank statements but something as simple as a credit file that shows all  
23 your current, should show all your current liabilities. The lenders aren't  
24 checking those either.



## MELBOURNE PUBLIC HEARING

1                   So, I don't think, we can do a responsible lending assessment  
2                   in-house, manually, as a start through the income and expenses and in  
3                   most of our casework, yeah, we see that the client is already in high  
4                   levels of debt, it was obvious from the bank statements when they got  
5                   the loan.

6                   MS CHESTER: Okay. And what sort of time would be involved, say one of  
7                   your caseworkers and having a look at the bank statements and sort of  
8                   forming that initial view about whether or not there is a course of action  
9                   under EDR or IDR for this particular consumer?

10                  MS MITCHELL: I'll just pass you over to Roberta.

11                  MS GREALISH: It is time consuming, but I think it's obviously a process worth  
12                  undertaking and I think back to Gemma's point, that if an  
13                  under-resourced community legal centre can undertake this, then surely  
14                  a bank with even automated or otherwise and more resources available  
15                  should be able to come to the same conclusion. And it doesn't often  
16                  take, it's often very obvious on the face of the statements without  
17                  having to delve very far, the payday loans pop out, the gambling  
18                  transactions pop out, you don't have to, you know, the fact that their  
19                  balance is overdrawn at the end of the month, is very obvious. You  
20                  don't have to delve that far for it to be very obvious, that someone's in  
21                  financial hardship.

22                  MS CHESTER: Okay. And what sort of credit products are you finding that  
23                  this occurs with in terms of your sort of red flag assessment of bank

## MELBOURNE PUBLIC HEARING

1 statements not appearing to have perhaps occurred at the point of  
2 making the assessment for responsible lending?

3 MS MITCHELL: You can see everything. Really, it's not really anything that  
4 stands out we see clients who have had, did you want to talk about  
5 Trish's case?

6 MS GREALISH: Yeah, it's included in our submissions. A client that I assisted  
7 last year and she had a range of debts across a range of credit products,  
8 home loans, personal loans, payday loans, credit cards, and  
9 irresponsible lending was established on all of them. And, again, it  
10 didn't take a lot for us to establish, once we established that her initial  
11 home loan was irresponsible, every loan that came after that, because  
12 there was no reasonable assessment that could have said that that was  
13 suitable. But she managed to and I guess the unsuitable home loan  
14 fuelled the need for all those loans that came afterwards as well. And  
15 back I think maybe to the issue of scalability as well, because the  
16 subsequent loans were smaller and perhaps only underwent scaled  
17 down inquiry, she was able to obtain those loans going forward. So,  
18 it's a broad range of products, you couldn't say it just happens with the  
19 home loans, or it just happens with credit cards, for someone like the  
20 client, we call her Trish in our submissions. It was a range of products  
21 and it was across the board.

22 MS MITCHELL: And we've included some of the suitability assessments at the  
23 back of our submission that we've received when we've asked the  
24 lenders to provide us with copies their assessments that they've done.

## MELBOURNE PUBLIC HEARING

1                   And there's really no reference to expenses at all, it just talks about the  
2                   client's income, so your income is this level, so we think, yep, you'd be  
3                   able to able to make the payments on the credit that's been provided to  
4                   you.

5                   MS CHESTER: Thank you.

6                   MR HUGHES: And just on the bank statement. Is it an issue that your clients  
7                   express around a concern about intrusion or intervention in their  
8                   privacy, because that's an argument we often hear. Is that something  
9                   that you are hearing from your perspective?

10                  MS MITCHELL: It's not at the stage when they're applying for the loan. The  
11                  banks tend to ask for much more information when you're applying for  
12                  hardship. So at the moment we've got, one of our clients, who's our  
13                  case study, we've got Matthew and Martin, who are our case studies  
14                  with the multiple credit cards that were refinanced and balance  
15                  transferred. One particular credit card provider at the moment has  
16                  asked for, pretty much, all income and expenses going back six years  
17                  to assess the hardship application that we're making and then we'll be  
18                  making, likely making a responsible lending application after that,  
19                  yeah, responsible lending complaint after that.

20                                So look, we're, we're finding that our clients really don't have an  
21                                issue with providing the information upfront when they're applying or  
22                                the loan but lenders are asking for much more information if we're  
23                                disputing the loan or if we're actually wanting hardship and, you know,  
24                                we sort of shake our heads in the office and say, "Well, this information,

## MELBOURNE PUBLIC HEARING

1                   you should have asked for at the start of the loan.” Obviously we still  
2                   give the information to them.

3                   MS CHESTER: So the point that you referred to before about the suitability  
4                   assessments, and we do really appreciate that you’ve given us tangible  
5                   case studies and examples of what you’ve managed to retrieve through  
6                   acting in behalf of the folk that have come to you, we’ve also set out in  
7                   our consultation paper, a bit of an example of what sort of written  
8                   assessment we might see as being appropriate, just as an example, so  
9                   folk can then know what judgement’s being formed and on what basis.  
10                  How does that look from your perspective in terms of what we’ve  
11                  identified and compare against those other suitability assessments that  
12                  you’ve seen?

13                 MS GREALISH: I think it’s, it’s preferable to the suitability assessments we’ve  
14                 seen and, as you mentioned, the suitability assessments that we  
15                 provided. They’re very, they’re very vague so I think the more detail  
16                 the better. There’s very wide sweeping statements in the suitability  
17                 assessments we see where, “You have told us this meets your objectives  
18                 and requirements,” tick box, it’s, it’s not a lot of detail at all. And also,  
19                 like Consumer Action Law Centre referred to as well, there’s a lot of  
20                 tick-box situations where they’re given a list to choose from which we  
21                 wouldn’t necessarily agree with either. I think making the consumer  
22                 tell you what their needs and objectives are, rather than you telling them  
23                 and them selecting from a pre-determined list, which they might then  
24                 look at and see as, oh these are the list of things that must be acceptable,

**MELBOURNE PUBLIC HEARING**

1 we'll pick one of these. Make, let them tell you what their, what their  
2 objectives and requirements are and I think that the, a little bit more  
3 focus on those objectives and requirements also.

4 MR HUGHES: Turning then to the initiation process. Do you have a view on  
5 the value that brokers play in terms of undertaking the preliminary  
6 assessment?

7 MS MITCHELL: Well, we see, we see a lot of broker initiated loans where the  
8 lender has just relied on the information that has been provided by the  
9 broker and the lender has not conducted their own independent inquiries  
10 and verifications at all. And I refer to they've forged payslips, they've,  
11 they've – in a particular case that we've been dealing with and we're  
12 still dealing with at the moment, which is Margaret's case study, which  
13 is referred to in our submissions, it turns out that her husband who was  
14 violently abusive to her at the time of the loan and then they have  
15 separated. He had forged payslips to say that she was working as, as an  
16 employee at the company that he was running and earning \$6,000 a  
17 month.

18 Those payslips were provided to the broker, the, our client,  
19 Margaret and her husband met with the broker, our client doesn't read  
20 or write English and just about speaks it, but we have to meet with her  
21 with an interpreter, and she was six months pregnant at the time that she  
22 got the loan. It was a \$400,000 home loan in her sole name based on  
23 these forged payslips but it would have been obvious to the broker that  
24 she was six months pregnant at the time and the broker had ticked the

## MELBOURNE PUBLIC HEARING

1 box to say that he didn't expect there to be any change in her  
2 circumstances.

3 The client is now in the situation that Consumer Action referred  
4 to at the end of their, their time here, that she is now separated from her  
5 husband, she had a restraining order against him, she has five children  
6 that she is caring for herself, she is receiving \$3,000 per month as  
7 Centrelink income and her home loan repayments are \$2,000 per  
8 month. She, through the assistance of a social worker, she has been  
9 looking at alternative accommodation, but with five children and a  
10 Centrelink income, there's really not any alternative accommodation  
11 options for her, there's no refuge available, like, crisis accommodation  
12 available for her because she is separated from her partner over two  
13 years ago and she is not – public housing waitlist is about 10 years in  
14 WA. If we wanted to take a claim of responsible lending to the, the  
15 bank and to AFCA, she would have to sell the house in order to repay  
16 the principal amount and which would leave her homeless. So she's in  
17 a situation where she is having to cut back on her basic expenses in  
18 order to meet the home loan to keep a roof over her head and that's just,  
19 you know, it's a typical consequence that we see of breaches of  
20 responsible lending laws and the remedies not being available.

21 But sorry, to go back to your initial question about the broker.  
22 Yes, we think, you know, the broker is obviously the first port of call,  
23 they're meeting with the clients usually face to face, they're there to be  
24 able to pick up on any red flags. But really the lenders must be making

## MELBOURNE PUBLIC HEARING

1                   their own inquiries and their verifications in order to satisfy themselves  
2                   that the information that the brokers provided to them is accurate.

3                   MR HUGHES: And that assessment role that the broker is playing at the outset,  
4                   do you see that as constituting a gate keeper role?

5                   MS GREALISH: I think so. I think like Gemma's already mentioned that they  
6                   have that face-to-face contact, the red flags are going to be a lot more  
7                   obvious to them when they, they have the personal, they usually have  
8                   the personal relationship with, with the client and I think it's true, like  
9                   Consumer Action Law Centre have already said, that there is a level of  
10                  trust between the, the consumer and the broker. I have had clients say  
11                  to me that, you know, they assume that if they're getting the loan, then  
12                  they must be able to afford the loan because surely the broker wouldn't  
13                  have offered it them otherwise. They trust that the, the broker is doing  
14                  the right thing by them and I think, yeah, that that level of trust is there,  
15                  that level of personal relationship is there and their ability to see the red  
16                  flags where things like financial abuse in the context of domestic  
17                  violence and even elder, elder abuse.

18                 MS CHESTER: We're also conscious that you cover a lot of ground in WA in  
19                 terms of some of the consumers and especially vulnerable consumers  
20                 that you're sometimes dealing with, I'm thinking sort of in remote  
21                 communities and also Indigenous Australians. What particular  
22                 challenges do you see there in terms of obtaining credit and also maybe  
23                 through a little bit more of a going-forward lens, given the incidence of

## MELBOURNE PUBLIC HEARING

1 online digital application for credit now is becoming more common  
2 than not?

3 MS MITCHELL: So I think that the issues we see in remote communities, it's  
4 that there is these predatory practices that, that happen and the, the  
5 clients are actually targeted by unscrupulous payday lenders or  
6 consumer lease providers who just see the people in these communities  
7 as cash cows and nothing more than that. So the, the issues are much,  
8 much bigger than just breaches of responsible lending. Pretty much in  
9 nearly every case that we would see, that we hear about on the outreach  
10 trips, there's going to be a breach of responsible lending but that's a,  
11 it's just one part of a massive, massive problem because it's really,  
12 really tough to try and enforce or try and regulate in, in those kinds of  
13 areas, because no sooner have you got rid of one payday lender or one  
14 consumer lease provider and another one pops up.

15 So, it's, it's a really, really – I don't know what the answer is to  
16 that but there are definitely massive problems in, in remote  
17 communities and I don't know how to, what the solution is to fix that.  
18 In terms of the digital environment, we see, there's, there's a few issues  
19 with that again. So I would say in regional WA, there's massive  
20 problems with people not being able to get online in the first place,  
21 there's all sorts of telecoms issues and there is a lot of focus on a lot of  
22 lenders moving towards a more a digital environment which is actually  
23 excluding a lot of people. We did an outreach trip recently to  
24 Kalgoorlie, which is in the Goldfields regions in WA and one of my



## MELBOURNE PUBLIC HEARING

1 solicitors met with a financial counsellor there who explained that her  
2 clients that she sees who try and, you know, not to use the services of  
3 payday lenders and want some micro-finance, no interest loan scheme,  
4 need bank statements to be able to prove, to provide to the micro-  
5 finance company to be able to get these loans. And the financial  
6 counsellor is travelling great distances to actually visit the bank  
7 branches just to get these bank statements to then be able to come back  
8 and then apply for the loans because, you know, they're just not online.

9 So, so that's one issue with the, with the digital landscape. The  
10 other issue is around the ability to not, to make fraudulent applications  
11 basically online. So these can be done, you know, by stealing  
12 somebody's identity or forcing somebody to sign up for loans that are  
13 not in your name, but you're going to get the benefit of. So we've seen  
14 that, yep, recently happening. So there are all sorts of issues online that  
15 need to be policed as well though. Again, just go much beyond just  
16 responsible lending issues.

17 MR HUGHES: We heard last Monday at the Sydney hearings that from the  
18 Australian regional, sorry, Australian Retail Credit Association about  
19 the adoption of some form of objective measures for substantial  
20 hardship which represents a modest lifestyle. And I was just thinking  
21 about some of the statements you've made this morning and indeed  
22 from your predecessors at the chair – what would a modest lifestyle  
23 look like to your customers? What would trimming the sails entail for  
24 them?

## MELBOURNE PUBLIC HEARING

1 MS MITCHELL: So look like we've pretty much already said that our clients  
2 are already coming to us having cut back as much as they can do. There  
3 are really no, nothing else that they can cut back on. They are going  
4 out, they are going without basics already. This distinction between  
5 fixed and basic and discretionary and luxury expenses, it's just not even  
6 a distinction. They've already cut back on everything that they can do.  
7 If you try and explain to a person who has an addiction that what they're  
8 spending their money on is classed as a discretionary expense, it's  
9 addiction. It's not the case at all.

10 MS GREALISH: It's not about cutting discretionary expenses for these people.  
11 I'm assisting a client at the moment with a, disputing a car loan and it's  
12 a, you know, an objectively small amount. It's 16, 17,000. But it's  
13 placing him in very substantial hardship. He's getting assistance from  
14 a financial counsellor. Last time I tried to contact him, when I wasn't  
15 able to contact him, I communicated with his financial counsellor who  
16 told me that he's in such hardship that's he's cutting, he's not able to  
17 eat properly. His nutrition was suffering. Because his nutrition was  
18 suffering, he was in hospital and that's why I couldn't speak to him.  
19 He'd become ill from not eating properly, and he wasn't eating properly  
20 because he was trying to cut back his unsuitable debts. So it's not, it's  
21 not discretionary items that have been cut, it's essentials.

22 MS MITCHELL: And I think the issue in Western Australia in particular as  
23 well, is because we have had the boom and bust cycle, property prices  
24 have dropped dramatically, people lost their jobs in the resources sector

## MELBOURNE PUBLIC HEARING

1 when they were on, you know, really good six-figure salaries. But as  
2 I'd said before, we see the more people, the higher someone's income  
3 the higher their borrowing capacity. And when they lose their six-  
4 figure-income job they're almost in default immediately because  
5 they're relying on their income to service a number of loans that they've  
6 got which are funding their lifestyle. You know, how can you tell  
7 someone on a six-figure salary, "Oh, just, you know, trim your sails,  
8 don't, you know, make sure you put some money aside. It might not  
9 always be like this. You know, you might lose your job." Because  
10 everybody is in this situation where they could become financially  
11 disadvantaged at some point or become in financial hardship through  
12 loss of job, illness, relationship breakdown. It can happen to anybody.

13 And we're seeing, I think we're seeing a bit of a bottoming out in  
14 WA in terms of the bust and property prices almost levelling out. And  
15 there is a lot of talk in the press in WA about, you know, new projects  
16 happening in the resources sector and I think there's a lot of, you know,  
17 generation now in confidence that things are picking up but we know,  
18 we have seen, how quickly things can bottom out and that, at that point,  
19 you know, where things did bottom out. We took the view that, you  
20 know, any loans that were given prior to the bust happening weren't  
21 irresponsibly lent because this bust couldn't have been predicted.

22 That wasn't really something that we would consider to be a  
23 factor that a lender should consider when they were granting the loan.  
24 But now we've seen it happen once, we're thinking well, is this

## MELBOURNE PUBLIC HEARING

1 something that lenders now should be taking into account if you've got  
2 people on really over inflated salaries, property prices are now over-  
3 inflated, maybe become over-inflated again. We would like to see  
4 lenders take those situations into account when calculating affordability  
5 and serviceability of loans.

6 MS CHESTER: So just coming back to our guidelines, then, and how they might  
7 need change going forward. In terms of some of the circumstances you  
8 talked about with high risk consumers and making sure that those risks  
9 are well identified as part of the responsible lending processes, what  
10 should we be doing in our guidance to make sure that those processes  
11 are as robust as possible to meet responsible lending obligations from  
12 sort of the case studies that you've seen? What are the must-haves  
13 going forward in our - - -

14 MS MITCHELL: Well, look, the people that we've seen have really have no  
15 independent verification or inquiries made of their expenses. We see  
16 whole, you know, entire loans missed out of loan applications and it  
17 would have been obvious, you know, from bank statements or from  
18 credit files that these loans were given out. It's just, it's not a lot that  
19 we're really asking for. It is just that the basic checks are actually done,  
20 that documents are provided, they're referred to. This may lead to a  
21 conversation to be had with the customer of his, you know, if it's an  
22 online application or if it's originated through a broker. But, you know,  
23 we don't think these are very onerous obligations to be requesting.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: In a world of principles-based guidance, would you see any  
2 circumstances where it might be reasonable for expenses not to be  
3 verified? Inquired upon perhaps, but not verified for a particular  
4 consumer?

5 MS GREALISH: I can't see the logic in making inquiries into something and  
6 then not verifying it, and then once it's verified not using that  
7 information. I just don't – I think if you have the information you use  
8 the information.

9 MS MITCHELL: Yeah, exactly. Just, you know, we can only speak from the  
10 clients that we see. We see that things have gone wrong and when they  
11 go wrong, it's life destroying. So we think everyone should be verified  
12 really.

13 MR HUGHES: Did you have any other closing remarks that you'd like to make?

14 MS MITCHELL: I don't think so. I think we have covered everything. Look  
15 maybe just to say that we do see, it's not one particular client group that  
16 we do see. We did do some statistical analysis of the clients that we see  
17 and who contact our advice line for assistance and it's a really broad  
18 range of income levels that we do. There wasn't one that stood out and  
19 we measured people's income in brackets from zero income in brackets  
20 of sort of 100 to \$200 right up to over \$2,000 and there wasn't one level  
21 of income which really stood out. So financial hardship can happen to  
22 anyone whether, you know, you're not earning any money at all or  
23 you're earning, you know, six-figure salaries.

## MELBOURNE PUBLIC HEARING

1 MR HUGHES: Gemma and Roberta, thank you again for making the trip over  
2 to Melbourne today. We very much appreciate your time and your  
3 submissions. Thank you so much.

4 MS MITCHELL: Thank you.

## MELBOURNE PUBLIC HEARING

### LIXI LIMITED

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MR HUGHES: Now, I'd like to invite Mr Shane Rigby and Mr Mike Thanos from LIXI Limited to join us.

MS CHESTER: I might just make a few introductory remarks before we allow you to – thank you very much – to introduce yourselves. During our hearings in Sydney some of the lenders referred to the LIXI expense categories in the discussions of improvements that have been made to the inquiry processes to ask consumers to estimate their expenses by referring to more granular categories and so hopefully obtaining more realistic estimates. Following the hearings, we spoke to Mr Shane Rigby, the CEO of LIXI Limited to ask if he could appear at today's hearing to provide some more information about why LIXI developed these categories, what they are and how this improves the quality of information obtained and used by licensors.

Mr Rigby and his colleague Mr Mike Thanos have kindly agreed to appear today to provide this background information. So we haven't received a submission from them and they received an eleventh hour invitation which they've kindly agreed to. So thank you very much for joining us. If you could just state your name and organisation for the purposes of the transcript recording and then we'll get into some questions.

MR RIGBY: I'm Shane Rigby, CEO, LIXI Limited.

MR THANOS: And I'm Mike Thanos, a director at LIXI Limited.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: Great, thank you. It'd be great if you could just run through, in  
2 a broad sense, the origins of the LIXI categories and how they were  
3 developed?

4 MR RIGBY: Well, firstly, if I may, we welcome the opportunity to appear here  
5 today, especially in the context of the living expenses categories being  
6 mentioned in Sydney last week.

7 So LIXI was established in 2001 as a member-based not-for-  
8 profit to develop data standards that enable the electronic submission of  
9 credit applications, and our members do include participants across the  
10 lending industry, broker groups, lenders and a range of software and  
11 related service providers over 80 organisations. In terms of the living  
12 expense categories, prior to 2016 the LIXI data standard supported a  
13 variety of living expense categories, as well as aggregated values for  
14 basic and discretionary, with each lender choosing which to use.

15 In 2015, member requests were raised for LIXI to establish a  
16 working group to develop a standardised list of categories for the  
17 capture of a customer's declared ongoing living expenses. and this was  
18 particularly important for third-party lending. As brokers offer  
19 products on the basis of inquiries into a customer's financial situation  
20 and without standardisations, brokers frequently have to revisit  
21 questions that were asked during their fact-find in order to meet the  
22 individual lenders' data requirements. and the functional requirements  
23 to ensure that the standardised categories could support HEM  
24 comparisons, a like for like, and provide sufficient data for the lenders



## MELBOURNE PUBLIC HEARING

1 to perform their own affordability calculations. After a period of  
2 industry consultation, the LIXI data standards were updated with 12  
3 standardised living expense categories in December 2016.

4 Over the last year, LIXI has undertaken further industry  
5 consultation to expand these categories following the HEM guidance  
6 that accompanied the HEM update that incorporated the latest data  
7 obtained from the Australian Bureau of Statistics' Household  
8 Expenditure Survey data.

9 In summary, the LIXI categories that are frequently referred to  
10 typically describe those 12 categories that were released in our  
11 standards in 2016, and the categories were developed through a  
12 collaborative consultation process with our members in order to meet  
13 their requirements.

14 MS CHESTER: Great, thank you very much. So, clearly, an industry-led  
15 initiative with your members. I guess two questions. First, what sort  
16 of penetration or coverage do the LIXI categories have across lenders  
17 and brokers in Australia at the moment? And, secondly, you've talked  
18 about sort of how it's developed and evolved over the last couple of  
19 years. In that sort of development and evolution, how has it sort of  
20 taken into account the responsible lending obligations?

21 MR RIGBY: So perhaps Mike would like to talk to the responsible lending  
22 piece. But, I guess, firstly, in terms of adoption, as a standards body,  
23 I'd like to highlight that the use of the LIXI standards are entirely  
24 voluntarily by our member and licensee organisations, and LIXI does

## MELBOURNE PUBLIC HEARING

1 not track in terms of their adoption of particular components of it. So,  
2 I'm not really in a position to answer whether how widely adopted the  
3 exact 12 categories are across the industry.

4 MS CHESTER: Well, maybe one way of viewing it then, would be, what would  
5 your membership base represent in terms of the lender base of - - -

6 MR RIGBY: Yeah, it's the vast majority of lenders in Australia.

7 MS CHESTER: Okay. And you expect that the members that are involved in  
8 this initiative, they at least themselves would be using it and requiring  
9 of their brokers, is that, I'm just trying to get an understanding of, when  
10 we're speaking to lenders and getting their submissions, how many of  
11 them are using this framework for looking at expenses?

12 MR RIGBY: Yeah, I mean, we've certainly heard over the past two years that  
13 more and more of the lenders adopting those categories and in particular  
14 those submissions that are coming from the broker channels are made  
15 vastly simpler by lenders that do adopt those categories.

16 MS CHESTER: Okay. All right. So, how does it help and how does the sort of  
17 development reflect the responsible lending obligations?

18 MR THANOS: So, I think as Shane said, LIXI's role is to convene and facilitate  
19 the working groups which gather the business requirements and the  
20 functional requirements of the participants. So from that point of view,  
21 LIXI's role is not to give any advice or take any view on particular  
22 lenders' responsible lending obligations, that's the role of the  
23 institutions that we work with.

## MELBOURNE PUBLIC HEARING

1                   Having said that, there's absolutely no doubt that in bringing  
2                   those requirements to the table and contributing them into the working  
3                   groups, we would expect that lenders are considering a number of  
4                   things, including the way that they meet their responsible lending  
5                   obligations. So, because LIXI's role is to define standards which enable  
6                   the capture and then transmission of data between participants, the  
7                   function of LIXI in running that working group is to make sure that  
8                   that's unambiguously defined and it's for the participants to validate the  
9                   solution that LIXI comes up with, will deliver them, or enable them to  
10                  deliver their functional requirements.

11                  So, I think as much as LIXI can say is, that we know that in  
12                  participating in the working group and in helping us to design the  
13                  solution that LIXI came up with, that they had their responsible lending  
14                  obligations in mind, that they wanted to make sure that the categories  
15                  that LIXI defined enabled them to gather all of the information in a  
16                  clearly categorised way as an input into their serviceability calculations  
17                  and the other verification and credit policy-based activities they  
18                  perform when assessing a loan. And also that they were looking to have  
19                  categories that could be mapped one to one were understood to be  
20                  within or outside of HEM for the purposes of using HEM as part of their  
21                  serviceability assessment.

22                  MR HUGHES: Shane, you mentioned that there was an update after the initial  
23                  version of the standards. It is our understanding that there's been a  
24                  further update in the last seven or eight months. Is that right?

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1 MR RIGBY: There's a piece of work ongoing to facilitate that collaboration - -

2 -

3 MR HUGHES: So what - - -

4 MR RIGBY: - - - and establish a new set of categories.

5 MR HUGHES: Sorry to interrupt you. What's driving the change, what do you  
6 think are some of the factors in the market that need that update to take  
7 place?

8 MR RIGBY: The majority of the change has come about because of the updated  
9 guidance around HEM to more explicitly specify items that are  
10 considered excluded, such as the private school fees, accident, life and  
11 sickness insurance. And to be able to capture those separately, it  
12 becomes critical in order to be able to continue to execute a like for like  
13 or an apples for apples comparison with HEM, and still then include  
14 that in your serviceability calculations.

15 MR HUGHES: And are the people who are contributing to the review, have  
16 they expressed any views about inconsistent application of the  
17 standards across brokers and lenders?

18 MR RIGBY: Certainly there's a desire in general for those standards to enable  
19 brokers to collect in a standardised way, to be able to pass it to any  
20 lender and they have the data without having to go back and re-inquire.  
21 And there's a general desire particularly amongst the aggregators to  
22 make sure that's as consistent as possible.

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1 MR HUGHES: And is there also an intent to enable the comparison of those  
2 categories against HEM?

3 MR RIGBY: Absolutely, that's a fundamental requirement.

4 MR HUGHES: Thank you.

5 MS CHESTER: So with the additional categories now, a lender will then be  
6 able to do sort of an apple and apples comparison between what they  
7 might assume for an adjusted HEM for an individual customer versus  
8 what the broker or the lender themselves has retrieved directly from the  
9 consumer in the LIXI category system. And of the categories that  
10 you've touched on that aren't covered by HEM that you've now added  
11 to LIXI, you mentioned private school fees. What are some of the other  
12 expenses that are now picked up and distinguished separately from the  
13 HEM concordant categories?

14 MR RIGBY: Yep. So the proposal incorporates categories for some specific  
15 items that don't group logically with others, such as then the accident,  
16 sickness and life insurance, health insurance, pet care and then expenses  
17 associated with specific properties owned by the applicant, so principal  
18 place of residence, secondary residences and investment properties.

19 MS CHESTER: So all housing-related - - -

20 MR RIGBY: Housing-related.

21 MS CHESTER: - - - costs, yep.

22 MR RIGBY: Property-related costs.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: Because that's not in here. Okay. And from the data that's  
2 now being collected using those additional categories, what percentage,  
3 on average, of the expenses would be in the HEM concordant categories  
4 versus the additional ones that you are now picking up?

5 MR RIGBY: Yeah, that's not something that LIXI would be aware of, because  
6 we don't see any of the underlying data itself - - -

7 MS CHESTER: Oh, okay.

8 MR RIGBY: - - - we are helping to define the categories, but we don't host any  
9 infrastructure and don't, aren't privy to any of the data.

10 MS CHESTER: Okay. And what other sort of functionality is of interest, given  
11 the requirements that come through to you? So, for example, when we  
12 hear from some folk about what might be red flag issues, in particular  
13 expenses, is there another functionality that you're building over the top  
14 of the LIXI categories such that, you know, behavioural issues, or  
15 particular risk factors and expenses could be identified?

16 MR RIGBY: Yeah. At, at this stage with respect to expenses specifically, the  
17 living expenses are being designed to enable the comparison with HEM  
18 and serviceability/affordability calculations, not specifically to look for  
19 risk flags as such. There's other areas of outdated standards that, that  
20 do allow that, for example, there's a piece of work that's just allowed  
21 for a data aggregator such as Illion Open Banking Services, that we've  
22 heard of, to enable them to categorise and, and provide the data as a part  
23 of the application in way that might provide that kind of indication. But

## MELBOURNE PUBLIC HEARING

1 the living expenses themselves are specifically designed for that HEM  
2 comparison and the survivability/affordability calculations.

3 MS CHESTER: But for other clients you've been able to build that as additional  
4 functionality that you talked about as in the case of [indistinct]

5 MR THANOS: Yeah, the standard supports that, yep.

6 MR HUGHES: I just want to clarify an answer you gave to my colleague before.  
7 Are you saying that this is primarily a tool to be applied in relation to  
8 home lending or is it more general application across other forms of  
9 products?

10 MR RIGBY: Yeah, it does have a more general application across other credit  
11 products and deposit products but the vast majority of the adoption at  
12 this stage is in the mortgage space as well as then the associated  
13 products with that mortgage so that there might be a package of  
14 products as well as in equipment finance and asset finance.

15 MR THANOS: It's probably worth adding that just reflects LIXI's origin, which  
16 was in mortgage lending and in particular third-party mortgage lending,  
17 and it was, you know, the, the body was established to address the  
18 problem that brokers were having with submitting different application  
19 forms to multiple lenders. So there was an acknowledged industry  
20 benefit from standardisation such that a broker could capture  
21 information and submit it in a standard format and over time adoption  
22 has meant there's been a significant reduction in costs to the industry  
23 from implementing those integrations and also improved efficiency and

## MELBOURNE PUBLIC HEARING

1 accuracy. So those same benefits are now being applied to other  
2 lending categories other than mortgages.

3 MS CHESTER: So effectively then that means, regardless of whether it's sort  
4 of a credit card application versus a mortgage, just to translate for all of  
5 us, if the LIXI categories are being used and now in a more cost-  
6 effective way, it means that scalability issue on the expenses side isn't  
7 what it used to be previously? Is that right, in terms of - - -

8 MR RIGBY: Yeah. It would be fair to say that if it were adopted for a credit  
9 card application in isolation, then, yes, to a certain extent that scalability  
10 isn't required.

11 MS CHESTER: And say looking at it from the perspective of a lender or a  
12 broker at the moment, they've gone through a process of having them  
13 populate the LIXI categories. What's then the role of the bank  
14 statement?

15 MR RIGBY: So as I mentioned earlier in the year, we did roll out some support  
16 for the capture of bank statements and in fact the aggregation of  
17 multiple accounts, netting and categorisation under different sets of  
18 categories to support the lender's assessment of that against, for  
19 example, the customer's declaration. So there's support for that  
20 comparison in the LIXI standards.

21 MS CHESTER: I appreciate the work that you're doing is very much being  
22 driven by the needs of your members. But stepping back for a moment  
23 with where we see things happening with consumer data rights and open  
24 banking and all the rest of it, what would be, sort of, LIXI version 7?



## MELBOURNE PUBLIC HEARING

1                   Where do you see LIXI going in the future in terms of functionality and  
2                   use?

3                   MR RIGBY: Yeah. It's hard to, to look into that crystal ball. Having said that,  
4                   obviously with, with open banking making the retrieval of that bank  
5                   statement data easier, we certainly need to continue to support that as it  
6                   evolves. Similarly with CCR, it's important that we continue to support  
7                   that. Beyond that, we are driven by our members requirements and their  
8                   raising of change requests for the standards. So I don't know, Mike,  
9                   would you have any - - -

10                  MR THANOS: No, I, I think, I think that's accurate but I suppose one of the,  
11                  one of the purposes that LIXI serves, quite apart from being a deliverer  
12                  in technical standards, is to create a forum in which, you know, industry  
13                  participants can, can discuss and reach consensus on matters which are  
14                  not, you know, competitive in nature. So I think, you know, the  
15                  industry sees the benefit of, of collaboration and, and I mean, as you see  
16                  with the request for guidance in the same way, you know, the benefit of  
17                  that guidance is that they, they believe the way they're acting is in  
18                  accordance with accepted practice.

19                  Really LIXI represents another forum in which that accepted  
20                  practice and understanding can be achieved and, in the case of LIXI, it  
21                  started with an understanding by the lenders that there was no real  
22                  competitive advantage in data and what you labelled data. So the fact  
23                  that you call somebody's first name first name instead of Christian  
24                  name, is not a source of competitive advantage and, in fact, if people

## MELBOURNE PUBLIC HEARING

1 can standardise on that, there is a great deal of advantage for the whole  
2 industry to be gathered. So I think LIXI will always be, be able to create  
3 value for the industry in those areas. So if that extends to things like  
4 Shane has mentioned, standardising the way that, that CCR is used,  
5 standardising the way that open banking information can be exchanged,  
6 then I fully expect the industry will look to us to enable the creation of  
7 more standards in those spaces.

8 MS CHESTER: Shane and Mike, thank you very much. Is there anything else  
9 you wanted to say that we haven't covered this morning?

10 MR RIGBY: No, I think we covered everything we'd hoped to. Thank you.

11 MS CHESTER: Okay, well great. Thank you again for accepting our invitation  
12 and joining us here in Melbourne today.

13 MR THANOS: Thanks for the opportunity.

14 MR RIGBY: Thanks.

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MR HUGHES: Thank you. Now I'd like to call Professor Guyonne Kalb from the Melbourne Institute.

MS KALB: Good morning.

MR HUGHES: Good morning. I'll just make an introductory remark while you're settling yourself. During the hearing in Sydney, we heard quite a lot about the Household Expense Measure, HEM, in fact we just heard more this morning and indeed it's been frequently reported in the media and there's been discussion about how it has been used by lenders as part of their process for assessing credit risk and whether a loan may be unsuitable for a consumer. While Melbourne Institute, the designer of HEM, did not make a submission to our consultation paper, we have asked the Melbourne Institute to attend today to explain what it is and what it was designed for. Professor Kalb has kindly agreed to appear today at our request to provide that background. Professor, would you like to just make a brief opening introduction and introduce yourself?

MS KALB: Yeah. My name is Guyonne Kalb. I am a professorial fellow at the Melbourne Institute of Applied Economic and Social Research and one of the developers of the Household Expenditure Measure which has been in the news quite a bit lately and, yeah, I would like to sort of explain what the Household Expenditure Measure is about and how it should be used and what it's meant to do.

MR HUGHES: Well that's an excellent introduction because we'd like you to tell us what the HEM is and what it demonstrates.

## MELBOURNE PUBLIC HEARING

1 MS KALB: Okay. So in 2010 we were asked by the consulting company Edgar  
2 and Dunn to develop a household expenditure measure for banks to  
3 provide a benchmark to assess expenditures reported by a lot of  
4 applicants against a value that would represent a modest value of  
5 consumption which would include a broad range of goods and services  
6 that households would use. So we set out to do this, and in order to  
7 develop a measure like this, we used the Australian Bureau of Statistics  
8 Household Expenditure Survey, which collects information on a  
9 representative sample of households in Australia and asked them what  
10 the expenditures are on the broad range of goods and services. So in  
11 total, they distinguished over 600 different items, and people are given  
12 a survey document where they can fill in the expenses that they are  
13 making for some goods over the past week or two weeks or sometimes  
14 over a year depending on the type they are talking about.

15 And so we use this data as the basis for examining the distribution  
16 of expenditures amongst households, and in this approach we make sure  
17 to distinguish by the household type, so that we would distinguish  
18 between smaller and larger households, but also by income, which was  
19 something that banks didn't really do in a previous measure that they  
20 were using, which was the Henderson poverty line, which is basically  
21 one value for all households independent of their circumstances. So  
22 what the Household Expenditure Measure sought to do was to provide  
23 more information on the household and investigate how that would  
24 influence the expenditures that a typical household would make. And

## MELBOURNE PUBLIC HEARING

1 so we used as much information as we could from the survey to  
2 understand what influences the expenditures of typical households.

3 And so by the end of the project we developed a measure that  
4 depends on the household composition, it depends on the age,  
5 employment status, migrant status, and sex of the household reference  
6 person. It also depends on the number and age of children if they are  
7 present. It depends on the number of bedrooms and tenure of housing  
8 that the household occupies. It includes the gross income, net wealth,  
9 number of credit cards, and the state of residency of the household. And  
10 so this all feeds into a regression that we run on household expenditure,  
11 where we include items in two different categories, which are called the  
12 absolute basic, which is sort of the necessities like food, clothing,  
13 transport, and the basic discretionary goods, which are things like  
14 recreation, things that most people would want to [indistinct] but where  
15 you have some discretion with how much you spend on that.

16 And what we did differently for those two types of expenditures  
17 was to take the median values for the basic expenditure, so that's sort  
18 of basically what the middle, the household in the middle of the  
19 distribution spends, and then you get a basic discretionary expenditure,  
20 we take 25<sup>th</sup> percentile, so that sort of represents a modest expenditure  
21 on these discretionary goods. These two values are combined into  
22 what's called the Household Expenditure Measure, which differs by all  
23 these characteristics.

## MELBOURNE PUBLIC HEARING

1                   So that's a lot of detail that goes into it. The Household  
2                   Expenditure Measure most banks are using is a simplified version,  
3                   because when they introduced this new measure, the banks were using  
4                   the Henderson poverty line, which had a particular structure, so they  
5                   needed something that was more similar to that structure. So what we  
6                   did was we created tables that distinguished household types and  
7                   income bands, as well as the state and pattern of the household  
8                   [indistinct] capital city. And so those are the basic tables that I believe  
9                   most banks would be using, but it's based on these regressions that take  
10                  into account much more detail on the households.

11               MR HUGHES: So just so I'm clear, the measure is a measure of what people  
12               actually spend at different income levels, not what they should spend?

13               MS KALB: No, this is what they actually spend.

14               MR HUGHES: Thank you.

15               MS CHESTER: Thank you, Guyonne, and thanks for joining us today. So when  
16               you described it before as a modest measure, that's because you've  
17               taken the median of the absolute basics, so the middle household across  
18               effectively an income distribution and different characteristics, and the  
19               25<sup>th</sup> percentile, so half of the middle, for the basic discretionary. Okay.  
20               So apart from it being based on the granularity of the data in the HES  
21               and having the regressions and you understand all the underlying  
22               distributions around all those different consumer characteristics, how  
23               does it sort of differ from what the Henderson poverty line was trying  
24               to capture before, which was sort of, has a lot of history behind it in

## MELBOURNE PUBLIC HEARING

1 terms of what it represented in terms of issues of, you know, people  
2 above and below the poverty line and hardship and the like?

3 MS KALB: So the Henderson poverty line is very different in our view, so we  
4 were actually quite surprised when we first heard that the Henderson  
5 poverty line was used in this way because we didn't know this, and we  
6 don't think that it's a good use of the Henderson poverty line, because  
7 the Henderson poverty line, what it tries to do is basically give a level  
8 of income below which you would define a household as being poor.  
9 And so if you're looking at someone who has an income of 200,000, it  
10 doesn't really make sense to look at expenditures as something that  
11 should be related to this poverty line.

12 So the poverty line is also, it's not based on actual expenditures  
13 or points of data, so it's been developed – I think it's over 50 years ago  
14 now – using what at the time was considered a sort of very modest level  
15 of income on which households, a couple household with two children,  
16 could survive, and then they developed based on that central household  
17 measures for sort of single persons and people with more or less  
18 children.

19 And what's then done every quarter since that time is it's been  
20 updated using the wage index, which basically means that it keeps pace  
21 with the changes in the standards of living in Australia. So it's, in that  
22 sense it's sort of a relative poverty line, so if everyone else does better,  
23 then the Henderson poverty line comes up at the same time. But it  
24 remains just one number for a specific household type, so there's no,

## MELBOURNE PUBLIC HEARING

1                   there's no account taken of the income or wealth that that household  
2                   actually has, which in our view is really important when you look at  
3                   what you would expect a household to spend typically.

4                   MS CHESTER: So the HEM in and of itself really doesn't come up with a single  
5                   measure. It comes up with a measure depending on how, what  
6                   functionality you want to build into the tables around the individual  
7                   consumer. So when you started out, you couldn't really compare the  
8                   HEM number with the Henderson poverty line because it was  
9                   comparing an apple and a zebra.

10                  MS KALB: Yeah, so you can actually compare it, so you can just, so we did  
11                  actually compare it - - -

12                  MS CHESTER: Oh, you did. Okay.

13                  MS KALB: - - - because we wanted to know how the HEM was performing  
14                  relative to the Henderson poverty line. And so when you're looking at  
15                  a lower-income household, the HEM may be quite close to the  
16                  Henderson poverty line and sometimes even below it, because it's  
17                  actual expenditure, so when you're looking at someone who is on  
18                  perhaps Newstart Allowance, people sort of rank that person as below  
19                  the poverty line.

20                  MS CHESTER: I've got it. So you're able to calibrate the HEM by assuming  
21                  it is the characteristics that were assumed for the Henderson poverty  
22                  line individual at the beginning?



## MELBOURNE PUBLIC HEARING

1 MS KALB: Yeah, so we didn't really calibrate it. It was just that we wanted to  
2 know where it was sitting relative to the Henderson poverty line  
3 because that's what the banks were using, and so we were interested to  
4 know. And it's, I mean, it's, it's similar for lower-income households  
5 basically, but - - -

6 MS CHESTER: No, no that's fine.

7 MR HUGHES: What's the value, do you think, of a measure such as the HEM,  
8 or what can it assist a lender to do?

9 MS KALB: So in our view it can be really used for if a bank asks a loan applicant  
10 to report on their expenditures and they really don't have an idea  
11 whether that expenditure is a reasonable number, to sort of compare the  
12 number that's provided by the loan applicant to the HEM value that's  
13 relevant for that person, to sort of have an idea of whether the  
14 expenditure reported is sort of around that value, above or below. So  
15 you would imagine that if it's below that he might want to follow up  
16 with further questions just to make sure that people haven't forgotten  
17 any expenditures, because reporting on your expenditure is actually  
18 really hard. If you ask what you spent last week, most people  
19 underestimate. And so I think to sort of have a measure where you have  
20 some guideline as to what other people that are similar to that household  
21 are typically spending is useful to just get a better understanding of  
22 where the reported expenditure sits and whether you would really want  
23 to follow up with further questions or, yeah, basically checking that all  
24 the expenditures that you would need to cover are included.

## MELBOURNE PUBLIC HEARING

1 MR HUGHES: Thank you.

2 MS CHESTER: So then in terms of how it sits with what we're focusing on,  
3 guidelines for responsible lending, it's really to allow the lender to very  
4 efficiently assess with what they're being told by the customer about  
5 what their expenses are, whether that's plausible or reasonable, and  
6 whether that should prompt them to – I think you mentioned confirm or  
7 to follow up and verify.

8 MS KALB: Yeah, because it's not the case that you cannot be below that  
9 household expenditure measure. It's just that, I guess, it's sort of at the  
10 lower end of distribution.

11 MS CHESTER: So the low end of likelihood. If it's been calibrated across, I  
12 think you said the tables covered income bands, household types and  
13 geography. And the tables from that perspective, if you adjust for those  
14 three characteristics, I know there's a lot more happening behind the  
15 scene with your regression analysis, but if it adjusts for those three it  
16 gives you, is it sort of, that's what gives you the plausibility because  
17 they're the three big drivers of where people might be in the distribution  
18 of the HEM measure?

19 MS KALB: Yeah, so income and household type they are really key. So states  
20 actually turned out not to be that important. So we still reported because  
21 that's how we started out. But the variations are actually fairly minor  
22 by state. But household type and income they are the key.

23 MS CHESTER: But if you would go down to a level from state to whether it's  
24 metro versus, oh, but it doesn't include housing, does it?

## MELBOURNE PUBLIC HEARING

1 MS KALB: No. So, no, the housing is excluded from these. So they would  
2 definitely [indistinct]

3 MS CHESTER: Yes. Got it.

4 MR HUGHES: I just want to pick up on that last comment about excluded  
5 categories from the measure, excluded items of expenditure. Can you  
6 give us an idea, sort of real day, everyday terms, what those excluded  
7 items might be and why they've been excluded?

8 MS KALB: Yep. So we have two types of excluded expenditures. So we have  
9 expenditure which we just call "excluded" and we have one set that we  
10 call "non-basic." So the excluded categories are types of expenditures  
11 that you would normally want to exclude. But they have a lot of  
12 variability between households and so, but they are quite common. So  
13 this variability but they are fairly common, so you want to include it.  
14 So an example would be, for example, private school fees. That would  
15 be something that can be very high cost. Some households go down  
16 that road, others don't.

17 If you go down the road then that's something you would want to  
18 include. But to include it in the HEM would not really be very helpful  
19 because it would spread out across too many households making it a  
20 relatively low figure on average. But then the one that decides to go  
21 and have their children privately schooled, they would sort of have this  
22 high expense. So that's an example of excluded item which basically  
23 you explicitly don't include in the HEM. And so that would be  
24 something that when banks ask about expenditures, they would sort of

## MELBOURNE PUBLIC HEARING

1 ask of all expenditures but then ask for a number of specific  
2 expenditures separately. And so private school fees would be one of  
3 those. And there's a couple of them that we sort of list in our quarterly  
4 updates that the banks know what those items are.

5 Then we also have items that are excluded that we call "non-  
6 basic" expenditure. And those are expenditures that are very  
7 uncommon and that are very easy to afford in some ways. So that  
8 would, for example, be having a boat or going overseas holidays. So  
9 we include recreation in discretionary but that doesn't include overseas  
10 holidays. Of course, some people may well to do this and it's sort of,  
11 would be something that you would want to include perhaps but most  
12 people if they sort of decide that they want to buy a particular home for  
13 example, they would sort of cut back on those types of costs  
14 significantly. And so that was sort of the rationale behind excluding  
15 some of the non-basic goods that they would be things that you can  
16 easily do without and that, like, relatively few people expect.

17 MR HUGHES: So would it be your expectation that a lender would look at  
18 HEM and the excluded categories where relevant and then potentially  
19 take out the non-basic on the basis that those would be items that could  
20 fall away in a post-loan environment? Would that be a fair assumption?

21 MS KALB: Yep, that's right.

22 MS CHESTER: And the guidance that you have attached to the HEM tables that  
23 goes out to lenders that use it and subscribe for its use, identifies all  
24 those, the housing costs so, you know, mortgage payments, land tax,

## MELBOURNE PUBLIC HEARING

1 private school fees, life insurance, superannuation. All those things that  
2 are readily identifiable but obviously then the lender doing that directly  
3 with the customer?

4 MS KALB: That's right.

5 MS CHESTER: And I get it now in terms of the variability of the numbers and  
6 why it would have skewed the distribution for your median for your  
7 25<sup>th</sup>. So I'm a bit of a fan of HES, having been an economist and a very  
8 bad econometrician in a previous life, so with the sort of the full monty  
9 version of the HEM that's got all the functionality – is that something  
10 that's also used by researchers?

11 MS KALB: Yep.

12 MS CHESTER: So it's not just, so we can tell the world it's not just used by  
13 banks and lenders for the purposes of - - -

14 MS KALB: No. We use it actually for our own research as well. So it's data  
15 that has a lot of different purposes and I think it's a really good data set  
16 representing both incomes and expenditures of households in Australia.  
17 And I guess the expenditure survey is not held that often so it's every  
18 six years. But I guess it's often enough to sort of keep track of changes  
19 in consumer behaviour. Because I guess that's the one thing that the  
20 HEM doesn't do between releases of the household expenditure service.  
21 So we update with the consumer price index every quarter but people  
22 of course also change their consumption and behaviour, and that's not  
23 included between periods but because it's done every six years we get  
24 an update every six years. And so the Household Expenditure Measure

## MELBOURNE PUBLIC HEARING

1 has been based on three different Household Expenditure Surveys as  
2 they have come out of the period that the HEM exists.

3 MS CHESTER: And just for folk here, this is for researchers beyond the  
4 Melbourne Institute, others are using your more granular version of the  
5 HEM for research purposes. Or is it - - -

6 MS KALB: So, no, so they don't actually, I mean they could easily because it's  
7 just a regression so anyone could sort of basically do the same - - -

8 MS CHESTER: Do the same with HES. Yes.

9 MS KALB: - - - same as the HES. But I thought you were talking about the  
10 Household Expenditure Survey. But that's something that's been used  
11 a lot outside of that.

12 MS CHESTER: Yes.

13 MS KALB: But the HEM because it's by subscription and, you know, not free  
14 to share it with everyone. So I mean, yeah, I wouldn't, I think it would  
15 be fairly straightforward. And I'm sure that people have actually  
16 looked at expenditure outside of the HEM and so you would sort of use  
17 similar approaches to look at the associations between households'  
18 characteristics and expenditure that they have.

19 MS CHESTER: Great, thank you.

20 MR HUGHES: Did you have anything you wanted to add, Professor, before we  
21 - - -

22 MS KALB: No, no. I think I sort of covered everything that I wanted to.

## MELBOURNE PUBLIC HEARING

1 MR HUGHES: Well, that's been very useful. Thank you so much for coming  
2 in at our request and thank you for your time in answering our questions.

3 MS KALB: Yep, my pleasure. Thank you.

4 MS CHESTER: Thanks very much again.

5 MR HUGHES: We'll now adjourn the hearing briefly for a break and we'll  
6 resume at 11 o'clock, 11.05 sorry.

7 **SHORT ADJOURNMENT**

## MELBOURNE PUBLIC HEARING

### MORTGAGE CHOICE

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MS CHESTER: Okay, folks. We might resume the hearings after our short break, and apologies, we've just heard that there was some sound issues before. I've been accused of many things in life, but being quiet and not heard was never one of them, so I think our wonderful technicians have sorted that now. But, please, wave in the background if you're having any trouble hearing us, including for our participants. So let's get underway. I'd like to now ask Susan Mitchell and Tim Donahoo from Mortgage Choice to join us. Thank you, Susan and Tim, for joining us at our hearings, and thank you very much for your submission as well. If you'd like just to both each state your name and organisation for the purposes of the transcript recording, then if you'd like to make some brief opening remarks, and then we can underway with some questions. Thank you.

MS MITCHELL: Certainly. My name is Susan Mitchell and I'm the CEO of Mortgage Choice. Mortgage Choice has been a mortgage broker for about over 25 years. It's ASX-listed. It also has a financial planning arm and distributes through a franchise structure. I'm joined by Tim Donahoo, who's the Head of our Lending Operations, and the Lending Operations area is responsible for compliance under our ACL, as well as understanding the detailed structure of the different products that we distribute through our different lenders. The only other thing I'd like to say is thank you very much for having us and we are very supportive of any initiative that increases the level of discussion and conversation that



## MELBOURNE PUBLIC HEARING

1 allows us to share with you our knowledge of the coalface and to hear  
2 your questions and understand, you know, where you're coming from.  
3 It's all got to be good.

4 MS CHESTER: Tim, would you just mind saying your name just for the  
5 purposes of the transcript?

6 MR DONAHOO: Yeah, Tim Donahoo, Head of Lending Operations for  
7 Mortgage Choice.

8 MS CHESTER: Lovely. Thank you very much. And thank you, Susan. The  
9 purpose of the hearings is very much with that end in mind. Turning  
10 maybe, if I may, to the first question, so one of the things that we picked  
11 up in reading your submission was that perhaps a lack of clarity in the  
12 guidance has meant that lenders have developed different or diverse  
13 standards required of the folk through your business line. Maybe if you  
14 could just talk us through what degree of variation that you're finding  
15 with the standards across the lenders that you're dealing with.

16 MS MITCHELL: Absolutely. So if I divide that into two categories – one,  
17 inquiry and, second, verification. We find that the inquiry into the  
18 financial position – in other words, the income, the commitments and  
19 the living expenses – to be fairly standard. The differentiation comes  
20 when you get to the verification. So if we look at the verification for  
21 income as part of that financial position, it's relatively similar across  
22 the different institutions. They have asked for the same pieces of paper  
23 and they have options. If you can't produce one particular document,  
24 they have other options, different ways to verify, which is, which is

## MELBOURNE PUBLIC HEARING

1 good because everyone's situation is obviously different. So that's  
2 pretty standard.

3 When we get to commitments, we have about a third of our lender  
4 panel who do not require documentation for commitments external to  
5 that institution. So that's quite different. And then the biggest  
6 difference is actually when you get down to living expenses. So  
7 everyone now asks for detailed living expenses, so we have moved from  
8 just lump sums to detailed categories of actual expenses, and that's  
9 fairly standard, but the difference is is they all ask for a different  
10 structure. So everyone wants a different combination of those living  
11 expenses, so that's quite time-consuming for a broker and a consumer  
12 to understand how they have to aggregate those different lending  
13 expenses. For example, someone may have eight categories, someone  
14 may have 15. It makes it more difficult to distinguish what's  
15 discretionary, what's non-discretionary. So that's really where the  
16 biggest difference comes in.

17 There are a couple of other areas where the differences come up.  
18 Every institution has a different HEM. A lot of the institutions use  
19 different versions of HEM. I understand that that is now coming  
20 together into one structure over time, but for now different people use  
21 different structures of HEM. And then the other thing that a difference  
22 arises is the way that the APRA change has been implemented with  
23 regard to the buffers. So because the different product suite in an  
24 institution will have different pricing, when you add those buffers to it,

**MELBOURNE PUBLIC HEARING**

1                   you'll have different products within an institution that will have a  
2                   different result in the servicing calculation. So you might qualify for  
3                   this product at bank A, but you won't qualify for the second product at  
4                   bank A. So that's a confusing thing to explain to a consumer.

5                   MS CHESTER: Before we get on to what that might mean for brokers, just so  
6                   we can understand the variations. So this is all around, you've got two  
7                   lists on page 3 of your submission. One is the inquiry list and the other  
8                   one's the verification list, and so it's really the verification list where  
9                   you're seeing - - -

10                  MS MITCHELL: The most variation.

11                  MS CHESTER: The most variation. So on the area of living expenses, which  
12                  is probably what we've heard the most about in terms of income  
13                  indebtedness and living expenses, the troika of working out financial  
14                  circumstances, we heard this morning – and you may not have been  
15                  here for this – from LIXI. They provide standards for different expense  
16                  categories, which is meant to be resulting in consistency. I think it was  
17                  15 or 16 and now they're moving to 22 categories but that's - - -

18                  MS MITCHELL: It got from 19 to 22? Okay.

19                  MS CHESTER: Don't quote me on that, please.

20                  MS MITCHELL: Okay.

21                  MS CHESTER: And sorry to have excited you. It may be higher than it is. But  
22                  how would it be if a large number – we heard from LIXI this morning  
23                  that their membership represents a large number of the primary lenders

## MELBOURNE PUBLIC HEARING

1 out there. Would there then be disparity in what's being required of  
2 brokers in terms of those categories? I'm just trying to understand  
3 what's causing it.

4 MS MITCHELL: So the lenders don't adopt it. So we agree a standard but the  
5 lenders don't adopt the standard. So at the end of the day you have to  
6 put the expenses in the categorisation that the lender requests so that  
7 your customer can complete the application and therefore get the funds.  
8 So at the end of the day if we come up with a standard but it's not  
9 adopted at the lender level, then it frankly doesn't become an industry  
10 standard. So any help from your direction to end up with an industry  
11 standard of expense categorisation would be fantastic.

12 MS CHESTER: So you're happy for us to be prescriptive in that regard?

13 MS MITCHELL: I would be happy for you to be prescriptive in the area of, if  
14 we come up with an industry standard, that everyone then adopts the  
15 industry standard. As opposed to maybe you determining what it is, it  
16 might be better to let LIXI, who actually that's what they do, come up  
17 with that standard. But then the point is, is having people adopt what  
18 that standard is, and of course it will adjust over time.

19 But that would be very helpful because what happens is you  
20 gather the expenses and then you take them and you have to rearrange  
21 them for a particular lender, and then that introduces the opportunity for  
22 there to be an error, not on purpose, but it also makes it very difficult,  
23 as I said, to distinguish between discretionary and non-discretionary,  
24 which is really important as you move through the process.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: And we might unbundle those sorts of issues in a moment. Just  
2 so I can understand where the variation is, and you said before that  
3 about a third of the lenders that your brokers are dealing with find that  
4 there is variation across - - -

5 MS MITCHELL: Okay, sorry, there are two categories. There's commitments  
6 and then there is living expenses. Commitments, in other words,  
7 commitments like your credit cards, your other debts, those sorts of  
8 things, that's where we find that there's about a third that don't ask for  
9 documentation of some of those commitments. That's a completely  
10 separate conversation to then the conversation we were just having  
11 about living expenses.

12 MS CHESTER: So what's the variation in living expenses, then?

13 MS MITCHELL: Categorisation. In other words, someone will ask to have five  
14 categories and they'll put insurance in all one category, and then  
15 someone else will have 15 categories and they'll take the insurance  
16 number and they'll split it across housing costs, medical costs,  
17 transportation. They'll divide it up. So what happens is that you, a  
18 broker has to take the breakdown and then divide it up into different  
19 combinations to then complete the application.

20 MS CHESTER: And, look, I might be asking for a metric that doesn't exist,  
21 Susan, but say if the lenders were all following the LIXI categories,  
22 you'd have that consistency for your brokers, but they're not seeing that  
23 at the moment because obviously some of them are not applying it, so

**MELBOURNE PUBLIC HEARING**

1                   what percentage of the lender experience are they seeing which is non-  
2                   LIXI or - - -

3                   MS MITCHELL: Can you – do you have a - - -

4                   MR DONAHOO: A bit of historical background here, Karen. Now, I was  
5                   involved with the working group that, the industry working group, that  
6                   LIXI coordinated about three to four years ago to actually try and reach  
7                   consensus on living expenses to get uniformity and understand what the  
8                   appropriate categorisation should be, and that was a very effective  
9                   collaboration between lenders, brokers, mortgage managers, most of  
10                  the participants within the industry that had an interest in this and we  
11                  reached agreement at that point about three, three and a half years ago,  
12                  to categorise living expenses into 12 categories and essentially all the  
13                  participants in the group said, yeah, we're comfortable with this, it was  
14                  endorsed by ASIC, in terms of making sure we got the right approach.

15                  But subsequent to that agreement, every lender, I'd say pretty  
16                  much has diverted from that standard in some way, some significantly,  
17                  some less so, but the end result is that pretty much now, certainly in the  
18                  lenders that we deal with, no one's maintained that standard, the  
19                  original 12, and some have extended it out to 15, 16 categories. Now,  
20                  yes, it's appropriate to review it from time to time, which is what the  
21                  industry is doing now, but what we don't want is we reach a new level  
22                  of categorisation which everyone's comfortable with, but as soon as that  
23                  point is reached then everybody diverts from that again, and the broker  
24                  then has to say, okay, well I'm dealing with lender A, I now need to list

**MELBOURNE PUBLIC HEARING**

1 the living expenses in this application in a different way from the  
2 industry standard, because that's the way the lender wants it. They're  
3 doing something different.

4 MS CHESTER: All right. I'll take that as 100 per cent then.

5 MS MITCHELL: Yes.

6 MR DONAHOO: Pretty close to, yeah.

7 MS CHESTER: One of the, a little quick question then. The other area, Susan,  
8 that you identified was different versions or variations of the HEM.  
9 Now, I can understand different versions because they're updated over  
10 time. But we had understood from this morning from hearing from  
11 Professor Guyonne Kalb, from the Melbourne Institute, that basically  
12 the tables that the lenders subscribe for effectively give you by  
13 geography, income bands and household, a HEM number. So how is it  
14 then that - - -

15 MS MITCHELL: Now, I'm going to tell you what I've been told by my group,  
16 and I'm not, I'm going to be concerned that I'm not going to get this  
17 exactly correct. But, our understanding is that the lenders may not use  
18 all the variations of those tables, like they might use, they'll use the size  
19 of household but they won't use the income part, or they'll use the  
20 location and the size of household but they won't use their income.  
21 They won't necessarily update them in the same pattern as the  
22 information gets refreshed.

**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: Well, it will be really helpful if you could confirm that that's  
2 the issue that you're dealing with. And the reason I say that is we did  
3 hear evidence this morning from Professor Kalb that they're the three  
4 key drivers, and so if you're going to use the HEM for plausibility or  
5 reasonableness, you need to make sure that you're using the one that  
6 has the right variation for the customer you're talking to, so geography,  
7 income and household she said this morning were the three key drivers.

8 MS MITCHELL: You have to dig into their calculators, which are a little bit of  
9 black boxes, to figure that out.

10 MS CHESTER: Okay. Well that'd be helpful - - -

11 MS MITCHELL: So that's difficult.

12 MS CHESTER: - - - to just confirm what you've just suggested.

13 MS MITCHELL: Yes.

14 MS CHESTER: Thank you.

15 MR HUGHES: In your submission, you talk about the value of transaction  
16 statements to verify information, including expenditure information.  
17 Can you tell us how you use those statements?

18 MS MITCHELL: Absolutely.

19 MR HUGHES: What process do you go through to test and verify?

20 MS MITCHELL: Absolutely. Our brokers will use them for a variety of  
21 information. In some cases it might be the verification of an income  
22 item, that you can see the salary coming in every month. We will use



## MELBOURNE PUBLIC HEARING

1 it to look for undeclared commitments, credit cards or something that  
2 are being paid regularly that they haven't put on their list of credit cards,  
3 so you're looking for undeclared commitments. And then we do look  
4 at it for reasonableness of living expenses. We don't really advocate  
5 doing a full forensic audit on every single item on that bank statement  
6 and putting in a category. Most of our brokers actually use tools that  
7 will take the information on the bank statements and categorise them  
8 into expense categories. And they will use those expenses  
9 categorisations, confirmed with the customer, to go forward, but then  
10 sometimes they have to re-divide them up as from the conversation we  
11 had earlier. So we use them to basically just to do that, to verify income,  
12 verify that we have gathered all the commitments and then to get a  
13 reasonableness test on the expenses.

14 MR HUGHES: And when you undertake that level of inquiry, is that something  
15 that you think is a more rigorous approach that, say, others in your  
16 industry are performing?

17 MS MITCHELL: I don't know that I can make a comment. There is very, very  
18 good brokers in every aggregator group. So I feel certain that there are  
19 very dedicated brokers in every single group that will absolutely do  
20 what it is that is required to do and to do the right thing. So, I can't  
21 make a comment on what other brokers are doing. I think I would say  
22 about 80 to 90 per cent of our brokers use these tools that gather up that  
23 information. So I can say that our brokers are looking at detail at the  
24 bank statements. I would not want them to be made responsible for

## MELBOURNE PUBLIC HEARING

1 every single detail on there, I think that's a bit of a, I think that's too  
2 difficult. But they are using the tools basically to get the information  
3 they require.

4 MR HUGHES: And what is the nature of the gatekeeper role that you think your  
5 brokers perform?

6 MS MITCHELL: A couple of things. First of all, they're required to produce  
7 an accurate, valid application and they want to ensure that it's complete,  
8 it's got everything in it, and that it's accurate, the most fundamental  
9 things to help that consumer get their credit in the time frame that they  
10 want to get it and to be able to get them to the right lender. So I think  
11 it's more about, they don't want to turn in an inaccurate application.  
12 Number one, it slows everything down. Number two, it exposes them  
13 to liability. If they don't have it as accurate as possible.

14 MR HUGHES: And what about the borrowers' objectives? Do they play a role  
15 in securing those objectives?

16 MS MITCHELL: Absolutely. So every borrower, there will be a conversation,  
17 what is the purpose of the loan, what is that you, how is that you, what  
18 are the features of the loans, or the structure of the loan that you would  
19 like, like, P&I, interest only, or fixed or variable rate, or do you want  
20 an offset account. What are you trying to achieve? Are you trying to  
21 pay it off as quickly as possible? Are you trying to reduce your interest  
22 expenses? How do lump sum payments affect that? So, absolutely,  
23 every interview will contain those discussions and they are documented  
24 in the preliminary assessment that the customer signs off on.

## MELBOURNE PUBLIC HEARING

1                   They will also go further and have a discussion, usually about, are  
2                   there any foreseeable changes in their particular circumstances, and if  
3                   there are, how do they plan to deal with those. And that will be  
4                   documented. They will also perhaps have a discussion with the  
5                   customer about, I've been through your application and I think there  
6                   may be some things that you may need to adjust about your financial  
7                   position. For instance, reduce some credit card limits, or look to reduce  
8                   some discretionary expenses.

9                   MR HUGHES: And when undertaking that level of inquiry and discussion with  
10                  the borrower, where's the balance between putting forward the best  
11                  possible case for the customer which meets their needs and objectives  
12                  and provides them with, or provides the lender with all the information  
13                  they require and the broker's commercial objective to place the  
14                  business?

15                 MS MITCHELL: Always tell the truth. Fundamental. It has to be the truth, it  
16                 has to be the population of the information that's required and it needs  
17                 to be accurate. So those are bars that are non-negotiable. The  
18                 commerciality I think will come more from the direction of, let's say a  
19                 consumer has a time constraint, and some lenders will take longer than  
20                 others, or may have a more detailed process and part of the requirements  
21                 of that consumer is to get this done in a particular time frame. So that  
22                 might be something that might play into the commerciality of that, I am  
23                 now reducing the number of lenders that perhaps that customer can fit  
24                 in to, because one of their requirements is now time sensitive. So that

**MELBOURNE PUBLIC HEARING**

1                   would be sort of a variation I could see where they might reduce the  
2                   lenders to fit the requirements of the customer.

3           MS CHESTER: So, Susan and Tim, your submission also referred to best  
4           interests and how that can sometimes be counted in a way that it's not  
5           the preference of your business model with less thorough inquiry and  
6           verification. I've just sort of been going back to what we were speaking  
7           about before. If there's variation from the lenders about what's required  
8           say in verifying commitments and living expenses but you said that  
9           your brokers have gone through this very sort of forensic process of  
10           checking all the - - -

11           MS MITCHELL: I wouldn't say it's forensic.

12           MS CHESTER: Well, sorry. Have gone through the processes as you've  
13           described it - - -

14           MS MITCHELL: Yes, yes.

15           MS CHESTER: - - - to sort of work through those expenses and to verify them.  
16           Then isn't there a mismatch in terms of what's been required from the  
17           lender versus what the broker's going through and what at the end of  
18           the day informs the final decision?

19           MS MITCHELL: The broker has to go through the aggregation of the expenses  
20           and getting all the information together, because that helps them decide  
21           on which lender it is that they should go to. I don't know that the, the  
22           verification structure actually will come into that upfront decision. It's  
23           going to be, a lot of it's going to be around credit policy. In other words,

## MELBOURNE PUBLIC HEARING

1 it's not about if I go to lender A, I don't have to get this piece of paper  
2 but if I go to lender B, I do. It's more about this customer, this customer  
3 has, lives in a particular postcode and is more covered by some lenders  
4 than others. This customer's partner has casual income and some  
5 lenders will accept casual income and other lenders won't. This  
6 customer has only been employed for nine months but has a career  
7 history of X in this, in this industry but some institutions will discount  
8 that in different ways. I have to tell you, the primary decision of where  
9 to put a loan is very, very much based on the credit policy that applies  
10 is getting the best answer for that consumer as well as the rate sensitivity  
11 that that particular consumer has. It's not about the pieces of paper.

12 MS CHESTER: But there's making an assessment along the way about whether  
13 or not, whether that's the best offer, versus is it responsible lending?

14 MS MITCHELL: Yes, absolutely. But I guess what I'm trying to say is, you  
15 need all this information to come together to tell you which lenders will  
16 actually take your customer, and then that pairs it down to a particular  
17 set, and then you will go through the application process, and depending  
18 on the rate or the features that they're looking for, that really determines  
19 on where they go.

20 MS CHESTER: So when you were talking before about the variation, was that  
21 in terms of working out the first question, where's the best deal for the  
22 customer versus then the final application process that you go through  
23 with that lender?

## MELBOURNE PUBLIC HEARING

1 MS MITCHELL: No. The question was, I was answering your question, is there  
2 a variation across lenders. I'm not saying that by answering that  
3 question that a broker necessarily goes and says, "Well, I'm not going  
4 to lender, I'm going to lender A because they don't need me to give this  
5 piece of paper." That's what I'm, that's the point I'm trying to make,  
6 that comes later in a process when you've already decided which is the  
7 best lender for that customer. What may happen is that you get, you  
8 decide that lender A is the best one based on the serviceability, what  
9 they're looking for in a loan, what the rate is, do they fit into the, their  
10 credit policy? And then you get through that process and you pick the,  
11 the two or three that you think are right, the consumer says, "Well, I'd  
12 really like to go with lender A," and then you start to fill out the pieces  
13 of paper and complete the application with all the verification, and you  
14 may find that actually we, we need to, you don't have those pieces of  
15 paper or I need to go and ask for an exception of the lender or the  
16 process takes longer and there's lots of backing and forthing.

17 MS CHESTER: And at what point, one of the other issues referring to the  
18 brokers playing the gatekeeper role, the discussion, say for a mortgage  
19 of the pre and post expenses. So the expenses that they've been  
20 inquiring upon and verifying are existing pre-loan expenses versus what  
21 might be seen as reasonable post-loan, if people adjust their lifestyle  
22 and expenses to be able to manage the mortgage?

23 MS MITCHELL: You have that discussion if you need to. In other words, not  
24 everybody is, some people will easily service based on their historical

## MELBOURNE PUBLIC HEARING

1 actual one. So, I don't know that that discussion is, you know, it, it has  
2 to be scalable, so maybe that discussion isn't had with that person. But  
3 if you have someone, say a first home buyer, that has a completely  
4 different expense structure before they get this home compared to what  
5 they will afterwards, it's a very, very pertinent discussion to come up  
6 with what are your post-living expenses. For someone who is closer in  
7 the serviceability, you would have the discussion of perhaps you need  
8 to reduce a credit card limit because credit cards are treated in a  
9 particular way, you might reduce the credit limits. We would go to the  
10 bank and we would explain that you are going to be reducing some of  
11 your discretionary expenses.

12 MR HUGHES: Sorry, can I just pick up. Is a credit card expenditure, that would  
13 be commitment in your categorisation, not an expense?

14 MS MITCHELL: Yes, it would be, but my point is those are the two pieces that  
15 you would look at, it's not just discretionary expenses. The credit card  
16 limits actually have quite an effect on the calculation. So you might not  
17 need a \$20,000 limit, it might be that you could change that down to a  
18 \$10,000 limit, and if you think about it, that actually reduces their  
19 discretionary spend as well, to have a lower credit card limit. So it  
20 would be the combination of different things that you might do. It might  
21 not be entirely about discretionary lending, there might be other ways  
22 that you can reduce the amount of outgoings on your applications  
23 because commitments is actually sometimes quite a larger category of

**MELBOURNE PUBLIC HEARING**

1                   outgoings on an application than the living expenses, so maybe you go  
2                   to that direction to say you need to reduce here.

3                   MR HUGHES: And you mentioned that the intensity, if I can use that word, of  
4                   the post-loan serviceability discussion is going to be more or less  
5                   intense depending on how close that serviceability factor is. Is that what  
6                   - - -

7                   MS MITCHELL: I think that's, I don't want it to be all about that but in some  
8                   circumstances, the application or the structure of the application just  
9                   doesn't give rise to the discussion because they're so clearly serviced,  
10                  there's such an excess of income over expenses that perhaps the  
11                  discussion doesn't become an important point in progressing the  
12                  application.

13                 MR HUGHES: So what roughly proportion of your clients would be first home  
14                 buyers?

15                 MS MITCHELL: Currently our current flows are probably about 15 per cent.

16                 MR HUGHES: One five?

17                 MS MITCHELL: One five.

18                 MS CHESTER: And in having that sort of conversation pre- and post-loan for  
19                 those customers that might need to contemplate a reduction in living  
20                 expenses post-loan to be able to service it, that's after the broker has  
21                 sort of established what expenses they have at the moment and verified  
22                 those?



**MELBOURNE PUBLIC HEARING**

1 MS MITCHELL: Yes, yes. It's, it's hard to have the discussion until you  
2 actually have the detail in front of you.

3 MS CHESTER: So they've had the, the customer give them according to  
4 whatever standard for whichever lender they think they're dealing with  
5 and then they've looked at bank statements to verify those expenses, is  
6 that - - -

7 MS MITCHELL: To get a reasonable, a view of reasonableness of those  
8 expenses and then also the - - -

9 MS CHESTER: So they're using bank statements, not a HEM?

10 MS MITCHELL: Sorry, no, they don't use HEM. So you're either using a tool  
11 off the bank statements or they've given them to you and you've  
12 reviewed the bank statements for reasonableness. We don't have, we  
13 don't know all the detailed HEM calculations. We have an idea of the  
14 basic HEM and we make sure that we have, we require people, this is  
15 very, very basic HEM, for some reason it's come below the very basic  
16 HEM, we have a prompt that comes up and says, "Warning. You have  
17 to go back and you have to re-look at this," because, yes.

18 MS CHESTER: But they are already examining the expenses that [indistinct] -  
19 - -

20 MS MITCHELL: Absolutely, absolutely.

21 MS CHESTER: - - - against bank statements?

22 MS MITCHELL: You're putting, that's, that's the beginning of the process and  
23 if you go through the process, the gathering of the expenses and the

**MELBOURNE PUBLIC HEARING**

1 verification and the looking at them is happening at the very beginning  
2 of the process.

3 MR HUGHES: You've expressed, I think it would be fair to say, some concern  
4 about the variability across the sector, particularly in terms of  
5 categorisation as one example. Can I ask you about what level of  
6 variability there is when it comes to commission or remuneration  
7 arrangements?

8 MS MITCHELL: From the different banks?

9 MR HUGHES: Yes.

10 MS MITCHELL: Sorry, lenders. The, this was part of the ASIC review that  
11 was done in March 2017 and they actually found that there wasn't much  
12 variation between the upfront and the trail, and we find that, actually,  
13 on our particular panel, the, the range is actually getting narrower and  
14 narrower on the upfront and the trails are pretty consistent. Mortgage  
15 Choice does something called Paid The Same, where we actually take  
16 the different upfront structures and we actually average them together  
17 and then we base that single rate on how we pay our brokers. So our  
18 brokers are not particularly incentivised by the different rates, they  
19 don't actually even know what the different commission rates are. But  
20 there is a variability in the commission rate but it's not wildly different.  
21 Anywhere between 65 basis, 60 basis points to 70 basis points, really  
22 an average of about 65, and their trail is usually 15 basis points. It's not  
23 that different. I, I don't believe if the customer truly fits into the credit  
24 policy and fit in a particular lender that you would actually really

**MELBOURNE PUBLIC HEARING**

1 change it based on that commission rate. The important thing to a  
2 broker is to have a satisfied customer that will refer them to other  
3 customers and they are able to provide more services to more  
4 consumers, that's what's important to the broker is a satisfied customer.

5 MS CHESTER: So just so I understand, the Paid The Same is, you're  
6 effectively, so there are different - - -

7 MS MITCHELL: Rates that we receive from the banks, yes, lenders.

8 MS CHESTER: So you're basically averaging the rates?

9 MS MITCHELL: Yes.

10 MS CHESTER: So it's not driven by a particular lender?

11 MS MITCHELL: That's correct.

12 MR DONAHOO: Our brokers receive exactly the same rate of commission  
13 irrespective of what lender or products they have chosen across our  
14 panel.

15 MS CHESTER: So they've still got the generic incentives of the structures of  
16 the remuneration arrangements. You just averaged it across the lenders.

17 MS MITCHELL: Yes.

18 MS CHESTER: So it's paid the same, but based on the size of the mortgage,  
19 yes.

20 MS MITCHELL: Paid the same rate. Paid the same rate. It's still – so the point,  
21 but, but the point is, is that if I'm sitting here and I'm deciding between  
22 lender A and lender B, a lender A pays 65 and lender B pays 68, I'm

**MELBOURNE PUBLIC HEARING**

1 not going to pick lender B because of the 68. I don't, I'm going to get  
2 the same thing whether it goes to lender A or lender B. Sorry, the same  
3 rate.

4 MS CHESTER: So it's in the eye of the beholder of who's getting the same?  
5 It's the lender, not the consumer.

6 MR HUGHES: And that smoothing that you talked about, does that apply to the  
7 upfront commission and trailing commission or just the upfront?

8 MS MITCHELL: Yes, both.

9 MR HUGHES: Did you have any closing remarks you wanted to make?

10 MS MITCHELL: No, just again thank you for this opportunity to have a, a more  
11 detailed conversation. I think it's, we want to share what we see at the  
12 coalface with you because we think it will help come with better policy,  
13 so we appreciate the opportunity.

14 MS CHESTER: So Sean asked me did I have another question, and I'm false  
15 and misleading again. I did have one.

16 MS MITCHELL: Okay.

17 MS CHESTER: But it's one of those nice ending ones, Susan and Tim. You  
18 mentioned before about perhaps us being a little more prescriptive –  
19 they're my words, not yours – about standards. What else would you  
20 like to see in our responsible lending guidelines to make it easier for  
21 your brokers to, in your words, be able to do the best interest by the  
22 customer?

## MELBOURNE PUBLIC HEARING

1 MS MITCHELL: I think it's really important that it remains principles-based  
2 because the complexity of the consumer is amazing and it's very, very  
3 difficult I think to get that into structures. I think it's really important  
4 to remain principles-based. But anything that you can add that gives us  
5 more guidance as to we've met a minimum level of required inquiry  
6 and verification, that allows the broker to understand that he's meeting  
7 his obligations, and I think it provides more protection for the broker  
8 and more protection for the consumer. So it's more the concept of  
9 getting that minimum level of what we need without getting, without  
10 mandating or being prescriptive. So we're asking you to walk that  
11 magic line of giving more guidance so that brokers are comfortable and  
12 not spending a bunch of time arguing or doing whatever, and lenders  
13 aren't spending a bunch of time having, you know, detailed compliance  
14 discussions. There's some minimum levels but it still remains  
15 principles-based and they need to go beyond those minimum levels if  
16 the circumstances require.

17 And it gets back to the three main categories that we talked about,  
18 which is income, commitments and expenses. We've talked a lot about  
19 the living expenses, but I think the income's pretty good. The only  
20 thing I would say around income is that you ask about the income but  
21 you might verify just the amounts that you need to service. I don't know  
22 that you need to verify every particular level of income if it's actually  
23 quite clear that your salary will service the loan. And then the  
24 commitments, just to be consistent about the, what's being required to  
25 document the commitments.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: Sounds like prescription for a floor and principles above.

2 MS MITCHELL: Yes.

3 MR HUGHES: Or certainty of rules and flexibility in application.

4 MS MITCHELL: Oh, I don't know. We'll have to think about that one.

5 MR HUGHES: Thank you very much for joining us this morning. Thank you.

## MELBOURNE PUBLIC HEARING

### CONNECTIVE

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MR HUGHES: We'd now like to invite the representatives from Connective to join us. Thank you.

MS CHESTER: Thank you, Mark and Daniel for joining us. I hope that's not your opening statement Daniel. I think we have some addendums for our website Tim. Well look, thank you very much for joining us. If you could just state your name and organisation for the purposes of the transcript and then make some brief opening remarks and then we can get underway with some questions.

MR HARON: Certainly. I'm Mark Haron, Executive Director of Connective.

MR OH: I'm Daniel Oh, Group Legal Counsel of Connective.

MR HARON: Look, I'd just like to echo, similar to what Susan has said, that we appreciate this consultation process. I think it's very useful to hear from all parts of the industry as you do this review. From our perspective, what's critical with an update of RG 209 is to provide a bit more clearer guidance to banks, lenders and mortgage brokers that balances good customer outcomes and continued competition such that price and service does not suffer and vulnerable customers are protected. What we're seeing with our brokers is that they are spending significantly more time to get loans approved due to variation of verification standards primarily across banks and lenders, and even variation of the application of those standards inside the banks themselves. So this obviously causes a lot of delays and it's causing consumers a lot of stress.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: Thanks very much, Mark, and appreciate you keeping those  
2 brief. It would maybe be helpful if you could just run through the nature  
3 and scope of the services that Connective provides and how that sort of  
4 links in with the whole broker network.

5 MR HARON: Yeah, of course. So Connective is what's classified as a  
6 wholesale aggregator, so the brokers that use our services operate under  
7 their own brands. We have around 3,600 mortgage brokers that use our  
8 services across Australia. We operate in all, all across Australia as such.  
9 The services we provide are a little bit different. We charge to the  
10 majority of our clients a monthly fee to use the platform and use the  
11 services, which is a software platform called Mercury that they use to  
12 meet their compliance obligations. They use it as a CRM tool and they  
13 use it to do things like comparing products and putting together,  
14 preparing information, and it also uses the LIXI standard platform  
15 through to online lodgement tools to lodge the loans to the banks, and  
16 an electronic standard as well. Above and beyond that we have a  
17 significant team that provides compliance services to our brokers.  
18 About 1,600 of our brokers are credit representatives under our licence,  
19 and others operate under their own ACLs, Australian Credit Licences,  
20 or under credit licences as a group that they might be part of. Yes, that's  
21 the basis.

22 MS CHESTER: So in terms of the services that Mercury is providing, how does  
23 that sort of help brokers meet their obligations to the customers that



## MELBOURNE PUBLIC HEARING

1 they're considering in terms of placing them into the right credit product  
2 and taking them through the application process?

3 MR HARON: So one of the first and initial phases is the needs analysis, or the  
4 fact-find, so there's an electronic version that's built into the Mercury,  
5 and a capture tool where the fields are there, and that's actually  
6 referenced in that bible that we gave you. So that you can see here's all  
7 the questions that are getting asked in that process. We have, I guess, I  
8 think it's very much one of ASIC enforceable component, a know-and-  
9 show, so it's not good enough to ask the question and know it, you need  
10 to be able to show that you have asked the question and you've  
11 documented that process. So the fact-find and the needs analysis is very  
12 much part of that initial stage.

13 Through that process, that's where you're asking questions  
14 similar to what has been referenced earlier about clients' current  
15 financial circumstances and what they're looking to do in the future,  
16 and through that process it's determined, okay, what lenders might be  
17 suitable. There is serviceability calculators built in so that through  
18 using income and expenses you can do some quick calculations and say  
19 they qualify for this amount of money at these various banks, using the  
20 tool, the calculators there. And then there's a product analysis as well.  
21 So depending on product features, a broker will enter that in and it will  
22 compare those products and compare the interest rates, compare the fee  
23 structures, and that's all part of a documentation process that then

**MELBOURNE PUBLIC HEARING**

1 comes up into the compliance documentation and they can present to  
2 their customers as well.

3 MS CHESTER: We heard earlier on from Susan and Tim about the variation in  
4 what lenders require. It sounds like your platform is providing some  
5 consistency for your brokers in terms of using LIXI categories and what  
6 compliance obligations they have and where it triggers and where  
7 know-and-show and all the rest of it. Is the variation across lenders in  
8 terms of requirements for your brokers an issue for you as well? And  
9 how does that sort of manifest in what you have to do with Mercury?

10 MR HARON: Yeah, so it is, it does, it applies equally to every aggregator and  
11 every broker, and that variation again, as with sort of some of the  
12 components that we talked about, was the categorisation. That is, you  
13 know, and I think that's been talked to at length so I don't need to  
14 readdress that. But that categorisation is a challenge for the industry  
15 and all brokers and all groups. And really what software platform and  
16 systems do, just try and help the brokers be a little bit more efficient in  
17 working through some of those areas, really. That's really what it  
18 comes down to.

19 MR HUGHES: Does that variation make it more difficult in terms of selecting  
20 the most suitable product to meet the customers' objectives?

21 MR HARON: It does. And keeping on top of that variation. So, the way it was  
22 talked about before, one of the first things that is done through this  
23 preliminary assessment process and why so much information is wanted  
24 to be gathered at that point, even though you're not getting into the

## MELBOURNE PUBLIC HEARING

1 detailed verification, is you want to get the qualification point right. So  
2 where do they qualify? We understand a little bit about the products  
3 you want, but before we go down that path and run off and say let's get  
4 this product at this bank because it's the best one, we need to make sure  
5 you qualify at that bank first.

6 So you'll do it as a broad base. Where do you qualify? Bring that  
7 in too. Okay, now that we know where you qualify, let's compare the  
8 products and the range based on what you require within the lenders  
9 that you qualify for. And, you know, the software systems and  
10 platforms, as you can imagine, make that a lot easier to do than trying  
11 to sit there and going through each lender's information individually  
12 and run off to each lender separately.

13 MR HUGHES: And how does your model manage to balance that tension  
14 between the lender's interests in securing the best information it can to  
15 make the right decision, and the customer's interests in securing the best  
16 and most appropriate loan for them?

17 MR HARON: Hmm. Well, it really comes about by the laws by which brokers  
18 have to operate by, and that is putting the customer's interests first. As  
19 we move to the best-interests duty, that'll become even more apparent  
20 and a bigger feature of that, but right now that principle of putting the  
21 customer's interests first very much sits amongst what the brokers are  
22 doing. Whether or not they'll take – if the product that is most suitable  
23 for the customer based on qualification is with a particular lender and

## MELBOURNE PUBLIC HEARING

1                   that lender requires more information, then that's not going to stop the  
2                   broker from placing the customer in that particular lender.

3                   MR HUGHES: So, can I ask the question slightly differently. Do you think the  
4                   ability to deliver on the best-interests duty has been undermined by  
5                   variability between lenders?

6                   MR HARON: No, not from the point of view that as I understand how we want  
7                   to have a best-interests duty, it'll be the broker putting the customer's  
8                   interests ahead of their own, not putting the customer's interests ahead  
9                   of a lender's, per se. The lender, as I understand, the best-interests duty  
10                  is not going to apply to the banks. So when a broker is dealing with a  
11                  customer, they'll be looking to say, what is, although this is not as much  
12                  in my interests but it is in your interests.

13                  And I'll give you an example of that perhaps. So certain lenders  
14                  like HomeStart and Keystart, they're for first home buyers, they have  
15                  state subsidised assistance, 80 per cent of those loans are done through  
16                  mortgage brokers, on average. Those lenders pay significantly half the  
17                  rate of commission that other lenders do. So for the brokers, they go,  
18                  well, look, in my interests, I'd be better off taking you to this bank  
19                  where I get a higher commission rate, but the way this looks and to get  
20                  your loan done, I can take you through to these lenders, which is in your  
21                  best interests. And so that's generally how those duties are applied by  
22                  the brokers from that perspective.

23                  MS CHESTER: So, Mark, just so I understand, when you mentioned before the  
24                  first sort of point of triage was what do you qualify for?

**MELBOURNE PUBLIC HEARING**

1 MR HARON: Hmm.

2 MS CHESTER: What's the benchmark for qualify for, from the lender's  
3 perspective? Because effectively your brokers are making that  
4 assessment from the perspective of the lender?

5 MR HARON: A key component is the serviceability. So depending on the  
6 serviceability rate used by the lender, depending on what expense  
7 requirements and verification of that are to the detail of. So, when I say  
8 verification, if a particular lender says, that expense is not discretionary,  
9 we're going to include it, whereas it is considered to be discretionary  
10 by another bank, well, that might be putting the customer's interests  
11 ahead from that point of view and, say, well, look, you want this loan,  
12 we take you to this bank, they're going to decline it. If we take you to  
13 this bank, they're going to approve it. It could be same product, it could  
14 be the same interest rates.

15 MS CHESTER: So, from your perspective, the benchmark for the qualify for,  
16 is really how the banks would be assessing that customer through the  
17 benchmark of responsible lending obligations?

18 MR HARON: Yes, indeed. So, as a broker, we'll look at it from the what is  
19 reasonable to start with, what is reasonable that we can take that to the  
20 lender. At the end of the day, it's the lenders that are approving the loan  
21 and are providing the loan and providing the funding. So ultimately, it  
22 falls on them to ensure that that responsible lending from that  
23 perspective is done. But through the process, before the application is  
24 sent to the bank, the broker will apply their responsible lending

**MELBOURNE PUBLIC HEARING**

1 requirements to that as part of, and they, as we interpret it, from a  
2 Connective point of view, is we, as the licence holder, should have our  
3 own responsible lending guidelines which may vary to a bank's  
4 responsible lending requirements, because it's our licence and we set  
5 that standard ourselves and that's the standard that our credit  
6 representatives will have to operate under.

7 MS CHESTER: So you're saying that that benchmark of responsible lending is  
8 something that your brokers apply as well?

9 MR HARON: Yes.

10 MS CHESTER: As required of lenders there. Okay. So maybe that then takes  
11 us to the use of bank statements. So, assume that you've gone through  
12 that first point of they qualify with lender A and now your brokers are  
13 going through the much more detailed application process and the  
14 verification and all the rest of it. Your submission did have some  
15 interesting adjectives around the use of the terms "bank statements" I  
16 think - - -

17 MR HARON: Bank statements as a tool, as opposed to bank statements as a  
18 document, maybe is that how you - - -

19 MS CHESTER: I think it was as a tool, so, so maybe you'd like to talk us  
20 through what role the bank statements play for your brokers in terms of  
21 getting an assessment of the financial circumstances of that individual  
22 consumer in the inquiry and in the verification stage?

23 MR HARON: I'll let Dan talk to this.

## MELBOURNE PUBLIC HEARING

1 MR OH: Yeah, look. I think I re-read my submission and maybe it came a bit  
2 stronger. Look, our standard expectation and as per the materials we've  
3 provided, is that our brokers obtain at least a minimum of three months'  
4 worth of bank statements. Now, it really depends on a case-by-case  
5 situation what they do with those bank statements. As a base minimum,  
6 we would expect that they verify items like income, they can see the  
7 income coming in, and the core expenses, the non-negotiables, the  
8 expenses that will appear month in, month out. And then otherwise it's  
9 there to use as a sanity check for around discretionary expenses, for  
10 example, we don't, I think the terminology, we don't expect them to do  
11 a full forensic audit of every single line item of the bank statements,  
12 unless the circumstances require that. And they would be at the,  
13 obviously the upper end of the risk spectrum.

14 As a side note, we're obviously, we've heavily explored some of  
15 the bank statement technology and we're just about to offer free  
16 subscription to all our credit representatives for one of those bank  
17 statement providers. So, we see the collection of those as very  
18 important. This technology provider will help categorise and help our  
19 brokers get from A to B a lot faster. But I think it has to stop at turning  
20 into a full audit. We do not prescribe that. We say, you should use  
21 them, you should use them to verify key items, but otherwise use them  
22 as a sanity check.

23 MR HARON: I'll just add there, Karen and Sean, that one of the key things  
24 there is helping brokers be more efficient to serve their customers by

## MELBOURNE PUBLIC HEARING

1 getting that categorisation done, and we heard earlier the variation of  
2 the categorisation requirements on each bank. So, if you've got a tool  
3 that can break into the categories, whether it's 12 or whether it's 22,  
4 then that helps them do that more efficiently and serve their customer  
5 more efficiently and work out faster and sooner whether or not a  
6 customer is going to qualify with a particular lender and not wasting  
7 time, the customer's time, their time, the bank's time, by submitting a  
8 loan to a bank that they're not going to approve.

9 MS CHESTER: So two follow-up questions then. So, you mentioned some use  
10 of greater technology with bank statements. We had some evidence  
11 earlier in our hearings in Sydney last week from a company, Tic:Toc,  
12 about, is it similar to what they're doing?

13 MR OH: Similar. Effectively, the broker can send a link to their customer, the  
14 customer puts in their details, and it pulls e-statements for the broker in  
15 a secure manner, so the broker has the e-statements readily at hand.  
16 And it also categorises the income and the expenses into an Excel  
17 spreadsheet. So at least they've got a first go at working through those  
18 line entries.

19 MR HUGHES: And is that tailored to the lender's requirements around the  
20 categorisation of those expenses?

21 MR HARON: Unfortunately not. Because obviously different lenders have  
22 different requirements, so we've asked the provider to just categorise  
23 them for LIXI.

24 MR HUGHES: Right.



## MELBOURNE PUBLIC HEARING

1 MS CHESTER: Okay. And so when the brokers, so assuming they're now in  
2 the world of getting that in a more sort of automated and more time  
3 effective sense, you mentioned before that you'd only expect  
4 verification for sort of basic core expenses and a sanity check on  
5 discretionary. Where do you draw the line in the sand between what's  
6 basic and core versus what's discretionary and across your brokers for  
7 individual customers?

8 MR HARON: Yeah, I mean, look, I mean, it's definitely an area we, we would  
9 love more guidance and maybe that's one of the areas of prescription in  
10 the rewrite to the responsible lending guidelines but, yeah, the guidance  
11 and I can point it out to you, it's things like, you know, housing costs,  
12 you know, insurance, utilities, transportation, food. We see those as the  
13 core expenses that, you know, hopefully should be the same month in,  
14 month out.

15 MS CHESTER: So they're the ones that verification's occurring for, but there's  
16 no verification for anything above and beyond those. It's for, just a  
17 sanity check, I think your words, in terms of what's in the bank  
18 statements?

19 MR HARON: I, I think you, you've got to overlay that with a, with a bit of a  
20 risk based approach. So, you know, you've got, you've got a borrower  
21 with an excellent credit history, a low risk, low LVR possibly loan,  
22 easily meet serviceability. I think you can take a much lighter-on  
23 approach than, you know, a first home buyer with, you know, extremely  
24 high LVR possibly, a few other risk factors that we would definitely

## MELBOURNE PUBLIC HEARING

1                   require our brokers or expect our brokers to do a much deeper dive into  
2                   those statements in those circumstances.

3           MS CHESTER: And we heard this morning from Consumer Action Law Centre  
4                   both here in Victoria and the WA group as well about sort of red flags  
5                   that can appear in bank statements on the expense side. What guidance  
6                   do you give to your brokers in terms of what those red flags might be  
7                   in terms of high consumer risks, as opposed to previous credit?

8           MR OH: Yeah, well that's an interesting – yeah, I mean, things like obviously  
9                   gambling, high entertainment. Sorry it's difficult off the top of my  
10                  head. We've produced an e-book actually which sets out a lot of those  
11                  categories that our brokers should keep an eye out for and, and that's  
12                  included in the materials.

13          MS CHESTER: And then under your guidance, which I'm assuming they all  
14                  follow if they want to be members of your platform, is that right?

15          MR OH: Yes.

16          MS CHESTER: So this is obligatory?

17          MR OH: Absolutely.

18          MS CHESTER: So then if they hit a red flag that you provided them with  
19                  guidance, what does that then require of them?

20          MR OH: We would expect them to ask more questions of their customer. If  
21                  there's a sensible or viable explanation, take notes, even to the point of  
22                  highlighting that to the lender upon submission of the application but if

## MELBOURNE PUBLIC HEARING

1                   there's no viable explanation then, you know, they may need to walk  
2                   away from the transaction.

3                   MR HUGHES: Do your brokers have discussions with their customers about  
4                   post-drawdown lifestyle changes that they might need to undertake?

5                   MR HARON: Yeah. We would expect that they do. I mean we, we're not  
6                   sitting alongside them unfortunately in every instance but we do see  
7                   through their note taking that they're asking the question in the, in our  
8                   fact-find, and then through the preliminary assessment process there's  
9                   questions in there that are asked about future objectives and  
10                  requirements on what they may need to do to adjust as part of that  
11                  process, you know? You know, without getting into, it's a contentious  
12                  issue but, you know, sometimes it comes up. You know, the customer  
13                  will willingly say, "We're thinking about planning a family. What's  
14                  available to us in terms of the product that will enable us to make our  
15                  additional repayments now so that we have a buffer when that occurs?"  
16                  So they are definitely the conversations that you do know that brokers  
17                  are undertaking in respect of those type of things as well. So, you know,  
18                  quickly building up a buffer and having access to those funds to help  
19                  make those repayments going forward.

20                  MR HUGHES: And would the broker, in having those conversations look to  
21                  delineate between expenses that could more easily be reduced or dealt  
22                  away with altogether, as opposed to ones which are likely to be  
23                  continuing?

## MELBOURNE PUBLIC HEARING

1 MR HARON: Absolutely. There might be a consolidation of debts as part of  
2 the process of putting the transaction together to bring the total cost of  
3 repayments down and make it a lot more affordable for them, the  
4 customer, going forward, make it more comfortable in that respect. One  
5 of the conversations that they, I don't think they do have and I'd like  
6 them to have a bit more often, is about customers going off and, you  
7 know, getting access to, to loans generally where, through point of sale,  
8 where there's exemptions in responsible lending, and the numbers of  
9 times we see customers getting into financial difficulty in their homes  
10 because of other lending activities that take place where there isn't a  
11 requirement to apply the responsible lending requirements, that's, that's  
12 a bit of a frustration I know for brokers and certainly for us.

13 MR HUGHES: So part of that consideration, for instance, of the lifestyle  
14 changes that might be required would your brokers ask them about buy  
15 now, pay later arrangements?

16 MR HARON: They would probably talk to them about that as part of a pre-  
17 approval process that we're looking at that and some of the flags that  
18 may occur there and say, "Look, you've got a number of payments to  
19 this particular provider," you know, "How much do you actually have  
20 outstanding there? You know that this can affect your credit quality  
21 and lenders looks sometimes dimly on this," because how did they  
22 know that that past behavi-. So the lenders have gone through a process  
23 where they're looking at past behaviour as an indication of future  
24 performance, and it isn't necessarily always the case but in the absence

**MELBOURNE PUBLIC HEARING**

1 of anything else, that's what they're applying that this particular point  
2 in time. Well, not all but a lot of them are, and that's what's  
3 troublesome for the brokers and what's significantly reducing a  
4 customer's borrowing capacity is because the banks will not forgive or  
5 disallow some of that discretionary spending because they're concerned  
6 that if they do that, they may have been seen to be not lending in a  
7 responsible manner.

8 MR HUGHES: And is that a category of expense or consideration that you think  
9 the revised guidance should be more prescriptive about?

10 MR HARON: Yes, absolutely. It would help a lot. You know, I'll give you one  
11 brief example that I was provided the details of by a broker last week,  
12 where the customer has saved for their first home, they've saved their  
13 money, they've saved \$73,000 cash over the last two and a half to three  
14 years. Just in the process of applying for a loan and about to commit to  
15 a contract, and in the last sort of two weeks of them [indistinct] they  
16 decided they needed to have a holiday. Have not had a holiday for  
17 weeks. Had a holiday, bought some clothes. It was considered  
18 particularly on analysing only that one month's worth of statements that  
19 that was their normal spending pattern and so therefore they didn't  
20 qualify, despite the fact that if you went back three years, you'd show  
21 that they didn't have a holiday, didn't spend money on anything to that  
22 nature, but that's where sometimes these discretionary expenses being  
23 picked up by the lenders are taking as a letter of the law and regardless  
24 of how hard you try to argue it, it's just not being overseen.

## MELBOURNE PUBLIC HEARING

1                   And we're also seeing that type of approach being applied by the  
2                   same banks in different ways, so again, it's been interpreted and, and  
3                   picked up by different assessors or different credit people depending on  
4                   how they're interpreting their own bank's credit policy. So it's just in  
5                   that state of flux and that state of uncertainty that we're seeing the banks  
6                   going through that process. And I think having that base level, and it's  
7                   up to each – we believe that there should be a scaled risk component to  
8                   where it is, but if we know that here is what has to be verified from both  
9                   an income/expense perspective and a strong categorisation around that,  
10                  that everyone in the industry applies, if under your licence or under your  
11                  lending guidelines you decide that people are a slightly higher risk, and  
12                  it might be a high LVR, it could be that more than 60 or 70 or 80 per  
13                  cent of their income is required to meet the servicing requirements,  
14                  above that we will want to ask more questions, we will want to make  
15                  sure that that discretionary spending will change. How do we confirm  
16                  that? Those questions are fine to be asked at that level but certainly  
17                  there needs to be a better, needs to be a better basis on which we can all  
18                  work from.

19                MS CHESTER: So what do you see – so you've identified a couple of sort of  
20                risk bases in terms of credit worthiness and serviceability. What would  
21                you see, regardless of those issues as sort of the, the de minimis that  
22                should be done by the broker and the lender in terms of responsible  
23                lending obligations in terms of inquiry and verification?

## MELBOURNE PUBLIC HEARING

1 MR HARON: Well, there's obviously credit history verification as well, as a  
2 key part of that as well, and that's, that's done and I think as we see,  
3 comprehensive credit and I'm sure this is, again, for RG 209, the  
4 review, this comprehensive credit reporting becomes more of the norm  
5 and more available to us and what that data does, how will that change  
6 responsible lending into something we're facing into? But in today's  
7 environment, from our perspective, the collection of three months'  
8 statements is a requirement. Now most, some lenders will only require  
9 one month's worth of statements but we want three because we're  
10 thinking we can get a picture of the customer's income and expenses  
11 through that process. You know, some expenses are done on a quarterly  
12 basis, so make sure you capture all of those, that information correctly.  
13 It also is easier to identify any considered discretionary expense that is  
14 more of a one-off as opposed to, you know, something that is happening  
15 every month. So if a lender does want to include a discretionary  
16 expense, they can see that over three months it is on average this much  
17 per month, not, it's not what might be an extreme, extreme amount in  
18 one particular month as well. So it just enables you to pick up a lot  
19 more information about the customer.

20 MR OH: Yeah. Just to add to that, I think obviously it's absolutely critical that  
21 in a sense a detailed conversation is had between the broker or the  
22 lender and their customer to understand needs and objectives. Without  
23 that conversation or, or that level of interaction, it's very difficult to  
24 determine exactly what's in the best interests of the customer. The, was  
25 it ABA or was it APRA, developed a broker interview guide, a

## MELBOURNE PUBLIC HEARING

1 standardised broker interview guide that it started with the big four  
2 lenders rolling out. We've, we've, I've included a copy of that in our  
3 materials. I mean, we're a big advocate of that, which is requiring the  
4 broker to effectively complete that form as part of the, the loan  
5 application, they get the customer to counter sign it and that's submitted  
6 as part of the loan application.

7 MS CHESTER: And on the issue of the pre- and post-loan where you might  
8 need to make an assumption, sorry, the brokers having a discussion  
9 about whether or not expenses might be able to adjust post-loan to see  
10 whether or not they would still be eligible under the responsible lending  
11 obligations of the lender, how do they get a sense and sensibility check  
12 about whether or not that post-loan reduction is feasible for that  
13 customer?

14 MR HARON: It's a very, again, it's very discretionary and you're relying on  
15 the customer to that extent. There's an element, if you go back to where  
16 lending started and back in the good 'ol days when you got taught to be  
17 a lender in a bank. One of the first things you got told about one of the  
18 requirements of lending is character and that character assessment.  
19 Now, in light of, and that's what you do get from doing face-to-face  
20 lending.

21 So, if you look at, there's three core things. There's character,  
22 capacity and collateral. And the collateral and the capacity are easy to  
23 determine in terms of [indistinct]. And so character assessment, that  
24 brokers are having to deal with when they're talking to the customer



## MELBOURNE PUBLIC HEARING

1 completing – they’re asking a lot of questions these days in the  
2 preliminary assessment and that fact-find. You know, you find out a  
3 lot about your customer. You build a certain level of rapport that you  
4 can either see that this is someone I think that is going to make those  
5 repayments or if it’s not, and more and more brokers are encouraged  
6 and do walk away from transactions if they feel that the customer is  
7 perhaps not giving them all the information and being honest.

8 And one of the reasons they do that is that there’s not much point  
9 doing a transaction and then having that customer either (a) go into  
10 arrears or (b) refinance or do something else because as we know  
11 brokers are subject to clawbacks on that commission. And not only  
12 that, if those events occur they don’t earn the trail commission. So they  
13 don’t earn a half of the money that they were due to earn on it. They’re  
14 better off cutting their losses and moving and finding a customer who’s  
15 going to tell them the truth and be honest with them.

16 MS CHESTER: I can’t recall, you might have mentioned this in your  
17 submission, but in doing the sense and sensibility check apart from  
18 establishing character and making those sort of interpersonal judgment  
19 calls, which I think we all know are fairly important, does the HEM  
20 measure play a role in terms of, is that a metric that your brokers might  
21 rely on in terms of working out a sense and sensibility check around, I  
22 know they’re going through the processes of expense verification, but  
23 pre- and post-loan?

**MELBOURNE PUBLIC HEARING**

1 MR HARON: Only as it applies to a lender that may be using it. That's really  
2 the only time they use it.

3 MR OH: I mean we don't out-and-out advocate the use of HEM. We would  
4 expect our brokers to do their own work as part of their fact-find and  
5 their own reasonable inquiries and verification. I assume, I think as part  
6 of the submission maybe the use of HEM for things like checking  
7 discretionary expenses could be of value, a valuable, you know, tool in  
8 the future.

9 MS CHESTER: And do you sort of collect metrics across the brokers that use  
10 your services in terms of what outcomes they have with the lenders in  
11 terms of, of the applications that they proceed to file – how many are  
12 accepted versus how many might ultimately be, go through an interview  
13 process or then be rejected?

14 MR HARON: Yeah, so you have a range that occurs there. But essentially there  
15 are three outcomes. It will be approved, it will be declined or it might  
16 be withdrawn or it doesn't proceed, so to speak. And they're sort of the  
17 key metrics that are definitely kept from us, from our perspective on  
18 brokers.

19 MS CHESTER: Oh you don't have line of vision over those metrics?

20 MR HARON: I could not tell you what they are. Look, your average, what is  
21 the average conversion in relation to [indistinct] application to  
22 approved, then approval to settlement. We have to sort of, it will vary  
23 from month to month and certainly over the last 12 months that has  
24 drifted significantly.

**MELBOURNE PUBLIC HEARING**

1 MR OH: About 75 per cent, would you say on submission, efficiency, and  
2 conversions - - -

3 MR HARON: Yep. Yeah.

4 MS CHESTER: So 75 per cent complete from whoa to go?

5 MR HARON: Oh no, that would be to approval.

6 MR OH: Approval.

7 MS CHESTER: Right.

8 MR HARON: Approval to settlement is generally sitting around 95 to 98 per  
9 cent. And what you've got to take into consideration, there's some  
10 refinances where they will get approved but then the customer won't  
11 proceed with the refinance that's mostly, it's not usually a purchase  
12 situation.

13 MS CHESTER: And do you also have a, do your brokers get a look through if  
14 there's an incidence of an application process that they were involved  
15 in that ultimately went to a lender that ultimately ended up with AFCA?

16 MR HARON: Ah hmm.

17 MS CHESTER: Do they have a look through as to – so do you know sort of the  
18 prevalence across your broker group for what might have trickled  
19 through over time to an AFCA complaint?

20 MR HARON: We'd know it from a CIO more specifically because AFCA's  
21 obviously been of more recent times. And - - -

**MELBOURNE PUBLIC HEARING**

1 MR OH: I mean we've been single digits in the past few years with CIO, that  
2 we've not been able to resolve through our internal dispute resolution.  
3 So I think there was about eight in 2017.

4 MS CHESTER: They're your metrics?

5 MR HARON: Our metrics, yeah.

6 MR OH: Oh, which I think CIO publish so on an annual basis so.

7 MR HARON: It was roughly less than 1 per cent from the CIO perspective. We  
8 have noticed that AFCA has certainly taken a different approach to  
9 where CIO was. They're taking on board a lot more of the complaints  
10 and dealing with a lot more complaints in more detail and taking them  
11 further than where, they were taken before by CIO, we're conscious of  
12 that. We've also listened to in terms of the application of the  
13 determinations thereto and looking at it in light that given that there's  
14 scope that they can go back to, you know, 1<sup>st</sup> of January, 2008, well, the  
15 NCCP didn't even come into place until 2011. So it's tricky how to  
16 apply current standards today to lending criteria back in that time frame  
17 too. So I think there's a bit to be worked through there and I'm sure  
18 AFCA's doing a lot of learning to understand that as well.

19 MS CHESTER: And we'll hear from them a little bit this afternoon. I'm  
20 conscious I'm probably taking you down an avenue that I shouldn't  
21 have.

22 MR HARON: No. That's all right.

23 MR HUGHES: Anything you wanted to add Mark or Daniel?

**MELBOURNE PUBLIC HEARING**

1 MR HARON: I think as has been raised before, if we've got a standard structure,  
2 I think you talked about, you know, we've got to tick a box down here  
3 and then there's a principle based on a risk and a scale-based situation,  
4 in terms of how the RG 209 would be applied and what changes would  
5 be made. Also making sure it's flexible enough to take into  
6 consideration technology changes that will make it useful and easier to  
7 meet some of those compliance standards. And scalable from the point  
8 of view that a lender may have the capacity to do that more so than  
9 perhaps a broker. And in fact I would say it would almost be the inverse  
10 in some situations because brokers are able to adopt technology a little  
11 bit quicker and some of the technology rather than the banks with their  
12 legacy systems which take a little while to catch up.

13 MR HUGHES: That's been very helpful. Thank you both for joining us today.

14 MR HARON: Thank you.

15 MR OH: Thank you.

16 MS CHESTER: Thank you.

17 MR HUGHES: And for your submission and for this bedtime reading for us as  
18 well.

## MELBOURNE PUBLIC HEARING

### 1 AUSTRALIAN FINANCE GROUP

2 MS CHESTER: I'd like to ask our next participants to join us from the  
3 Australian Finance Group, Mr Tony Bird and Mr Mark Hewitt.  
4 Gentlemen, thank you for joining us and I think there might have been  
5 a little bit of travel involved in that, so - - -

6 MR HEWITT: Yes, we're also from Perth.

7 MS CHESTER: Well, thank you for making the journey across. If you wouldn't  
8 mind just beginning by both stating your names and organisation and if  
9 you'd like to make some brief opening remarks.

10 MR HEWITT: Yes, certainly. My name's Mark Hewitt. I'm General Manager  
11 for Industry and Partnership Development, a role I've recently taken up.  
12 Prior to this role for 13 years I was General Manager for Broker and  
13 Residential with AFG.

14 MR BIRD: Tony Bird, Head of Risk and Compliance at AFG.

15 MS CHESTER: Did you want to make some brief opening remarks?

16 MR HEWITT: Yes, please.

17 MS CHESTER: And maybe in the brief opening remarks explain the business  
18 model?

19 MR HEWITT: Certainly.

20 MS CHESTER: Thank you.

21 MR HEWITT: AFG is also a retail aggregator. We have around 3,000 brokers  
22 spread all over the country. We're ASX listed. There's two main

## MELBOURNE PUBLIC HEARING

1 components to our business, our retail aggregation business which  
2 allows brokers to trade under their own individual names, from single-  
3 man operators right up to, you know, reasonably large businesses.  
4 Through that they can distribute home loans from our panel of  
5 50 residential lenders. We also offer small business and leasing  
6 services to our brokers as well as personal loans. AFG also has its own  
7 lending business, AFG Securities, which we fund through a variety of  
8 different avenues. We'd like to thank you for the opportunity to make  
9 the trip over here. We've enjoyed the discussion today. We think it's  
10 been a sensible discussion exploring all the avenues.

11 We take our responsible lending obligations very seriously, as do  
12 our brokers. One thing we are concerned about though is we've heard  
13 rightly about disadvantaged customers this morning and some of those  
14 awful circumstances that people have found themselves in. We're also  
15 worried about an over-forensic analytic approach to expenses and the  
16 impact that might have on perfectly creditworthy people. You know,  
17 we're seeing circumstances out there where customers are becoming  
18 essentially mortgage prisoners not able to move freely between loans  
19 because of the time and effort and intrusion that's going into the  
20 analytics of their expenses. We're very big believers in a person's past  
21 history, being in relation to adjusting and adapting to their  
22 commitments, being a great predictor of their future behaviour. And so  
23 we think any changes, and has been said several times this morning,  
24 need to be scalable and based on where the customer is in their life

## MELBOURNE PUBLIC HEARING

1 cycle, where the customer is in their borrowing cycle, you know, taking  
2 all those factors into account.

3 MS CHESTER: Well, thank you very much for those brief opening remarks.  
4 We might, before we get into issues of scalability and all the rest of it,  
5 maybe step back a moment. If you can just talk us through a little bit  
6 more the services and support that you provide to your broker network,  
7 and then what you see as sort of the value-add of the broker in the credit  
8 origination process, but also in terms of their involvement with  
9 compliance, given that there is different responsible lending obligations  
10 on the broker versus the lender.

11 MR HEWITT: One of AFG's competitive advantages early on, was the way our  
12 system was an end-to-end process for responsible lending requirements.  
13 So, a system that enables the broker to decipher different tolerances for  
14 our lending partners, their appetite in terms of expenses and  
15 requirements and objectives, and maps those through and documents  
16 them as part of the journey to arrive at, you know, an outcome that's  
17 not unsuitable for the client.

18 Brokers play a really important role, we believe, in that  
19 requirements and objectives piece. They are essentially the eyes and  
20 ears on the ground for our lending partners. They're responsible for  
21 making sure there's a match between those requirements and objectives  
22 and the end recommendation of the loan, you know, it's always the  
23 customer's end choice in terms of which lender they end up going with  
24 and it's always the lender that ends up approving that loan, not the



## MELBOURNE PUBLIC HEARING

1 broker. Making reasonable inquiries into the customer's commitments,  
2 their income levels, their expenses and we also use services like  
3 bankstatements.com to enable our brokers to gather that information.

4 We also think a credit check is a really important piece of the pie,  
5 and one of the things we've introduced in the last couple of years for  
6 our lenders is the ability to access the Veda service called Access Seeker  
7 to enable them to a credit check on our client. So it doesn't stamp the  
8 client's credit file and therefore adversely affect their credit score, but  
9 it gives, gives a history of the loan applications they've made and also  
10 any issues they've had in the past. And that's really important, we  
11 think, in being able to marry-off between the customer's commitments,  
12 or declared commitments, or commitments on their bank statement and  
13 what they've applied for previously.

14 MS CHESTER: So, Mark, then going to the role of the broker in that sort of  
15 gatekeeper, triage role. The first point then is deciding which of the  
16 lender panel might have the most appropriate product for the consumer.  
17 What's the benchmark, given that we've heard this morning and also  
18 from yourself a little, that there is variation in the requirements that  
19 different lenders have? So what benchmark do you see being sort of  
20 extrapolated across to the customer at that point in time?

21 MR HEWITT: It's not a precise science. So there's a number of factors, you  
22 know, a large number of factors that come into it. Before a broker can  
23 talk to a customer about product, they need to have a clear  
24 understanding of their requirements and objectives. One of those will

## MELBOURNE PUBLIC HEARING

1 be the amount that they can borrow from a particular bank and what  
2 their requirement is in terms of their borrowing needs. And so, as we've  
3 heard today, lenders apply expense categorisation in different ways,  
4 they also apply the use of the HEM tables in different ways. I saw an  
5 example on Friday, where a major lender has just updated their HEM  
6 table, and one of our brokers had a number of applications in train for  
7 this, with this particular lender, and in every case the loan now didn't  
8 qualify with that particular lender, and in one case the expenses went  
9 up, you know, a \$1,000 a month. So it's a dynamic moving picture.

10 So, yeah, how much, how much they can borrow from that  
11 particular lender. There's a whole lot of other things, like do they have  
12 a branch network. Do they have access to online banking? What is  
13 their service like? What is the time frame, do they need to settle this  
14 loan in a week, a month, in a year. What's that lender's history been  
15 like in the past in relation to rate reductions or rate increases? Are they,  
16 you know, a reliable lender. Has that, has that customer had a past  
17 history with that lender that makes them feel uncomfortable?

18 So, it's not an exact science, there's a lot that goes into the melting  
19 pot before the final decision's reached. And typically, brokers will take  
20 all this information into account and come up with a recommendation  
21 of three or four lenders and let the broker, sorry, let the customer make  
22 a selection.

23 MS CHESTER: And at that point in time when they've identified those three or  
24 four lenders, from their perspective, they've satisfied themselves that

## MELBOURNE PUBLIC HEARING

1 in-principle, they're likely that that lender will be likely to satisfy  
2 responsible lending obligations for that customer?

3 MR HEWITT: That's, that's right. So, our guidance is that our brokers need to  
4 take the higher of the declared living expenses, or HEM, and so we  
5 won't be recommending a lender where we didn't think it was likely  
6 that it wouldn't fit all parts of their credit appetite and credit policy and  
7 expenses categorisation and how they've judged just one part of it,  
8 there's a whole heap of other parts that come into a lender's credit  
9 appetite and policy.

10 Now, one of the things we see our role is, is help distilling that  
11 for the broker. We have 50 lenders on our panel for a reason and that  
12 is because they have varying appetites over time, they have different  
13 niches they play in and we offer a marketplace that is moving and it's  
14 volatile on occasions and we help the customers navigate their way  
15 through that.

16 MS CHESTER: So how would you explain to a customer, then, that we have  
17 sort of what's the reason for having different responsible lending  
18 requirements from the lender versus the broker, if that's effectively - -  
19 -

20 MR HEWITT: Well, I don't, I don't think I'm saying that we have different,  
21 sorry, that a lender has different responsible requirements to a broker.  
22 Well, a broker doesn't approve the loan. So a broker's responsible  
23 having the initial discussion, understanding what it is you're looking to  
24 try and achieve, conducting that preliminary assessment, and to avoid

## MELBOURNE PUBLIC HEARING

1 duplication it wouldn't make much sense, I don't think, from a  
2 productivity point of view, for the broker then to go to the extent of  
3 approving a loan for it to go to the bank for them to do exactly the same  
4 thing again.

5 So, you know, it's understood as industry practice, you know, that  
6 the broker's responsible for gathering that information, having that  
7 discussion, talking to the customer about any adjustments that may be  
8 needed to their spending pattern. And a really good example is the  
9 credit card ones we've heard today. You know, people might have 20  
10 or \$30,000 credit card limits, the banks will take in their servicing  
11 calculations regard those as being fully drawn. So it's quite common  
12 for our brokers to either recommend the cancellation totally of credit  
13 cards, or having those limits reduced significantly.

14 MS CHESTER: But you were saying earlier that effectively your brokers are  
15 taking what's required of the lender in terms of them discharging their  
16 responsible lending obligations of that individual consumer and making  
17 that assessment before saying, yes, this is an appropriate - - -

18 MR HEWITT: In relation to their application of the HEMs calculated how much  
19 they will actually lend a particular borrower.

20 MS CHESTER: Okay.

21 MR HEWITT: There is, there's variances there. So, we, you know, we run  
22 comparisons all the time and there's a scale there and it moves around  
23 depending on where lenders are in their appetite, in their book mix and  
24 a whole lot of other factors.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: So it's more bank solving for what quantum they might agree  
2 to loan meeting their responsible lending obligations and then how  
3 much the customer wants to borrow?

4 MR HEWITT: Yeah, that's one of the, one of the factors. One of the many  
5 factors.

6 MR BIRD: So another one might be the credit policy about what's acceptable  
7 income, so do they accept casual income, do they accept overseas  
8 income, do they accept probation periods and those types of things.

9 MS CHESTER: Okay. Where there's variation across lenders.

10 MR BIRD: Yes.

11 MS CHESTER: Yep.

12 MR HUGHES: In your submission, you talk about the test for substantial  
13 hardship. An indicator for that would be the sale of the residential  
14 home. Why do you think that's an appropriate test?

15 MR HEWITT: Well, everyone needs somewhere to live. So, if you have to sell  
16 your home and, you know, and that causes considerable inconvenience  
17 and most likely hardship for the family.

18 MR HUGHES: What say, if they don't own a home?

19 MR HEWITT: If they don't own a home, well, they won't need to sell it. Sorry.

20 MR HUGHES: No, but, I'm saying why, why is that the only test, in your view  
21 for substantial hardship, because it's. Let me rephrase it. It's a fairly

## MELBOURNE PUBLIC HEARING

1 extreme standard to go to. Is there not something further up the scale  
2 that you think could be considered as a test for substantial hardship?

3 MR BIRD: Yeah. We also mentioned the FCA in the UK's metric, which they  
4 talk about a basic quality of life. So we think that coincides nicely with  
5 where HEM is in terms of a floor. And hence in our expense  
6 categorisation, we also use the LIXI standards and we'll also take the  
7 higher of the customer declared expense or the HEM.

8 MR HUGHES: And when you look at that higher number, what sorts of  
9 expenses are you considering as being likely to be reduced or given  
10 away altogether in a post drawdown environment?

11 MR BIRD: So within the LIXI categories there are some discretionary ones in  
12 there, namely entertainment is probably the biggest one. So quite often  
13 someone will have quite high entertainment, eating out expenses prior  
14 to a loan and then obviously they're the sorts of things that can be  
15 reduced to a reasonable level. But our guidance to brokers is that they  
16 need to be making appropriate notes when they're having those  
17 conversations with the customers because those notes then show that  
18 they've actually made the inquiry and that they've done the verification.

19 MR HUGHES: So I think you referenced before the fact that you'd heard some  
20 of the sad stories from consumer representatives this morning and I  
21 think one of the statements that was made is that this is, for many of  
22 their customers or clients, it's not a question of trimming their sails or  
23 reducing post-loan drawdown expenditure. What do you say, going

## MELBOURNE PUBLIC HEARING

1 back then to your test for substantial hardship, should be the test for  
2 people like that?

3 MR HEWITT: Well, I mean, I think the income, important piece, there's two  
4 parts to the equation, what you're earning and what you're spending, so  
5 making sure that's properly tested. You know, you know, the other  
6 thing is people end up in those circumstances for a whole range of  
7 different things. You know, one of them, one of them may have been,  
8 the lending may not have been appropriate at the time, but there are  
9 whole heap of other factors that go into people ending up in situations  
10 where they shouldn't be. There's their health, there's the loss of a  
11 partner, there's loss of job, there's economic conditions. So, you know,  
12 and it's, it's very unfortunate when that occurs, but to attribute it to a  
13 broker and the say they've conducted their role, it's not 100 per cent  
14 accurate I don't think.

15 MR HUGHES: No. But I think we heard of a story where a broker-initiated  
16 loan took place where there was going to be no change to income and  
17 yet the applicant was six months pregnant.

18 MR BIRD: Right. There is, the question does specifically ask, "Do you expect  
19 your circumstances to change in the next six months?" So clearly that,  
20 that part of the process wasn't followed and neither, obviously, from  
21 the broker or from the customer's perspective as well.

22 MS CHESTER: You mentioned before that, for your 3,000 brokers there's a  
23 comparison of declared expenses and the HEM, and whichever is the

## MELBOURNE PUBLIC HEARING

1 highest is what goes through in the application form. Is that pre or post  
2 verification of the declared expenses with bank statements?

3 MR BIRD: So, so it's the actual lender that will use the greater of the two. So  
4 the, the broker will put forward the expense categories and LIXI  
5 categories. That will then be passed through to the lender who will then  
6 use that higher amount.

7 MS CHESTER: All right. But, so do your brokers have any line of vision over  
8 what that HEM amount might be when they're putting through the  
9 declared expenses?

10 MR HEWITT: In relation to the individual lenders' calculators, they're all  
11 inbuilt into our system. So they provide us those as they update them  
12 and we - - -

13 MS CHESTER: So they will know whether it's above or below?

14 MR HEWITT: Above the lenders' guidelines, yes.

15 MS CHESTER: Yes. No, I thought I had heard that correctly before.

16 MR HEWITT: Yep, yep.

17 MS CHESTER: Good. So across your brokers, then, what percentage of the  
18 expenses that are declared would be above or below the HEM? So  
19 maybe if I ask in a single question for a single metric, what percentage  
20 of the declared expenses would reside below the HEM that's relevant  
21 to them in the calculator that you provided?

22 MR HEWITT: For, the percentage over all applications?



**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: Yes.

2 MR HEWITT: Do you know the answer to that, Tony?

3 MR BIRD: It's, it's roughly 50 per cent and, and trending down over the last  
4 two years, I would say.

5 MR HEWITT: There's been a really big industry focus on, on that and recording  
6 the accuracy of those expenses and the reasonableness of them.

7 MS CHESTER: And so they're the declared expenses. Is that declared total  
8 expenses for that individual, the customer?

9 MR BIRD: Yep.

10 MR HEWITT: Yeah, it is

11 MR BIRD: Not, not including other commitments, though.

12 MS CHESTER: So I think we heard this morning some of the – we were very  
13 lucky to hear from Professor Guyonne Kalb from the Melbourne  
14 Institute. In terms of the guidance that's given, there's a whole bunch  
15 of expenses that are excluded from the HEM but are they included then  
16 in the total expenses that are being declared in the application?

17 MR HEWITT: Yes. We asked the, we asked the, the broker and the customer  
18 to project forward what their expenses will be once the loan is, you  
19 know, presumably approved.

20 MS CHESTER: So what is it – okay. So maybe question one, so of the things  
21 that aren't included in the HEM but they will be included in the total  
22 expenses declared, we've got things like housing costs, school fees, life

## MELBOURNE PUBLIC HEARING

1 insurance, accident insurance, super maintenance payments, lease  
2 payments, interest payments on loans. So they're not captured in the  
3 HEM but they are all expenses that would be captured in the total  
4 expenses?

5 MR BIRD: That's right. They're, you know, expenses relevant to the  
6 customer's individual circumstances.

7 MS CHESTER: Does that then suggest that if it's a HEM that's relevant for the  
8 customer, that 50 per cent being below the HEM would seem to be not  
9 a quite right metric? If it has included all of those other things of which,  
10 you know, I would have thought super and housing costs and lease  
11 payments and life insurance, they're all sorts of things that a lot of  
12 consumers would still be paying for. Does that then strike you as the  
13 50 per cent does look like a high number?

14 MR HEWITT: It's, it's a number that we're definitely working with our brokers  
15 on to try and improve.

16 MS CHESTER: But from your perspective, the HEM doesn't represent a sort of  
17 a significant – I think we heard that in the Sydney submissions from  
18 ARCA, they've suggested that the HEM could be considered to be like  
19 a significant hardship benchmark, whereas Sean asked you before about  
20 the one that you referenced in your submission. So would you view the  
21 HEM as a benchmark for significant hardship or is it more just a  
22 plausibility test for expenses?

23 MR HEWITT: Oh, a plausibility test I think.

## MELBOURNE PUBLIC HEARING

1 MR HUGHES: Can I ask about when you're speaking to your clients about their  
2 objectives for securing a loan, to what extent is that information that  
3 you then feed through to the lender?

4 MR HEWITT: Yeah, the industry came together probably about 12 months ago  
5 and developed a, what was called a broker interview guide and so this  
6 was to, you know, to focus on the customer's requirements and  
7 objectives, and lenders have adopted that generally in slightly different  
8 ways. Some have actually had it embedded into the, into the LIXI  
9 system that we, we talked about, or the online application lodgement  
10 system. Some have paper-based but, you know, it's now a requirement  
11 as part of that, you know, capture those objectives and requirements of  
12 circumstances, the time, the conversations around the need to adjust  
13 discretionary expenses to record the loan. So that's, that's something  
14 definitely the industry's stepped up on.

15 MR HUGHES: And would that discussion or that information fed through to  
16 the lender include an acknowledgment by the borrower that they do  
17 need to make an adjustment to lifestyle post-drawdown?

18 MR HEWITT: No, we would ask the broker to take notes if that discussion was  
19 had but there's, there's not a tick the box or something like that to say,  
20 "I acknowledge I need to reduce my expenses."

21 MR HUGHES: Right. And do you think there should be that level of  
22 acknowledgement?

23 MR HEWITT: I personally don't think it needs to be that prescriptive. As I've  
24 said, I think the, now a one-size-fits-all approach across a whole number

## MELBOURNE PUBLIC HEARING

1 of circumstances, I don't think's necessary. I believe it does need to be  
2 scaled depending on where the, where the customer is at the, at the  
3 particular point in time.

4 MR HUGHES: We also heard earlier today that by and large borrowers tend to  
5 overstate, or sorry understate their expenses. Does that same level of  
6 optimism apply to what they think their post-drawdown lifestyle would  
7 look like?

8 MR HEWITT: I suppose there's the potential of that but, yeah, when we talk  
9 about requirements and objectives, one of Australia's biggest  
10 motivators is to buy and own your own home, and it's an extremely  
11 strong motivator and people will forego a lot of things and a lot of  
12 pleasures in order to stay in their own home and keep their, their family  
13 under a roof. So, you know, I am a big believer in people with a proven  
14 history and of good character as we've heard before doing what is  
15 necessary to, to stay in their house.

16 MS CHESTER: Your submission also raised some concerns about our  
17 consultation paper, in particular around methods of their application  
18 and their use of technology. Would it be helpful to say that we – I think  
19 you might have had an interpretation that we were mandating those as  
20 opposed to pointing to them as some examples of what was available to  
21 be used, depending on what was considered to be reasonable by the  
22 lender.

23 MR HEWITT: We were going there to access an availability of different tools.  
24 So, you know, brokers and banks have access to different kinds of

## MELBOURNE PUBLIC HEARING

1 technology. And, you know, and where we are and the use of  
2 technology is a really interesting period but we're nowhere near, at the  
3 point where the technology's in a place where it can either [indistinct]  
4 correctly categorise things like expenses and put them in the right  
5 buckets. And, you know, some of those tools are expensive and brokers  
6 sometimes don't have access to those. Lenders also have access to  
7 different credit checking panels and different other databases that  
8 brokers don't necessarily have. So I think that might have been where  
9 we were going with that Tony, was it?

10 MR BIRD: Yep.

11 MS CHESTER: But if it's not mandated, it's just saying that these are available  
12 to be used - - -

13 MR HEWITT: Yep.

14 MS CHESTER: - - - then that doesn't pose you any concerns in terms of ASIC's  
15 guidance?

16 MR HEWITT: No, it doesn't. Because as I said, we've adopted the bank  
17 statements technology. The next part of our application of that will be  
18 to use the categorisation tools, and so to categorise using the LIXI  
19 categories, have that for our brokers so they can have the discussion. So  
20 I think, you know, that's a really important part of it. You know, based  
21 on your expenditure over the last 12 months, it says that you're going  
22 out to dinner four times a week. "I've just come back from an overseas  
23 holiday, we went out for lunch and dinner every night." I mean, to be  
24 able to have that discussion, compare the actual expenditure to what it

## MELBOURNE PUBLIC HEARING

1 needs to be to service the loan, make the appropriate notes, you know,  
2 as a basis for a discussion. But not the be all and end all in terms of  
3 determining whether that client with a terrific credit history on their  
4 third house should have access to that loan or not.

5 MS CHESTER: And what were the examples that we gave around verification  
6 that caused you concern? If they were to be mandated, not that they  
7 were, but if they were?

8 MR BIRD: It would have been the bank statements. So there's a few concerns  
9 with where the technology is at with bank statements. Open banking  
10 we're quite hopeful will bring in a whole new level of visibility and  
11 protection for customers. But there were some concerns around privacy  
12 matters. Particularly if it's a single borrower and they've got a joint  
13 transaction account. What does that mean for the other party who's not  
14 necessarily a party to the loan application? As well as some gaps in,  
15 customers can have quite complex financial situations with multiple  
16 bank accounts. Does that then mean the broker would need to get a  
17 bank statement on every single transaction account or other financial  
18 product that that customer has and therefore the cost of doing that could  
19 be quite prohibitive?

20 MS CHESTER: So but just to clarify at the moment, your brokers in terms of  
21 getting total expenses and then verifying those expenses, how do they  
22 do it at the moment?

23 MR HEWITT: Not at this stage, no. So we're expecting them to do some basic  
24 analysis of those. Talk to the customer about what they really spend.

## MELBOURNE PUBLIC HEARING

1 Use that as the basis for the application. But they're not doing a deep  
2 dive into the verification of those.

3 MS CHESTER: Okay. All right.

4 MR HUGHES: Did you have any closing remarks you wanted to make?

5 MR HEWITT: No, just thank you again for the opportunity. We really  
6 appreciated it. I just wouldn't mind just sharing an example with you  
7 of a customer I spoke with on Friday just around my point about  
8 mortgage prisoners. So I spoke to a client who had an investment loan  
9 with a bank. They weren't happy with the service they were receiving.  
10 They had good equity. They've had a relationship with that bank for  
11 20 years and not missed a beat. They wanted to go to another lender.  
12 They went to another lender who for a period of three months  
13 forensically analysed their credit card statements and their loan  
14 statements. Even pointing out items like a \$4.50 McDonald's coffee  
15 wanting to know if that was ongoing. And in the end - - -

16 MS CHESTER: Sorry, Mark, I missed the beginning. What sort of loan was  
17 this for?

18 MR HEWITT: It was an investment loan. You know, they were moving from,  
19 they actually wanted to move from interest only to P&I and to start, you  
20 know, paying off.

21 MR HUGHES: I'm sorry, I don't mean to interrupt you. But that's not the  
22 purpose of these hearings. I can see where you're going to go with this

## MELBOURNE PUBLIC HEARING

1 statement but this is about responsible lending and how it applies to  
2 residential loans.

3 MR HEWITT: It's a residential loan.

4 MR HUGHES: But for investment purposes.

5 MR HEWITT: Mmm.

6 MR HUGHES: Please continue but I - - -

7 MR HEWITT: No. Okay.

8 MR HUGHES: All right, well, thank you very much for making the trip over  
9 from the west. We very much appreciate your time and your  
10 submissions. Thank you.

11 MS CHESTER: Thank you, Tony. Thanks, Mark.

12 MR HUGHES: We will now adjourn for a brief meal break and we will be  
13 resuming with the Australian Financial Complaints Authority at 1.15  
14 sharp. Thank you.

15 **LUNCHEON ADJOURNMENT**



## MELBOURNE PUBLIC HEARING

### 1 AUSTRALIAN FINANCIAL COMPLAINTS AUTHORITY

2 MR HUGHES: All right, if everyone's ready we'll get started. It's now 1.15.

3 And we would like to welcome our colleagues from the Australian  
4 Financial Complaints Authority led by Mr David Locke, CEO and  
5 Chief Ombudsman. So, David, I might ask you to start off with an  
6 introduction to the panel that you have with us today just so we can get  
7 everybody's name on the transcript.

8 MR LOCKE: Yes. Good morning, good afternoon I should say and thank you  
9 very much for inviting AFCA to give evidence today. I'm joined by  
10 my colleagues, Evelyn Halls who is the Lead Ombudsman at AFCA for  
11 Banking and Finance. Mr Geoff Browne, who is the Lead Ombudsman  
12 of our work with small business, and also Mr Geoff Bant who is a  
13 Banking Ombudsman at AFCA and has been involved in this area for  
14 many years. If I may make a very brief opening statement.

15 We really welcome the opportunity to provide evidence on this  
16 important topic of responsible lending. AFCA is the independent  
17 external resolution scheme for the financial services industry and our  
18 role is to provide fair, free and independent resolution to disputes. We  
19 have a unique perspective we believe on the sector as we see complaints  
20 right across the financial services industry. We've been in operation  
21 now just over eight months since the 1<sup>st</sup> of November last year. We've  
22 already received during that period over 54,000 complaints and banks  
23 receive the most complaints of all financial institutions, 18,623  
24 complaints or about 34 per cent of our work. And that is followed by

## MELBOURNE PUBLIC HEARING

1 general insurance with 10,599 complaints, 20 per cent of the cases and  
2 other credit providers provide for 15 per cent of the complaints, 7,944  
3 matters.

4 The most complained about financial products were credit cards,  
5 followed by home loans and then personal loans. And about 6 per cent  
6 of all complaints, so just under 3,000 complaints, were from small  
7 businesses and of those 49 per cent were related to credit issues. We're  
8 looking today at responsible lending and during our first nine months  
9 of operation we've received 2,310 complaints about responsible  
10 lending and that includes small business as well as consumer lending.  
11 And this was an increase of about 52 per cent on what the predecessor  
12 schemes, FOS and CIO, received in the previous nine months before  
13 our establishment. So if we look at it overall, responsible lending  
14 complaints account for about 10 per cent of all complaints, credit  
15 complaints that we receive.

16 Responsible lending laws provide important consumer  
17 protections which should not unduly restrict access to credit. These  
18 laws are of course not intended to restrict lending but to ensure that the  
19 decision to lend is made responsibly. From our experience we've seen  
20 significant issues around responsible lending. We've seen cases where  
21 lenders failed to undertake even a basic level of inquiry into whether a  
22 loan met a consumer's objectives. We've also seen cases where lenders  
23 ignored clear red flags indicating the consumer would be unable to  
24 service the loan. What is clear from our work, is that the impact of

## MELBOURNE PUBLIC HEARING

1 irresponsible lending on consumers can be profound and it can cause  
2 real detriment. It can have a catastrophic impact on consumers and their  
3 lives can be destroyed. And I personally met with a number of  
4 consumers who have shown me the real impact that some of these  
5 decisions has had on them. And some of them are in really dire straits.

6 It's important we believe that there are rules and guidance in this  
7 space. It's important that there is compliance with those rules. And we  
8 believe it's important that those rules and guidance are not watered  
9 down. Given the broad terms in which the legislation's framed, we  
10 recognise the importance of ASIC providing guidance to industry to  
11 assist them to comply with their obligations, and we recognise the need  
12 to find an appropriate balance between providing clarity to industry and  
13 being overly prescriptive thereby limiting the flexibility to deal with a  
14 range of different scenarios. AFCA is in the process of preparing  
15 guidance on how we approach complaints about responsible lending  
16 and we anticipate that our approach will allow for greater flexibility to  
17 provide a remedy that is fair in all the circumstances of the particular  
18 case.

19 AFCA's jurisdiction requires us to make decisions based on what  
20 is fair in all the circumstances of the case. And we have to have regard  
21 to legal principles. We have to have regard to industry codes or  
22 guidance. We have to have regard to what a good industry practice  
23 looks like and previous decisions that may have been made by AFCA  
24 or the predecessor organisations. We are currently undertaking a

## MELBOURNE PUBLIC HEARING

1 fairness project developing a road map showing how AFCA will assess  
2 fair dealing, fair service and fair treatment in the delivery of financial  
3 products and services including internal dispute resolution and  
4 remediation process.

5 We believe though it is vitally important that our approach is fully  
6 aligned with ASIC's review of RG 209 and for that reason we do not  
7 propose to finalise our guidance until ASIC's review is complete. We  
8 think it's really important that there is clear alignments so there is no  
9 confusion for industry or for consumers. And we're happy to answer  
10 any questions that you may have today. That's perhaps all I'll say by  
11 opening.

12 MR HUGHES: Thank you, David, and thank you to you and your colleagues at  
13 such a senior level for joining us today. David, off the back of that  
14 opening comment, there's been some conflation in the public eye  
15 around the role that we each play, ASIC and AFCA, particularly when  
16 it comes to small business lending. The purpose of these hearings and  
17 our consultation is, one of the purposes is to confirm that the responsible  
18 lending guidance does not apply to small business lending.

19 MR LOCKE: Absolutely.

20 MR HUGHES: Can you just tell us what your role is in relation to dealing with  
21 complaints involving small business lending and how it differs from  
22 this process?

23 MS HALLS: Sure. So we definitely agree with the view expressed that the  
24 responsible lending guidance doesn't apply to small business and

## MELBOURNE PUBLIC HEARING

1 should be restricted to the consumer-based space. Our jurisdiction  
2 extends more broadly, so clearly we have jurisdiction to consider  
3 complaints from small business about lending. However, in doing so  
4 we consider there should be a clear distinction and we're looking to  
5 provide that in our revised approach documents.

6 That clear distinction between the expectations in relation to  
7 consumer lending and the expectations in relation to business lending.  
8 For example, we acknowledge that the use of the term "responsible  
9 lending" in both contexts is potentially confusing and therefore we  
10 propose to use alternative terminology. For example, appropriate  
11 lending in the context of small business lending. We also do think that  
12 in the context of small business lending it will be helpful to provide  
13 approach guidance for AFCA as to how we approach small business  
14 lending disputes and with the factors that we'll consider when we  
15 review those types of complaints. We recognise that those factors will  
16 be wider, different and more wideranging than the factors which would  
17 be relevant in the consumer space, and that often there will be a range  
18 of different issues that need to be considered and different information  
19 that needs to be obtained.

20 Particularly we think that our guidance in this space could be  
21 helpful in terms of illustrating some case studies for perhaps drawing  
22 distinctions between the acquisition of established businesses, lenders  
23 to support that, and in the start-up environment. For example,  
24 considering lending in the context of franchise arrangements. We think

## MELBOURNE PUBLIC HEARING

1                   that's some useful guidance around the approaches that could be taken  
2                   and the factors that could be considered in each of those different  
3                   scenarios could be a helpful aspect of providing further guidance.

4                   MR HUGHES: And in the work that you've been doing since inception, have  
5                   you seen any indication of confusion on the part of lenders as to where  
6                   this demarcation line is drawn?

7                   MS HALLS: I think we have seen concern expressed as to a potential blurring  
8                   and that's why we think it is important to distinguish and important to  
9                   provide clear guidance as to the differing factors which may come into  
10                  play because we think it's important to reflect the differing  
11                  circumstances of small business as compared to consumers. Having  
12                  said that, we also recognise that many small business operators will not  
13                  necessarily be sophisticated and therefore there still is the need for  
14                  ensuring that lenders do comply with the standard of a diligent and  
15                  prudent lender, which is reflected in common law and in the new  
16                  Banking Code of Practice.

17                 MR HUGHES: Right. Thank you, Evelyn.

18                 MS CHESTER: Just in terms of, I guess, the limbo bar delta between yourselves  
19                 and ourselves, we focused a bit on the small business. Just picking up,  
20                 David, on your opening remarks, where you also talked about there's  
21                 responsible lending legislative obligations, which is what the purpose  
22                 of our guidance is about, refreshing and updating that. And there's also  
23                 what you would consider to be the code requirements and best practice.

## MELBOURNE PUBLIC HEARING

1                   So, just on the code requirements and best practice. Am I right in  
2                   saying that that in itself is where we might be also seeing some  
3                   conflation and confusion between the limbo bar that we need to set as  
4                   part of the responsible lending guidelines, legislatively, and what you're  
5                   going to be requiring and articulating further in your guidance?

6                   MR LOCKE: Well, I think, we've been pretty clear when we've been talking to  
7                   small business and certainly talking to small business complainants  
8                   about the test that we have to apply. I mean, with small business  
9                   disputes as well, we have to look at what is fair in all the circumstances  
10                  of the case. We have to look at the duty on the lender, but we also have  
11                  to, as you say, look at what the codes may say with regards to small  
12                  business. So, I think that, that could be where some of the confusion  
13                  may be arising. But I think we've been pretty clear with - - -

14                 MS CHESTER: So, I was setting aside small business, sorry. Just in terms of  
15                 even what's required for consumer lending, there will be a difference,  
16                 because we're just looking at what the legislative obligations are versus  
17                 best practice - - -

18                 MR LOCKE: Absolutely.

19                 MS CHESTER: - - - and codes.

20                 MR LOCKE: Absolutely.

21                 MS CHESTER: And I just, I just wanted to draw that out as well, so [indistinct]

22                 MR LOCKE: Absolutely. I think we have complementary roles though, I don't  
23                 think they're conflicting, but our role clearly is to determine what is fair

## MELBOURNE PUBLIC HEARING

1 in all the circumstances of the case, we have to have regard to the law  
2 and, clearly, as the conduct regulator, we have regard to any guidance  
3 that you may issue with regard to how the law applies. But you're right,  
4 the test that we have to apply goes beyond that. We also have to look  
5 at the codes, we have to look at what good industry practice looks like.  
6 And really, the aim that we have, is to resolve these disputes to avoid  
7 further conflicts.

8 MS CHESTER: Yep. And, again, I think complementary is a really good way  
9 of describing it, and we also appreciate the efforts you're making with  
10 the sequencing as well. You also touched on in your opening remarks,  
11 David, and there were some really valuable metrics that you provided  
12 in the submission, around the nature of complaints that AFCA has, or  
13 the number of complaints that AFCA has received and the nature of  
14 them. And I think with responsible lending, you mentioned a metric  
15 which was consumer and small business, but I think somewhere in your  
16 submission, I may have read there's about 1,500 of that 2,310 were  
17 consumer-related responsible lending problems, I think 1,472,  
18 something like that. You mentioned that 721 of those have been closed.  
19 For those that may not know what the closed terminology means. That  
20 means that they've been resolved to your satisfaction. And so when  
21 you were talking before about some of the findings around red flags,  
22 was it to do with those closed cases that you were referring to?

23 MR LOCKE: That's certainly the case. So, what we're seeing with regard to  
24 the responsible lending cases is a real mixed picture. So we are seeing



## MELBOURNE PUBLIC HEARING

1                   certainly cases where there are clear red flags that have not been picked  
2                   up and appropriately addressed, or further inquiries made.

3           MS CHESTER: Okay.

4           MR LOCKE: And that's a part of that.

5           MS CHESTER: And what insights would they give us in terms of, I guess, the  
6                   nature of those complaints in terms of what we need to make sure that  
7                   are covered off with responsible lending obligations in our guidance.  
8                   Things that have become manifest to you in having gone through those  
9                   assessments that would then sort of translate across to our guidelines?

10          MR LOCKE: I may ask Evelyn who, Evelyn and Geoff, who deal with these  
11                   cases.

12          MS HALLS: So I think the main learning coming out of the cases that we've  
13                   looked at, is that while the current principles-based guidance is helpful,  
14                   there's potential useful, further illustrative examples, for example,  
15                   particular inquiries and verification that might be appropriate in  
16                   particular circumstances. For example, the proposed list of readily  
17                   available forms of verification that was attached to the consultation  
18                   paper. We thought that was a helpful example of enumerating the  
19                   various sources to which a lender could refer without making that  
20                   necessarily exclusive or prescriptive.

21                   We look at disputes on an individual basis. So, sometimes the  
22                   learnings coming out of that can be quite diverse. But where we see  
23                   particular issues arising is where we will often trigger a systemic issue

## MELBOURNE PUBLIC HEARING

1 investigation, which is another important part of our work. So, we have  
2 a number of open systemic issues in the responsible lending context. In  
3 terms of lenders, the types of issues that are being raised are, as you'd  
4 expect, issues with the conduct of serviceability assessments, issues  
5 around whether there's been any or adequate assessment of objectives  
6 and requirements, offering credit for an amount that's greater than  
7 requested, the use of false business declarations to bring credit outside  
8 the consumer regulated space. That's primarily around the lender  
9 complaints. Some of those don't progress to definite systemic issues  
10 but equally, even if they don't necessarily, often as part of our  
11 discussions with financial firms, they will agree to put in place more  
12 effective measures and to improve their policies and procedures.

13 We also have systemic issues open in relation to broker conduct.  
14 And some of the issues we see there are a failure to disclose conflicts  
15 or commissions, again, issues around conducting affordability  
16 assessments, assessments of particular information, not passing  
17 information on to lenders that they're aware of, not properly  
18 documenting discussions with consumers around, for example, their  
19 objectives and requirements. Again, the issue around business purpose  
20 declarations and also some allegations of misconduct or falsifying  
21 documents.

22 So that gives you, hopefully, a flavour of the kinds of issues that  
23 come out of our investigations. In some cases there may be concerns  
24 around the conduct of a particular individual. In some cases they may

## MELBOURNE PUBLIC HEARING

1 more be based around the policies and procedures that the relevant  
2 financial firm is applying.

3 MS CHESTER: Okay. And in terms of across the lender and the broker  
4 network, incidents of concentration versus this looks like it's  
5 industry-wide, getting a sense of that across the 1,472?

6 MS HALLS: Yeah, one of the difficulties we have, is that a lot of the complaints  
7 that we're considering now, they'll be quite a time lag, so because it  
8 may take time for an issue to become apparent and for then a complaint  
9 to be lodged. So, complaints we're looking at now actually extend over  
10 lending periods of five or six years, which makes it difficult. Probably  
11 we see a very mixed bag, as David said, we do see examples of good  
12 practice, we also see examples of inadequate practice. It's probably  
13 difficult to generalise, but we will often see, for example, that there may  
14 be issues with different industry participants. So, possibly, according  
15 to the size of the participant, the larger participants may have, you  
16 know, more effective systems in place, the smaller ones, you know, will  
17 struggle more. So, sometimes it's those differentiators rather than  
18 necessarily particular sectors or particular financial firms, where we see  
19 the issues arising.

20 MS CHESTER: Okay. I guess vintage may matter here as well. It'll be good  
21 to get a sense, and maybe a bit with Geoff's historical background,  
22 whether or not these sorts of issues, is there anything new here, or are  
23 these the sorts of things historically you would have heard in terms of  
24 the systemic or underlying problems that then contribute to what we

## MELBOURNE PUBLIC HEARING

1                   then have to deal with in terms of responsible lending and yourselves  
2                   in terms of complaints?

3                   MR BANT: Yeah, look. In my experience, these are issues that have occurred  
4                   in the past and continue to occur. So we see similar themes arising in  
5                   complaints that were lodged in predecessor schemes and now we're  
6                   seeing them again with AFCA. And, so, it's apparent that those issues,  
7                   they're live issues, and obviously, need addressing in due course.

8                   MS CHESTER: Okay. And, so, overall, and I know maybe the 1,472 is still a  
9                   relatively small denominator, it may not seem like that, but when you  
10                  look at how many loans are made across Australia. What's your sense  
11                  of how well are we, are the lenders going in terms of meeting at least  
12                  what we need to focus on, which is their responsible lending  
13                  obligations?

14                 MR LOCKE: I think there's real, I think there are real problems. I think it's a  
15                 very inconsistent picture. So, we're definitely seeing with some  
16                 lenders, some of the larger lenders, that there have been changes in  
17                 practice and some of that is coming through, it's very early days for us,  
18                 as Evelyn has said. But we're seeing some pretty poor practice still  
19                 going in this space. We think there's a real need for guidance and  
20                 there's a real need to expand the guidance in certain areas to provide  
21                 greater clarity. I think, overall, I think our sense is that it's too early to  
22                 say whether there's, you know, really positive train moving forward.  
23                 We think there still remains a live issue here and it was a live issue

## MELBOURNE PUBLIC HEARING

1 obviously in cases before the royal commission, we think that still needs  
2 to be addressed.

3 MR HUGHES: Your legacy jurisdiction's been extended back to in fact  
4 preceding the enactment of this legislation?

5 MR LOCKE: So that's right. So it, it is possible for an individual to, or a small  
6 business owner to bring a matter to AFCA if the issue that gave rise to  
7 the financial loss was on or after the 1<sup>st</sup> of January, 2008, and so that  
8 covers the whole period that the royal commission looked at, of course.  
9 That jurisdiction has only been in place since the 1<sup>st</sup> of July this year.  
10 The numbers that are coming through are very low. I think in the first,  
11 first two months, I think we had 250 complaints, so very low indeed.  
12 We think that that is because people are not aware of the jurisdiction  
13 and the expansion and we think many people are not even aware of the  
14 existence of AFCA.

15 So we think there's a big job to be done, either by the government  
16 or by ourselves, in terms of raising public awareness and ensuring that  
17 the public understand the ability to bring forward matters if they're  
18 within jurisdiction and if not previous been resolved. So we will be  
19 launching a national roadshow where we're going around the country  
20 from the 12<sup>th</sup> of September this year and we're intending to go to over  
21 70 locations, including regional Australia as well. We think it's  
22 important people understand that if there are issues that have not been  
23 properly heard that they can bring those matters to AFCA.

## MELBOURNE PUBLIC HEARING

1 MR HUGHES: And is it too early to conclude in terms of those 200 legacy  
2 complaints as to whether the conduct is of a scale that is more serious  
3 than what you've seen in terms of more recent complaints?

4 MR LOCKE: I think it's too early for us to assess really at this stage. What  
5 we're seeing is a very similar split in terms of banking and credit versus  
6 insurance and other, other product lines but more generally drawing  
7 conclusions, I think it's too early. Many of these matters we have  
8 referred back to financial firms who have 45 days in which to respond.  
9 So we're still at that very preliminary stage. But suddenly from  
10 research we have done, only three percent of the, of the public are aware  
11 of the existence of AFCA unprompted and when prompted and told  
12 about our role and our name, it's still only 18 per cent. So there's a big  
13 job to do in terms of making the public aware that we are the EDR  
14 scheme and what role we do play in this particular sector.

15 MR HUGHES: Thank you. In terms of the work that we're doing as part of this  
16 consultation process, how do you think that revisions to our guidance  
17 could support you and enable you to deal with complaints in this area  
18 more effectively?

19 MR LOCKE: Well, they are very important, any guidance issued by ASIC is  
20 very seriously looked at. Obviously we're doing training for all our  
21 staff but also in terms of the ombudsman adjudicators making  
22 determinations, they clearly look at the guidance in terms of  
23 interpretation of the, of the law and expectations as what good industry  
24 practice looks like. Evelyn may wish to provide more detail.

## MELBOURNE PUBLIC HEARING

1 MS HALLS: Yeah. And I think while, as David said, while the law imposes  
2 broadly expressed obligations, I think any guidance that gives greater  
3 clarity around the particular approaches which can be taken towards,  
4 well, might be reasonable inquiries and reasonable verification in  
5 particular circumstances, I think that will be helpful and particularly  
6 around ensuring or encouraging some consistency across industry  
7 practices to perhaps express that, oh, to address that wide range of  
8 variance in practice that we're seeing currently.

9 MR HUGHES: We've heard now, after a day and a half of hearings, some  
10 variance between participants as to what level of prescription we should  
11 go to in revising our guidance, and in fact a number of the larger lenders  
12 have also asked for additional prescription and particularly more  
13 detailed case studies. Do you think there are particular areas where we  
14 should be especially more prescriptive based on your experience?

15 MS HALLS: I think we, from our view, probably again, the illustrative case  
16 study approach may be more helpful and appropriate. I think - - -

17 MR LOCKE: I think guidance on the red flags as well and on further inquiries  
18 that should be made I think would be helpful.

19 MS HALLS: Yeah, I think just a range of broad options to go down those paths  
20 in relation to inquiries and verification, definitely it would be useful.  
21 Geoff, do you - - -

22 MR BANT: Yes. Look, I think certainly illustrative examples would assist, but  
23 there's probably three areas that I think could really help if we had  
24 guidance around, as we've said, what amounts to a reasonable inquiry

## MELBOURNE PUBLIC HEARING

1 as to someone's financial position and reasonable steps to verify. Also  
2 guidance around the concept of scalability, I think that would really  
3 help with guidance around the sort of level of inquiry depending on, for  
4 instance, the impact that the provision of credit might have on the  
5 customer. So that's two. The third one is really around the use of  
6 benchmarks for expenses and the level to which a credit provider would  
7 need to drill down into someone's expenses, and I think that those are  
8 probably the three that, that come to mind and would be very helpful to  
9 have regulatory guidance on.

10 MS CHESTER: Records and written assessment is an area we provided some  
11 further guidance.

12 MS HALLS: Yeah. And we thought the direction of the consultation paper in  
13 that regard was quite helpful in expounding what a written assessment  
14 might typically look like. We definitely find, in the cases that we see,  
15 that the record-keeping and the assessment, record of assessment, is  
16 often very limited and inadequate. So particularly when we're looking  
17 to understand retrospectively what assessment was carried out and how  
18 the conclusions were reached, we find that there's often very limited  
19 information that's actually retained in the files of financial firms and  
20 that makes it very difficult to determine whether actually that  
21 assessment was carried out on a, on a reasonable basis.

22 MS CHESTER: Geoff, in your three must-haves, one of them was around  
23 scalability. We hear different versions of scalability from different  
24 people. Some people talk about scalability in terms of being able to dial



## MELBOURNE PUBLIC HEARING

1 down what's required in terms of inquiry and verification depending on  
2 certain credit products, so personal loans other than SACCs, credit  
3 cards and some refinancing situations, yet then we hear from others  
4 where there might be red flags, that's dial it up, i.e. you should be  
5 making greater inquiry, greater verification. I guess it would be good  
6 to get your, AFCA's, sense about what circumstances, or do you think  
7 it would be appropriate for us to identify any lower standards that could  
8 be required, or where are you on the scalability perspective, I guess  
9 where I'm coming from?

10 MR BANT: Yeah, look, certainly our focus is on the impact that the provision  
11 of credit has on the particular customer. So when we assess the  
12 complaints, we'll be having a look case by case on the impact and it  
13 depends on other liabilities, other commitments, income. So I'd be  
14 reluctant to have dialling down on any of the current standards but  
15 certainly if there are red flags, then they shouldn't be ignored.

16 MS HALLS: And I think that's where we really share some of the concerns  
17 expressed by others that, that reducing the level on inquiry required on  
18 particular products may be inappropriate where those products are the  
19 ones that are used by some of the most vulnerable consumers and that  
20 would be one of our primary concerns around scalability.

21 MS CHESTER: So you're right, some have suggested do the risk-based  
22 assessment from the perspective of the product as opposed to the  
23 consumer's circumstances.

## MELBOURNE PUBLIC HEARING

1 MS HALLS: Yeah. And I suppose what we do learn from looking at the specific  
2 circumstances of each dispute is that in considering what's reasonable  
3 and appropriate, it's really necessary to look at that confluence of  
4 different features and factors of the lend. So to look at the product  
5 isolated from the circumstances of the consumer or the, or the need and  
6 objective of the usage of the funds only gives you one part of the  
7 picture, and that's perhaps why we see the illustrative guidance is so  
8 important because it really allows you to consider all of the different  
9 factors that come into play in determining what might be reasonable  
10 and appropriate.

11 MR LOCKE: You have to, you really do have to look at the individual consumer  
12 as well and see what the potential impact of that could be, and one of  
13 the reasons we've got concerns about scalability being used to scale  
14 down is also we feel that that may just provide almost get-out clauses  
15 really in respect of, in respect of the thresholds of inquiries that should  
16 be, should be provided. We do see challenge and push-back on this  
17 regularly. So we think having, having a, sort of, consistent standard  
18 that applies and scalability up where there are vulnerabilities or where  
19 there are particular risks. We, we understand there may be a situation  
20 where the, the lender has, you know, a strong pre-existing knowledge  
21 of the, of the borrower and actually the, the amounts being borrowed  
22 are very modest in respect of the serviceability of that individual. But  
23 we would very much see that as the exception, not the norm.

**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: Would one of the other exceptions be, and it's one that we need  
2 to think about as well in terms of trying to make sure that there is a  
3 healthy competitive dynamic in our financial system, that of the  
4 mortgage prisoner? So someone who does have a good track record,  
5 high income, serviceability fine but wanting to get a better deal on their  
6 mortgage and finding it - - -

7 MR LOCKE: But I don't think that actually what's required under this regime  
8 should hinder that. I don't think actually that making reasonable  
9 inquiries and verifying the serviceability issue should actually impact  
10 on that. So that's where I would, that's where I would question that. I,  
11 I, I think the principle that you're talking about of course is right and of  
12 course we want to ensure that, but this isn't particularly onerous, what's  
13 being expected. You're expected to make reasonable inquiries and  
14 you're expected to, you know, make a responsible decision with regard  
15 to the lending. That's really what we're looking at here, and some of  
16 the cases we see, there's such a paucity of information gathered and the  
17 decisions are hard to defend.

18 MR HUGHES: I suppose just we wanted to talk to you a bit about this whole  
19 concept of hardship, and in particular where consumers or borrowers  
20 may not fully appreciate what their post-drawdown lifestyle might look  
21 like and what assumptions are made about that. Is that something that  
22 has come through the complaints that you have been looking at?

23 MS HALLS: So we certainly have a significant financial hardship jurisdiction  
24 and we deal with those complaints through a particular process.

## MELBOURNE PUBLIC HEARING

1 Hardship complaints may, after further investigation, evolve into a  
2 responsible lending issue or those issues may be identified. Often when  
3 people initially come to AFCA they can't articulate what the issue that  
4 they're facing is, or they know they're in hardship but in terms of  
5 identifying the root cause of that, that's not something necessarily that  
6 can happen. Certainly when we undertake our assessment of complaints  
7 in the responsible lending space, we're very conscious to consider the  
8 assessment that could reasonably have been made at the time. Around,  
9 I guess, post-loan reduction, we would certainly support any reliance  
10 on such reduction being reflected in the assessment that's made and also  
11 expressly discussed with the borrower. We don't think it's appropriate  
12 necessarily to rely on that sort of assumption unless it's been very  
13 clearly committed to and outlined.

14 MR HUGHES: And do you think there's a place for some form of  
15 standardisation across the lending network as to what level of post-loan  
16 lifestyle consumers should be accepting or being prepared to  
17 acknowledge that's what their lifestyle is going to look like after  
18 they've drawn down the loan?

19 MS HALLS: Possibly, but I think you still need to consider the circumstances  
20 of the individual because that will vary significantly from case to case,  
21 obviously depending on the degree of surplus that they have after  
22 existing commitments and future liabilities are taken into account, but  
23 also in terms of their surrounding circumstances and the nature of their  
24 expenses. So some expenses, you know, and private school fees is an

## MELBOURNE PUBLIC HEARING

1 example, unusual health costs, supporting elderly parents, all those sorts  
2 of aspects, they may not actually be something that can be readily  
3 reduced. So while some broad kind of guideline may be helpful, we  
4 still think it's critical to actually look at any circumstances of the  
5 individual which may set them aside from making that a reasonable, a  
6 reasonable basis.

7 MR HUGHES: And do you think the role of the broker may be there to assist  
8 the borrower to challenge them on some of those assumptions and to  
9 test whether in fact they are realistic about what sorts of sacrifices or  
10 reductions in lifestyle may be required to afford the loan?

11 MS HALLS: Yeah, I think it's appropriate or we think it's appropriate that those  
12 assumptions are fully tested, whatever stage of the, I mean, it needs to  
13 be an assessment made both by the broker and by the lender, but we do  
14 think that definitely testing those assumptions to make sure that they  
15 are realistic and sustainable is a critical element of the process, rather  
16 than relying on an assumption that X per cent or Y per cent may be an  
17 appropriate and reasonable reduction post-loan.

18 MS CHESTER: Just one other quick follow-up question to the earlier metrics  
19 around complaints to date, and appreciate it's still early days in terms  
20 of penetration of understanding of AFCA's role. Across the systemic  
21 issues, you put them into the buckets of lender and broker issues. Was  
22 there any, I guess I'm just trying to get a sense again, across the breadth  
23 of the complaints that you've received, is there any insights around role  
24 of broker versus role of consumer going directly to the lender?

## MELBOURNE PUBLIC HEARING

1 MS HALLS: So we certainly see similar types of issues. We talked about before  
2 similar types of issues arise. Wherever there's an intermediary, there's  
3 the potential for additional issues to arise, so obviously there's the  
4 question about what's been passed on, what additional information was  
5 known. From an AFCA perspective, now being a one-stop shop where  
6 all financial firms are members gives us the ability now to actually deal  
7 with broker and lender complaints at the same time, which is quite  
8 helpful, because many complaints will involve both a lender and a  
9 broker, and to be able to look at those holistically is a very valuable  
10 process. Certainly one issue we see is that complainants are often very  
11 unclear about the role of the broker, and the understanding of agency  
12 and obligations and duties in that respect is something that is not very  
13 well understood by consumers at all, and therefore again often when  
14 they come to us they'll feel that something went wrong in the  
15 application process, but they won't easily be able to identify which  
16 party may or may not have been at fault.

17 MR LOCKE: Most of the cases don't involve brokers, so we can let you have,  
18 I can take on notice, some, some data with regard to what we're seeing  
19 and the numbers with regard to brokers and the sorts of issues, but  
20 they're often about the broker omitting to provide the lender with  
21 additional information provided by the borrower or misrepresenting the  
22 borrower's financial situation. So those are the most common issues  
23 that we see with regards to brokers, but it is very much a minority of  
24 the responsible lending matters that we're getting. But I'll take that on  
25 notice and provide it through to you.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: Thanks. That's very helpful, thank you.

2 MR HUGHES: I just had a couple of quick follow-up questions. The first is  
3 around the question of the sorts of people who come to AFCA,  
4 particularly in this space. We've heard this morning about some tragic  
5 cases involving people, you know, particularly vulnerable consumers  
6 or those in remote communities. Can you give us just a flavour of what  
7 your sort of typical complainant looks like, particularly when it comes  
8 to responsible lending-type cases? Is it more the mums and dad?

9 MR LOCKE: I haven't actually got it broken down. I can see what we can  
10 provide with regard to responsible lending matters. I think what we see  
11 is something like 59 per cent of people who are coming to us are men,  
12 about 41 per cent women. What we see is that a majority of people will  
13 be over the age of 40, and I think what you'll see is probably with AFCA  
14 at the moment a higher preponderance towards people who are  
15 educated, articulate and computer literate.

16 What I'm committed to doing is ensuring that AFCA gets out and  
17 ensures that its services are as accessible as it can possibly make those.  
18 I think we do have a lot of people who are contacting us who we do  
19 refer to financial counsellors, to legal advice services, because it's  
20 really apparent quite early on that there are significant vulnerabilities  
21 and they're going to need assistance to be able to use the process, which  
22 isn't ideal because I want the process to be useable by everybody,  
23 including some of the most vulnerable people.

## MELBOURNE PUBLIC HEARING

1                   So I think you're much more likely to use our service at the  
2                   moment, I'm ashamed to say, if English is your first language, if you're  
3                   well-educated and you're aware. You probably wouldn't even be aware  
4                   of us if you're not in those categories in many situations. So that, we're  
5                   a new organisation but we have a big task to increase the accessibility.  
6                   We do, we do of course get referrals from the community sector and  
7                   legal sector and people who are advocating on behalf of them. We  
8                   know with many cases they may be providing support in the  
9                   background, assisting people to come to us. But we think that there are  
10                  real challenges out there, a lot of which is probably at the moment  
11                  unmet by the EDR scheme and so that's a key priority for us.

12                MS HALLS: It does depend very much also on the nature of the product. So  
13                while we may see mums and dads in the home-lending space, when we  
14                look to credit cards, when we look to personal loans, when we look to  
15                motor vehicle finance, that is where we do see, start to see a much wider  
16                range of complainants, a much broader range of education, knowledge,  
17                understanding of financial products and also more people from non-  
18                English speaking backgrounds. So there's definitely a bit of a split  
19                between those kinds of product areas.

20                MR LOCKE: But I suspect most people wouldn't even know what responsible  
21                lending is. They won't define or have raised these issues at all. We've  
22                had just under, we've had about 4,000 financial hardship cases since  
23                we've been going, and again that seems to be increasing month on  
24                month, and it's a significant increase on what the predecessor



## MELBOURNE PUBLIC HEARING

1 organisations were getting. But it is often us that are identifying some  
2 of the vulnerabilities and issues, and these haven't always been  
3 presented to lenders, of course, because people don't want to  
4 necessarily share their personal circumstance or the break-up of their  
5 marriage or other issues. But often it's only really when the lenders are  
6 fully informed of the issue and particularly where we do conciliation  
7 hearings, as we very often do with regard to financial hardship matters,  
8 are we able to then get a satisfactory resolution.

9 MS CHESTER: It would be good to get a little bit of a sense of that from you  
10 because I think what we're hearing and seeing in some of the very good  
11 submissions that we get from the consumer groups, from the law centres  
12 and the like, they will give us examples of folk that we would not  
13 consider to be vulnerable consumers, but because of irresponsible  
14 lending had become vulnerable consumers. So people who are on, you  
15 know, we're talking six-figure salaries end up in a really inappropriate  
16 credit product. But the case studies they give us will be those that  
17 started off as vulnerable consumers, and so we're seeing sort of this  
18 bifurcated view but we're getting a sense that responsible lending is  
19 much more broader than that.

20 MR LOCKE: It is.

21 MS CHESTER: It's not just about vulnerable consumers at the beginning. It in  
22 and of itself can create it. So we're just trying to get a better sense of  
23 that. So to the extent that you could give us that through some of the  
24 cases that you've got, that would be really helpful.

## MELBOURNE PUBLIC HEARING

1 MR LOCKE: Well, we'll certainly look to, to do that.

2 MS CHESTER: Because you can see where that's going then in terms of the  
3 guidelines.

4 MR LOCKE: I can, yeah.

5 MS CHESTER: It's about red flags as opposed to – yeah.

6 MR LOCKE: Yeah.

7 MR HUGHES: And finally do you think the remedies for breaches of the  
8 responsible lending requirements are adequate or sufficient to deter  
9 misconduct?

10 MS HALLS: So I suppose our primary focus is on the remedies that we can  
11 provide for particular disputes and complainants in particular situations  
12 where we've found responsible lending. Certainly we're looking to  
13 broaden the scope and increase the flexibility of the remedies that we  
14 provide in that sense. More broadly, we'd be reluctant to put forward a  
15 strong view as to where the legislature should go with that. However,  
16 given the range of circumstances that we still see coming before us, we  
17 would suggest that indicates that perhaps there's not sufficient  
18 deterrent, and really including those circumstances where we see little  
19 attempt made to comply are probably some of the most disappointing.  
20 You can argue around the edges of what additional inquiry or  
21 verification should be undertaken, but it's probably most disappointing  
22 to us that we still see situations where really very little is done, little  
23 record is kept, et cetera, despite the obligations under law to undertake

## MELBOURNE PUBLIC HEARING

1 the assessment and then to also record it so that it can be provided on  
2 request.

3 MR HUGHES: Thank you. Did you have any closing remarks you'd like to  
4 make?

5 MR LOCKE: No, that's fine. Thank you very much.

6 MR HUGHES: Well, David, Geoff, Evelyn and Geoff, thank you so much for  
7 joining us and for your submissions and for answering our questions.  
8 Thank you.

9 MR LOCKE: Thank you.

10 MR HUGHES: Once AFCA has left, I'd like to invite Auscred (Lendi) to join  
11 the table, please.

## MELBOURNE PUBLIC HEARING

### AUSCRED (LENDI)

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MS CHESTER: Thank you, Martin and David. I'll just let you get settled there and once you have, maybe if you could just state your name and organisation, each of you respectively, for the purposes of the transcript recording, and if you'd like to make some brief opening remarks, and maybe in those opening remarks just a little bit about the Auscred (Lendi) business model would be helpful for those that may not be familiar with it.

MR HYMAN: Great. I'm David Hyman. I'm one of the founders and the managing director of the business.

MR LAM: Martin Lam, so I'm also one of the founders and I look after our technology and operations.

MR HYMAN: And to give a bit of an overview on the Lendi business, so we're an online home loan platform. You can think of us as an online mortgage broker, and really what we've sort of tried to do with our business is to build a service for consumers to access credit from, specifically in the home-lending space, from a panel of lenders in the Australian market. So we've got 37 different banks on the platform, and we've really built our experience around what we describe as a tech plus a human approach. So customers engage with us, they might see our advertising on TV. We're a retail brand. We also do a lot of online advertising. And they engage with us on the platform but they work with our home loan specialists or home loan consultants, who are all

## MELBOURNE PUBLIC HEARING

1 brokers working under our credit licence. Auscred Services is our  
2 credit licensee entity.

3 And really our focus has been around sort of using technology in  
4 a way that sort of allows us to raise the bar in a lot of these sorts of  
5 compliance-related matters. And so just want to obviously thank you  
6 for taking the time to hear us today. There's a few things that we sort  
7 of outlined in our submission. We didn't comment on all matters, and  
8 some of those matters we talked about – which I think we've heard a  
9 few people talk about today – are around a principles versus a  
10 prescriptive approach. We think that a principles-based approach will  
11 help continue innovation. There's a number of pieces of technology we  
12 use in our business that didn't exist three or four years ago and we think  
13 that using a principles-based approach will allow that innovation to  
14 continue over time. In addition to that, we'll also sort of seek some  
15 guidance around the scalability of inquiries in relation to sort of lower  
16 risk or higher risk borrowers, and happy to answer some of the  
17 questions that you've posed to us there.

18 MS CHESTER: Thank you very much. Well, turning then to your submission,  
19 and in particular on page 4 you talked about some findings of the royal  
20 commission, and you talked about that the Act does set out a two-step  
21 process that shouldn't be conflated into one step. It would be good for  
22 you to talk a little bit through what you were trying to get at there in  
23 terms of how you see that those two stages may have been conflated  
24 into one and what's happened to make that occur.

## MELBOURNE PUBLIC HEARING

1 MR LAM: I think for, so for us that was, part of that question was, or that answer  
2 was probably not key to our submission, and happy to talk about it. It  
3 was more about commentary for us on what we saw as, providing more  
4 background for us in the industry. We see the, I guess the, it's a  
5 distinction between the obligations for a credit assistance provider and  
6 a credit provider in the steps around inquiries, verification and final  
7 assessment. We see there being an asymmetry in those requirements  
8 between credit assistance providers and credit providers in the sense  
9 that credit providers are able to provide conditional approvals subject  
10 to verification, whereas credit assistance providers can't, and that's a  
11 key sort of concept we'd like to explore with the regulator.

12 MS CHESTER: And what further guidance are you looking for there? Or  
13 requirements.

14 MR LAM: Yeah, so in the regulatory guide I think there is a, a reference to  
15 suggestions and what bars a credit assistance provider needs to meet to  
16 provide a suggestion to a customer, and what we're looking for is  
17 further guidance on what "suggestion" means. Coming back to I guess  
18 a principles-based approach, what is the outcome, how do we better  
19 define "suggestion" [indistinct]. The, the plain English understanding  
20 of "suggestion" is very, very low bar, so it's a comparison of one with  
21 another, saying that it's better. You know, in a, in a world, I guess in a  
22 digital age where consumers come online to look for information from  
23 us, we'd like to be able to tell them, based on the information you've  
24 provided us – and we don't do this today, I want to be clear – this is

**MELBOURNE PUBLIC HEARING**

1                   what might be suitable for you or this product is better than this, but for  
2                   us to do that we need to complete all steps of inquiries and verification,  
3                   whereas a credit provider [indistinct] doesn't necessarily have the same  
4                   bars.

5                   MS CHESTER: So you're talking purely from the perspective of a broker,  
6                   though, aren't you?

7                   MR LAM: Correct.

8                   MS CHESTER: So what do you see as the steps that you're required to go  
9                   through at the moment versus where you want to get to?

10                  MR LAM: So for us to provide a suggestion to a consumer, first you must  
11                  inquire about their needs and objectives and their financial  
12                  circumstances, then you verify those, those objectives and certain  
13                  financial circumstances through pay slips, bank statements or whatever  
14                  other, other documents we need. Then you'd form an assessment, after  
15                  which you can provide a suggestion to a consumer. I guess from, from  
16                  our perspective and our engaging with consumers, a lot of consumers  
17                  come to us and they want to understand what it is that's available in the  
18                  market, what is better than what they currently have, and by actively  
19                  comparing those two things, by actively saying there is one thing that's  
20                  better than what you currently have, we're providing a suggestion and  
21                  we need to provide, we need to complete our verification prior to, to  
22                  doing that, and we think that that process reduces access for, for  
23                  consumers and isn't necessarily – we're looking for, for further  
24                  clarification between suggestion and actually recommendation,

## MELBOURNE PUBLIC HEARING

1 assisting the consumer into a credit product, and we don't think that's  
2 very, or we think it's clear today but we're looking for, I guess, further,  
3 further clarification as to the risk spectrum. So there are, that if we  
4 provide a suggestion to a consumer today based on their declaration,  
5 we're not assisting them into a credit contract, we're not recommending  
6 this is a credit contract you should proceed with, we're providing a  
7 comparison. We believe we should have the opportunity to do that.

8 MS CHESTER: Yes. I guess from what we've heard and what we've read in  
9 other submissions and what we've heard certainly this morning is that  
10 before you say this might, this is an appropriate product for you these  
11 two or three are worth you looking at before we then go through the  
12 final application process. You've had to have sort of past through what  
13 are the requirements of that lender and in doing that it does require you  
14 to make that sort of assessment about whether or not they're going to  
15 meet those requirements. So I'm not sure how you're taking [indistinct]

16 MR LAM: Absolutely. So we would still form an assessment. And how you  
17 perform that assessment whether that's manually through reading  
18 documents or through technology. That's probably not the basis but I  
19 am happy to talk about our process. The part we want to explore is  
20 whether verification is required for a suggestion. Verification is  
21 absolutely required for recommendation and assisting the consumer  
22 into a credit product. But suggesting that one thing is better for them  
23 than the other. Given their declaration we think that that's worthy of  
24 further discussion.



**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: And so you don't think that that's clear in the current guidance?

2 MR LAM: It is clear in the current guidance. And the current guidance requires  
3 me to verify prior to providing suggestion.

4 MR HUGHES: But can I just be clear that some of what you're encouraging us  
5 to do would require law reform. It's not something that we could  
6 address through revised guidance?

7 MR LAM: The definition for suggestion isn't provided in the Act. It's provided  
8 in I think RG 203 or 205. So not necessarily 209 but looking for further  
9 guidance and whether suggestion and recommendation are the same  
10 things I think maybe in ASIC's powers, but I'd be sort of looking to  
11 you guys for guidance.

12 MR HUGHES: In your submission you rightly summarised before that you're  
13 looking for a less prescriptive, more principles-based approach. We've  
14 heard from a number of major institutions that actually they're looking  
15 for more prescription particularly in relation to inquiry and verification  
16 processes. Can you tell us in an ideal world what our guidance would  
17 look like in terms of assisting you to define what is a high risk and what  
18 is a low risk customer?

19 MR LAM: We look at principles-based approach as being the basis on outcome  
20 tests. So that the same sort of conversation we just had around, what is  
21 the definition for suggestion? We look to the regulators to define better  
22 for us. What does substantial hardship mean? What are the tests that  
23 we need to meet?

**MELBOURNE PUBLIC HEARING**

1 MR HUGHES: No, sorry. Can you just answer the question about what's a  
2 high-risk customer, because that's something that you've raised  
3 specifically - - -

4 MR LAM: Okay, sorry. Yes.

5 MR HUGHES: - - - you had a risk-based approach, so what is a high-risk  
6 customer look like to you?

7 MR LAM: So I guess a high-risk customer for us is defined by both the customer  
8 themselves and the transaction type. High-risk customers, if we look at  
9 customer characteristics, we look at the level of indebtedness. So things  
10 like, you know, the amount of unsecured lending, we look at previous  
11 credit history, we look at types of income being high-risk or low-risk.  
12 In terms of sort of lending products or lending transaction, we look at  
13 obviously interest-only loans as being higher risk than principal and  
14 interest loans. We also have a transaction level. If there is no increase  
15 in overall credit limit or if there is a decrease in overall credit limit, we  
16 see those as low-risk. Apologies, I didn't understand the question  
17 before.

18 MR HUGHES: And in terms of that last indicator for risk – would you then  
19 match that against assurance regarding continuing income?

20 MR LAM: Would we then match that against assurance - - -

21 MR HUGHES: So you said if there's no increase or there is a reduction in credit  
22 being provided, would you also want to seek assurance that the

## MELBOURNE PUBLIC HEARING

1 borrower is still going to be receiving the income that they are receiving  
2 today?

3 MR LAM: Absolutely. Yeah, so we do that today because that's a requirement  
4 of ours or requirement as we understand of the regulatory guide. We'd  
5 look to get further clarity on it. Whether verification of income through  
6 payslips or whether you verify that the customer's able to meet the loan  
7 repayments based on the meeting of the current commitments through  
8 CCI and through their current bank statements, it's probably a point that  
9 we'd like to discuss.

10 MS CHESTER: Expenses and the HEM – we've heard different stories from  
11 different business models like yours about how that's done and whether  
12 it's compared to the HEM. In terms of what your lenders require, how  
13 does it work in terms of your assessment of the financial circumstances  
14 of the customer against total expenses in the role of HEM if at all?

15 MR LAM: Yeah. So I can talk a little bit about our current process. In our  
16 submission we don't speak a lot about, I guess, what we're looking for  
17 in the future. We haven't quite formed our opinion on that. We're  
18 looking for more guidance understanding, I guess the industry appetite  
19 and also the regulator's appetite. But I can talk to you through our  
20 current process.

21 MS CHESTER: No, that's fine. Because we've heard some practices this  
22 morning that were new to us so we just want to see - - -

23 MR LAM: So at the forefront consumers come online and we engage with them  
24 and one of our brokers will engage with the customer. The first part is

## MELBOURNE PUBLIC HEARING

1 a customer's declaration. And like other participants we've  
2 implemented the 12 or 13 categories through LIXI. For expenses, we  
3 capture commitment separately as liabilities and [indistinct] liabilities  
4 are. We then test that in our system against HEM. And if we find that  
5 the consumer, and we take a risk-based approach here, we will take –  
6 sorry, I want to clarify two things. We take a risk-based approach  
7 because it's our internal guidelines. We also then have to meet the  
8 lender's guidelines on top of that, so this is our internal assessment  
9 criteria. So if it's below HEM for us, we then require – so we do two  
10 tests, actually, sorry. There's a test to HEM. If the customer's  
11 declaration is below HEM, we require provision of bank statements.  
12 And we'll look at the bank statement for gross spending or I guess total  
13 spending and we look to understand whether the total spending is within  
14 10 per cent of what their declared is. And if it's not then it flags a  
15 manual review at a line item [indistinct].

16 We also check at the category level whether there's an omission  
17 of certain expenses. So, for example, if you have children and you've  
18 declared no childcare or education expenses, that also flags  
19 requirements for additional statements and verification. That's for a  
20 normal customer. I guess, for a good credit customer, we talked a little  
21 bit about high-risk before. For high-risk customers, so for example,  
22 they've got a previous bad credit conduct or we can see on their credit  
23 file they've got arrears or repayment history concerns, we then require  
24 additional statements across all of their ongoing debts. And we do a  
25 cash flow analysis. So we do a dollar-for-dollar view. How much cash

## MELBOURNE PUBLIC HEARING

1 is left over including all their commitments? Not just living expenses.  
2 And from that disposable income can they afford the loan, if we decide  
3 to proceed with the loan? So we've got a staged approach depending  
4 on the risk for the customer and the transaction type.

5 MS CHESTER: So across the cohort of customers, what percentage of them  
6 when they declare their total expenses would be under the HEM, which  
7 would then trigger looking at bank statements?

8 MR LAM: I don't have at the customer declaration level. We capture at loan  
9 applications. So we look at how many loan applications go to a lender,  
10 and that number is about 8 per cent for the last 90 days.

11 MS CHESTER: 8 per cent under HEM?

12 MR LAM: 8 per cent.

13 MS CHESTER: So we don't know what the raw number is in terms of what  
14 they've declared against their - - -

15 MR LAM: We allow consumers to come online to our platform and declare, and  
16 they don't necessarily need to apply for credit. Some of the data they  
17 input might be they're looking to scenario, looking to understand what  
18 products are available for. So we capture it when we look at the  
19 application itself, when the loan application is submitted. Because we  
20 believe that to be true data.

21 MS CHESTER: Maybe another way of asking the question is, what percentage  
22 of the customers do you end up having a look through to their bank  
23 statements?

## MELBOURNE PUBLIC HEARING

1 MR LAM: Okay. I need to check for that number. We can take that under  
2 notice that.

3 MS CHESTER: Okay, that would be helpful. One of the other issues that you  
4 touched on in your submission to us was around loan portability. It  
5 would be good to get a sense of what you think in the current guidance  
6 might act as an impediment to loan portability?

7 MR LAM: Sure. So the theme is similar for us. It's around providing, I guess,  
8 the right level of inquiry and verification for the right type of customer.  
9 And we spoke a little bit before around refinances and lower risk  
10 transactions in customers. So in our view there's a world where  
11 transactions actually decrease the overall risk of substantial hardship for  
12 a customer. And we see those as, I guess, a refinance, for example,  
13 where there's no increase in the remaining loan term, there's no  
14 increase in the credit limit, there's no change to the repayment type –  
15 so if it's principal and interest, it remains principal and interest – and it  
16 still meets the customer's needs and objectives.

17 We see transactions like that as pretty important to maintain in a  
18 competitive market. But right now what we're required to do for those  
19 customers is whether they're remaining with the same bank or not. So  
20 there are transactions where the consumer comes to us, they bank with  
21 bank A. They are looking for a better rate with bank A. But for me to  
22 provide that service to them I need to go through my inquiries, which is  
23 fine. And we believe that we should do that. But we also need to verify  
24 their income, the loan conduct and a list of other things before we

## MELBOURNE PUBLIC HEARING

1 provide a recommendation. We think that that process is overly  
2 onerous for what is otherwise a transaction that's decreasing a risk for  
3 the consumer.

4 MR HUGHES: And when did that process change?

5 MR LAM: That process hasn't changed. We think that the process should  
6 change.

7 MR HUGHES: And has it – so you're saying that it's been the same process for  
8 how long?

9 MR LAM: It's the same process for, as far as we're concerned, for as long as  
10 we've been operating.

11 MR HUGHES: And how long have you been operating?

12 MR LAM: About six and a half years.

13 MR HUGHES: Right. So before the royal commission?

14 MR LAM: Correct.

15 MR HUGHES: Okay.

16 MS CHESTER: Okay. And what part of the responsible lending obligations  
17 does that flow from, or is this a requirement of the lenders above and  
18 beyond?

19 MR LAM: It comes back again to the actual recommendation or suggestion and  
20 the prescription around verification. So we have to inquire about the  
21 consumers' financial circumstances, their needs and objectives, and  
22 verify before we form an assessment for a recommendation, and the

**MELBOURNE PUBLIC HEARING**

1 verification step is what we're looking to explore further where, where  
2 we're reducing risk for the consumer.

3 MR HYMAN: It's about the scalable nature of what those verifications would  
4 look like. So in a higher risk transaction going into further information  
5 to verify, and lower risk transactions, Martin just articulated, slightly  
6 lower steps to verify.

7 MS CHESTER: But you've just said before that not all of your processes require  
8 verification through the bank statements, you're going to find out what  
9 that percentage is?

10 MR LAM: Yes, yes, I will find out, yes. So, there are verification requirements  
11 outside of living expenses, there are verifications for income and for  
12 other things that are noted in the regulatory guide, I'd need to go to look  
13 them up and provide that information for you. But we're looking to - -  
14 -

15 MS CHESTER: So, really working out whether or not there's a change in the  
16 circumstances, material change in circumstances of the customer  
17 seeking to get a refinance?

18 MR LAM: Yes, we're aware that the consumer has not increased in their overall  
19 credit commitments. But we think that there is opportunity for us to  
20 explore. Is there, you know, are there different ways to verify income,  
21 can verification that the consumer is meeting their current credit  
22 commitments be enough for transactions like this. Can we, can we  
23 facilitate a less, a process where it's less onerous on the consumer to  
24 proceed where they're just getting a lower rate.



**MELBOURNE PUBLIC HEARING**

1 MR HUGHES: In terms of the lenders that you engage with, what level of  
2 variance is there in terms of their requirements to verify the borrower's  
3 details? I mean, do you find different requirements from different  
4 lenders?

5 MR LAM: Some lenders require, the answer is we see a degree of variance and  
6 it's customer-specific. There are some generic variances. Some lenders  
7 require things like rates notices and proof of ownership for refinance  
8 and some lenders don't, but then there are some more specific nuances  
9 around income types around particular customer types and things like  
10 that.

11 MS CHESTER: You mentioned earlier on and I sort of meant to follow up at  
12 the time but didn't. In your own assessment at the moment, you will  
13 identify what you consider to be lower risk customers and thus you can  
14 sort of scale down what's required of them with respect to bank  
15 statements and the like. What percentage of the client, the customer  
16 base coming through your mortgage brokers at the moment are  
17 considered to be in that sort of lower risk category?

18 MR LAM: So, what percentage of - - -

19 MR HYMAN: I think, I'm just trying to get. So the underlying principle around  
20 the sort of scalability approach from our perspective, is today we follow  
21 the guidelines as they exist in RG 209. We've identified a couple of  
22 areas where we think that there could be some extra clarity around the  
23 appropriateness of scalability in these lower risk environments. Today,  
24 we, we, and Martin articulated the process I think relatively specifically

## MELBOURNE PUBLIC HEARING

1 before, we maintain that level of inquiries and verification for all  
2 customers, because that's our interpretation of RG 209 today. For these  
3 lower risk customers, we're suggesting where there might be some  
4 additional clarity, we're not suggesting that we currently, today, have a  
5 lower bar for those customers.

6 MS CHESTER: Okay, all right, so I misunderstood earlier.

7 MR HYMAN: Yeah.

8 MS CHESTER: So, if you were to apply that the bar as you would like to apply  
9 it today across the cohort, what percentage of them to you think  
10 wouldn't meet your - - -

11 MR HYMAN: We have to take, yeah, we'd have to take that question on notice  
12 and come back to you.

13 MS CHESTER: So, I guess we're trying to work out the significance it is to  
14 your business and to the sort of the customer base that are coming  
15 through brokers, given it's effectively, I think, Sean's words not mine,  
16 something that might legislative reform?

17 MR HYMAN: Yeah, so I think a good - - -

18 MR LAM: And look we can only talk about generics here, but a good number  
19 of – and you've probably got the better number around, I guess flow  
20 between refinances and new purchase transactions, um - - -

21 MR HYMAN: Yeah, our split's about 70 per cent refinanced to 30 per cent  
22 purchasers, if we look at it across our customer base today.

**MELBOURNE PUBLIC HEARING**

1 MR LAM: To say, to look in detail around which one has increases in or changes  
2 to those credit structures or increases in credit commitment, we'd need  
3 to review but I think there would be a, or there is now a significant  
4 portion of them that we need to look in detail.

5 MS CHESTER: And so 70 per cent are refinance, but your category of low-risk  
6 refinance, so where there is no change in the circumstances, but you  
7 don't want to have to verify that, you just want a customer declaration?

8 MR LAM: We want to inquire, so talking about, I guess, a brave new world and  
9 what we would like to see is we'd like to make inquiries into the  
10 consumer's circumstances, so their needs and objectives and their  
11 financial circumstances can clarify what that is, what they need. Then  
12 post that, we'd look to verify their major commitments, their major  
13 commitment being their home loan. So we do that through two means.  
14 One is through statements, on their current home loan and the other one  
15 through a credit report for the lenders or for their credit commitments  
16 that have CCR. We'd look to see that there's no, no other sort of  
17 outstanding issues, they haven't had any changes in, you know, no  
18 increased inquiries with a small amount [indistinct] credit contracts and  
19 things like that. And off the back of that we that that verification allows  
20 us to understand that the customer is currently making their  
21 commitments and it's likely that they'll continue to be able to make  
22 their commitments given the commitments will be lower.

23 MR HUGHES: What percentage of your clients who are refinanced clients get  
24 knocked back by a lender, say in the last 12 months?

## MELBOURNE PUBLIC HEARING

1 MR HYMAN: So, we talked, I think we heard earlier about sort of the two stages  
2 of approvals, so the sort of submission to approval and approval to  
3 settlement. On a refinanced basis, we'd be sort of somewhere between  
4 70 and 80 per cent, depending on what the market is doing of refinance  
5 to approval. However, because we take our approach slightly  
6 differently in that we view our obligations as a credit assistance  
7 provider ahead of making a recommendation to a lender, we weed a lot  
8 of those customers out before we even recommend that they apply for  
9 a credit contract because either they don't meet those obligations. So,  
10 the number of customers who ultimately don't qualify for a credit  
11 contract will be higher than that.

12 MR HUGHES: So, typically, what would be the rationale for a rejection of a  
13 refinance application?

14 MR HYMAN: Either the customer doesn't want to go through the full in-depth  
15 verification steps and doesn't provide all the documentation around  
16 going through those verification steps, even if it is one of these sorts of  
17 refinance transactions. Or we'll take a few of those steps and maybe,  
18 there's been through the APRA macroprudential changes in the last sort  
19 of 36 months, sort of dating back to 2015, there are customers and I  
20 think you used the word "mortgage prisoners" before, there are  
21 customers who took out a loan in 2016 and 2017 where those changes  
22 have occurred and while they've made good repayment history, they  
23 have good conduct of their credit history and we can verify that using,

## MELBOURNE PUBLIC HEARING

1                   you know, third parties like Equifax, they no longer meet the  
2                   serviceability requirements by sort of 2 or 3 or 4 or 5 per cent.

3                   MR HUGHES: So those are the APRA changes.

4                   MR HYMAN: Correct.

5                   MR HUGHES: What it is about responsible lending guidance that's changed for  
6                   those customers?

7                   MR HYMAN: So going back to the really the three things that have to happen  
8                   before we recommend someone moves into a credit contract. The first  
9                   step is to make reasonable inquiries into their financial situation. The  
10                  second step is to make reasonable inquiries into their needs and  
11                  objectives. And the third is to verify steps one and two. What we're  
12                  talking about is the scalability of those verification steps, the various  
13                  levels of risk as it relates to responsible lending. And the changes that  
14                  have happened on the APRA side, while not part of the ASIC mandate,  
15                  have led to more and more customers sort of fitting into this category  
16                  of effectively being mortgage prisoners.

17                  MR HUGHES: Right.

18                  MS CHESTER: And which step given to the APRA issue, what step did that  
19                  come into the equation, the initial inquiries or [indistinct]

20                  MR LAM: So when we form assessments on a consumer, the assessment criteria  
21                  typically, three, three main categories, capacity, so serviceability as  
22                  David was mentioning, assessment on collateral, so is that security still  
23                  worth what it is, and is that an acceptable security for the bank today

## MELBOURNE PUBLIC HEARING

1 based on a number of factors. And the last one's around consumer  
2 credit conduct or their character.

3 So, there have been policy changes to all three of those, those  
4 things, and lender to lender it's slightly different. And there are  
5 instances in certain geographies where consumer – and it's not  
6 necessarily a responsible lending issue, it's more just changes in the  
7 landscape. Consumers have purchased a property and the property  
8 value has decreased and they are unable to change because their  
9 collateral is not suitable. There are instances where types of their  
10 income have changed or the way we view rental income specifically has  
11 changed and they no longer qualify for loans to be refinanced, even if  
12 there was no change to the total credit commitment. There are sort of  
13 very, very nuanced and specific instances, and we're happy to submit  
14 more information on that.

15 MR HUGHES: And just so I'm clear, you're saying these changes have been  
16 internal credit policy changes amongst the lenders that you deal with?

17 MR LAM: Correct. We're not the credit providers. We rely on it but there is a  
18 bar that we need to meet for the credit provider as well.

19 MR HUGHES: And just to be clear as well, you say that the processes that you  
20 think should be scaled down to deal with low-risk refinancing-type  
21 cases, these what you would regard as excessive, prescriptive  
22 requirements have existed prior to the royal commission? You said they  
23 hadn't changed?

**MELBOURNE PUBLIC HEARING**

1 MR LAM: So we're not looking to change the assessment criteria. We're  
2 looking for, I guess, further conversation around the verification  
3 requirements. We believe that assessment criterias are fit. We believe  
4 the inquiry requirements are fit.

5 MS CHESTER: One other metric, David, you mentioned before in the  
6 refi[nance] denominator that 70 or 80 per cent went through to final  
7 approval at the lender stage, but you importantly pointed out that you  
8 guys have weeded out, your brokers have weeded out many on the way  
9 through. What percentage are weeded out before it gets to the 100 per  
10 cent that goes through to the lender in an application process, of which  
11 70 or 80 per cent get approved?

12 MR HYMAN: It's a lot more difficult to put an explicit number on things that  
13 happen sort of further up in the process, because you have both our  
14 process, meaning that customers don't continue, and also customer  
15 intent levels changing. So it's, it would be difficult to put an exact  
16 number on that.

17 MS CHESTER: I just thought it might have been a material number given you  
18 seemed to suggest that 70 or 80 per cent might suggest something, but  
19 you've already weeded out a lot.

20 MR HUGHES: Yes, I don't know the exact number offhand. It would be hard  
21 to, to pinpoint specifically on the ones that we've weeded out versus the  
22 ones that we've asked further questions and the customer hasn't  
23 continued to the next step. The aggregate of that I know to be a material  
24 number but I don't have the exact number offhand.

**MELBOURNE PUBLIC HEARING**

1 MR HUGHES: It would be helpful if you could get that for us.

2 MR HYMAN: Sure.

3 MR HUGHES: Thank you very much.

4 MS CHESTER: That would be good.

5 MR HUGHES: Did you have any closing remarks you wanted to make?

6 MR LAM: I don't think so, other than, you know, feel free to reach out if you  
7 need any further information. We've obviously taken notes and I'll  
8 listen to the recording again just to make sure I haven't missed anything.

9 MR HUGHES: Great. Thanks, Martin. Thanks, David. We appreciate your  
10 time today and for putting a submission in as well.

11 MR HYMAN: Thank you very much. Appreciate it, cheers.

12 MS CHESTER: Thank you very much.

13 MR HUGHES: We've just going to adjourn the hearing briefly now until 2.35,  
14 at which time we'll invite representatives from National Australia Bank  
15 to join us. Thank you.

16 **SHORT ADJOURNMENT**



## MELBOURNE PUBLIC HEARING

### 1 NATIONAL AUSTRALIA BANK

2 MR HUGHES: Welcome back, everyone, and for the last session of this  
3 afternoon I would like to welcome from National Australia Bank, Mr  
4 Anthony Waldron and Mr Paul Riley. Gentlemen, would you like to  
5 introduce yourselves for the transcript, please?

6 MR RILEY: Good afternoon. I'm Paul Riley, I'm the General Manager of  
7 Home Lending.

8 MR WALDRON: And I'm Anthony Waldron, the Executive General Manager  
9 of Broker Partnerships.

10 MR HUGHES: Do you have an opening statement?

11 MR RILEY: Yes, please.

12 MR HUGHES: Please go ahead.

13 MR RILEY: First, good afternoon, Commissioners. NAB appreciates the  
14 opportunity to contribute further to your consultation on the responsible  
15 lending guide. The transparency of these hearings enables a broader  
16 conversation, which we welcome. We believe ASIC's review of  
17 responsible lending is timely and important. It comes at a point where  
18 critical changes are occurring in banking, particularly in relation to the  
19 greater use of data, increased competition and regulation. As we look  
20 towards the future of banking and continue to improve customer service  
21 and outcomes, it is vital that we get the policy and regulatory settings  
22 right. This is crucial for Australians and the economy. By lending to

## MELBOURNE PUBLIC HEARING

1 customers appropriately, we can help Australians to grow their wealth  
2 and support future generations.

3 As we highlighted in our written submission, when assessing a  
4 customer's loan application, we are seeking clarity on what is  
5 considered a reasonable standard and how we can scale that approach.  
6 We believe that this will improve the level of consistency across the  
7 industry which will lead to better customer outcomes. Ultimately this  
8 will provide customers confidence that no matter what lender they  
9 choose, they will be provided with a loan that is suitable for their needs.  
10 Once again, thank you for the opportunity to contribute today and we  
11 welcome your questions.

12 MR HUGHES: Thank you very much. Can you start off by telling us what  
13 information the NAB obtains for a standard home loan from its  
14 customers?

15 MR RILEY: So through the process we would understand their situation, their  
16 objectives, what they're looking for from it. We would then seek to  
17 understand their incomes, all the different types, liabilities and expenses  
18 and ask if there's any changes that they foresee coming in the future.

19 MR HUGHES: And would that information-gathering exercise differ depending  
20 on the nature of the product, for instance for non-home loan credit  
21 products?

22 MR RILEY: At its core, we try to understand all that information across all the  
23 different types of lending products but, and then we would scale our  
24 approach depending on the type of lending product within it. But each

## MELBOURNE PUBLIC HEARING

1 time, we do want to understand what is a customer's objectives, what  
2 are they looking for from that product, what's the income, their  
3 liabilities and their expense profile.

4 MR HUGHES: And then when you're thinking about some of the, say, credit  
5 risk factors, such as a debt-to-income ratio or patchy repayment history,  
6 what are the sorts of additional inquiries you would undertake for such  
7 a customer?

8 MR RILEY: So whenever we're going through the application, although it's the  
9 same process, obviously depending on that customer's profile, then we  
10 might, then we would choose to better understand some of the  
11 conditions and so in some of those scenarios where it may be a higher  
12 debt-to-income or their expenses are lower than what we would expect,  
13 then we would want to have a further conversation with the customer  
14 to really understand what's going on.

15 MR HUGHES: And how much of this process is automated?

16 MR RILEY: The, while we do use an automated scoring to understand their  
17 broad credit profile and so forth, we still spend a significant amount of  
18 time sitting with the customer, understanding their needs and also  
19 assessing their application all the way through. So it's only the credit  
20 decision in particular where there's a significant number that would be  
21 automated.

22 MR HUGHES: But in terms of the data capturing part of the assessment, is any  
23 of that automated?

## MELBOURNE PUBLIC HEARING

1 MR RILEY: We do have some automation that comes in. So for instance, in  
2 using comprehensive credit reporting, we would pull that data in and  
3 we would use that to then revalidate with the customer but the key  
4 components of understanding their income, reconfirming their  
5 liabilities and their expenses, we would still primarily ask the customer  
6 for that information.

7 MR HUGHES: And typically what would be a red flag for you in terms of this  
8 early preliminary assessment, what types of information would be red  
9 flags?

10 MR RILEY: So I think, at its core, no two customers are the same so we're,  
11 there's a series of different things we would tend to look for. So  
12 obviously through the process of the application, if we do see a higher  
13 debt-to-income ratio then we'll take a closer look at, at those pieces. If  
14 in scoring them we see poor bureau history then we would again, that  
15 would be a red flag to have a conversation with them. If we go through  
16 the expense part of the conversation and we see that their expenses are  
17 lower than, for instance, against HEM, then again we would take a  
18 closer look at that and talk to the customers through that process.

19 MR HUGHES: And do you have any metrics for us on loan application rejection  
20 rates over the last few years?

21 MR RILEY: In terms of, broadly we approve, final approval about 80 to 85 per  
22 cent of applications.

23 MR HUGHES: And has that changed over the last five years?

## MELBOURNE PUBLIC HEARING

1 MR RILEY: It has not changed materially. We've seen aspects of it move up  
2 and down and some of the factors change a little bit from time to time,  
3 but broadly speaking it's in that, it's been broadly in that range.

4 MR HUGHES: Right. Thank you. Karen?

5 MS CHESTER: Thanks. The troika of income indebtedness and expenses that  
6 you touched on in terms of understanding the financial circumstances  
7 of the customer, talk us through just in terms of what each of those three  
8 legs mean in terms of responsible lending obligations. If you could step  
9 us through each of them one by one in terms of inquiry and verification.

10 MR RILEY: So in terms of income what we're trying to do is trying to  
11 understand what's the customer's main sources of income or their total  
12 sets of income, and we would obviously capture that and ask for  
13 evidence. Oftentimes it would be most commonly around pay slips or  
14 that type of information in order to verify that piece.

15 On liabilities, we would go through, understand all the different  
16 types of debt that the customer may, may have, and then we would bring  
17 in information from the bureaus using comprehensive credit reporting  
18 in order to better understand what that profile is. Where we would see  
19 differences in those scenarios, then we would go back and ask the  
20 customer about where those, why those differences may be there, and,  
21 and in those situations customers may make choices about whether to  
22 keep that debt or to close it. And then finally - - -

**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: Sorry, when you were saying differences, differences in terms  
2 of what they may have declared to you versus what came through in the  
3 credit reporting?

4 MR RILEY: Correct. So that, that source of information has been really  
5 important and having good conversations with customers and helping  
6 them understand the totality of their liabilities. And then finally for  
7 expenses we go through and have a quality conversation with the  
8 customer. We use our categories to help prompt customers to think  
9 about all the different types of expenses that they have in there. Where  
10 we have data about it, then we would inform that, we would play back  
11 those, the expenses that we see, and where there are material  
12 differences, we would ask the customer more questions about what's  
13 going on in there, and we really see that as an opportunity as much for  
14 us to understand their expenses but also to help customers understand  
15 where they're spending money and the choices that they have about it.

16 MS CHESTER: And when you mentioned you first asked them to sort of go  
17 through a list of categories to, say, declare what they think their  
18 expenses are by those categories, are they the LIXI categories that  
19 we've heard of during the course of these hearings?

20 MR RILEY: They're not exclusively those categories but they're very similar,  
21 so we have a base set of 10 categories that we use, that we walk  
22 customers through.

23 MS CHESTER: And are there any expenses that are not covered by those 10  
24 categories?

**MELBOURNE PUBLIC HEARING**

1 MR RILEY: So we're in the process at the moment of – so we've got the 10  
2 base and then we've got the six additional ones that aren't captured  
3 through HEM that we then add on through the process.

4 MS CHESTER: So the 10 that you've got really sort of concord across to HEM,  
5 so they're sort of basic and some discretionary basic, I think they're  
6 called, expenses. And then you've got another six categories that you  
7 get from the customer as well. So really you've got 16 categories.

8 MR RILEY: That's right.

9 MS CHESTER: So 10 concord to HEM and six concord to non-HEM categories  
10 of expenses. And so across the 16, are there any expenses that might  
11 be captured in HES – the Household Expenditure Survey, which  
12 captures everything – that's not captured?

13 MR RILEY: Not that I'm aware of.

14 MS CHESTER: And in terms, so you've mentioned that you capture that data  
15 from the consumer, but not automated based on what you've said to my  
16 colleague Sean earlier, and then you verify it against some data in some  
17 instances. Talk us through what you mean by that.

18 MR RILEY: So for customers who have a wider set of banking with NAB, then  
19 what we would do is as it's going we would use that information to help  
20 inform what we think those, what that spend profile broadly looks like.

21 MS CHESTER: So is that like what folk would call bank statements? So against  
22 their bank statements you'd be assessing - - -

23 MR RILEY: For example.

**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: And is that automated?

2 MR RILEY: It's not completely at the moment. So we're in the process of using  
3 some new technology services to help better categorise it, to both help  
4 the banker in their conversation, but also to help assessors take a closer  
5 look at it.

6 MS CHESTER: And of, across the initial stage applications where people have  
7 declared their expenses, how many of them, through your own data  
8 verification, you're identifying that perhaps they'd gone under or over  
9 what you would consider to be their total expenses based on their bank  
10 statements with NAB? So, sorry, based on the verification that you're  
11 doing with bank statements, how much of their total expenses looked  
12 about right on the basis of what they declared.

13 MR RILEY: I really couldn't tell you at the moment what that rate is. We, we,  
14 I think there are obviously quite a few limitations that can come with  
15 bank statements, and you can categorise it in different ways, the types  
16 of expenses, and that's why we think it's really important to have the  
17 conversation with the customer, go through those categories, and really,  
18 and really break up where their expenses are into those types of  
19 categories, just to help a customer better understand what those pieces  
20 are.

21 MR WALDRON: So, Paul, if I might elaborate on that slightly. Sometimes  
22 when we're using bank statements, it can be difficult to actually  
23 categorise a transaction because it's for a, it might be for a Big W or an  
24 IGA, et cetera, where it's actually hard to get the category right. So it's



## MELBOURNE PUBLIC HEARING

1 sometimes very difficult to do that. It also doesn't pick up cash and  
2 other transactions they might be doing outside of the pure bank  
3 statement.

4 MS CHESTER: And we might come back to technology a little bit later in that  
5 area, because we've heard from other providers. So then for those that  
6 are non-NAB customers, where you don't have bank statements, what  
7 process do you go through to get sort of comfort and verification around  
8 their declared expenses?

9 MR RILEY: So what we would go through is that, obviously across the channels  
10 we have the same categories, and so we would go through, understand  
11 the customers' expenses through that process, then where there are  
12 differences or we would ensure that we kind of add comments and  
13 understand why the customer thinks it's going to be lower in the future.  
14 Once we have that total expenses, we then compare that to what the  
15 HEM would be and we take the higher of those two, and then what we  
16 would then do is then add in those six categories back in to then  
17 understand the full customer profile.

18 MS CHESTER: So, sorry, I may have misunderstood. Before you do the  
19 comparison to the HEM, what are you benchmarking the non-NAB  
20 customer against in terms of the plausibility of their expenses?

21 MR RILEY: We would just be going through and understanding what their  
22 expenses are, how they think about them. There would be some  
23 guidance that we give to understand, but what we're really trying to do  
24 is just understand where the customer believes those expenses are at.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: And then in terms of, so you've taken either the HEM versus  
2 the declared, based on what you considered to be appropriate and  
3 through bank statement reviews for those that are NAB customers.  
4 What percentage are NAB customers when you're, say, looking at  
5 mortgages at the moment? So how many are you able to do bank  
6 statement verification against?

7 MR RILEY: It's probably, oh, it would vary quite a bit across our channels.

8 MR WALDRON: Correct. It varies very markedly across channels, so if a  
9 customer's coming as an existing relationship with one of our  
10 proprietary bankers, it's sort of 60 to 70 have some relationship with us.  
11 What we don't know if it's complete relationships, so that makes it  
12 difficult at times, whereas if they're coming through a broker, then more  
13 likely about 75 per cent of those are new to bank.

14 MS CHESTER: That's helpful to know. So you've taken either the HEM or the  
15 expenses, depending on which is the higher, and then you've done the  
16 six categories for everybody as well, the six items that aren't covered  
17 by HEM, and added that in as well before you've then looked about  
18 whether or not that looks like it's, the metrics make sense for  
19 responsible lending?

20 MR RILEY: Correct. The reason, we're in the process of implementing it at the  
21 moment, so at the moment we've, in our proprietary channels, we've  
22 started putting in the six categories. We're rolling it out progressively  
23 over the next few months. But that is the approach we would take.

**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: Right. So this is a new approach that NAB is starting to take  
2 now in terms of total expenses by including what's not in the HEM?

3 MR RILEY: By now having the additional categories and adding them back,  
4 yeah.

5 MS CHESTER: So how did you take them into account before?

6 MR RILEY: So what we would try to do is broadly get them into some of those  
7 kind of 10 categories, but these were gaps that sometimes came through,  
8 and so what we're trying to do is really understand the customers within  
9 those, those base 10 categories. But by having more categories, it  
10 allows us just to kind of have a richer conversation and to be able to  
11 prompt the customer further about what the total amount of expenses  
12 could be.

13 MS CHESTER: Sorry, I might be misunderstanding this. So of the things that  
14 aren't covered in HEM, so like super, insurances, maintenance  
15 payments, housing costs, what else is there, there's a couple of others?

16 MR HUGHES: Life insurance.

17 MS CHESTER: Life insurance.

18 MR HUGHES: Private school fees.

19 MS CHESTER: Private school fees. How did you, you tried to shoehorn them  
20 into the 10 categories or how did they add into total expenses?

21 MR RILEY: We would try to capture it through those categories that we had to  
22 date. But obviously the extra categories just allows us to have a richer

## MELBOURNE PUBLIC HEARING

1 conversation with the customer about some of those costs that they  
2 might not otherwise have thought about before.

3 MR WALDRON: So in your answer, yes, we're essentially we're trying to  
4 shoehorn them into the existing categories at that point.

5 MS CHESTER: So you feel, historically you were covering them?

6 MR WALDRON: Yes, but now we're trying to ensure that we – one of the other  
7 things that you learn is as you go through in our categories there is just  
8 having a conversation with the customer about the extra categories also  
9 prompts better discussion. And that's really what we're trying to build  
10 to, is ensuring we cover, make sure we can cover that in all those  
11 discussions there, so - - -

12 MS CHESTER: So in case it wasn't prompted before, so maybe wasn't always  
13 been shoehorned in and maybe not always captured.

14 MR WALDRON: Yes, that's right. And you find that as you have that deeper  
15 discussion it certainly enabled that to occur.

16 MS CHESTER: All right. So that gets us to a point of where they are today.  
17 The other issue that we've been trying to get a better handle on is  
18 sometimes particularly with the home mortgage, there's, what expenses  
19 might be pre the loan versus post the loan? Just talk us through how  
20 that's done as part of the process and then how you get sort of  
21 comfortable around that in terms of the reasonableness or plausibility  
22 of a post-loan change to expenses?

## MELBOURNE PUBLIC HEARING

1 MR RILEY: So I think as we're going through the application process and we're  
2 sitting down with the customer to understand the expenses, as we've  
3 kind of highlighted, the categories are a great way to prompt it, and  
4 within that what we're really looking for is to understand what the  
5 customer's seeing today but what also the customer might think what  
6 cost they may have in the future.

7 And so what we would do within that is really look out for certain  
8 types of expenses. So, for instance, for a first home buyer who may be  
9 living at home at the moment, they won't have certain expenses like  
10 utilities or council rates and so forth. And so what we would do is as  
11 we're going through having understood what they're looking to do, the  
12 right type of loan, income liabilities into the expenses just to say, well  
13 then this is what you're seeing today but what are you reasonably going  
14 to have in the future? What are those types of ongoing?

15 And so what we would do is work with the customer to  
16 understand what those are likely to be and put them in, in the example  
17 of a first home buyer and equally for other sets of customers, depending  
18 on their circumstances, they'll say, what we're really trying to do is  
19 understand really what are their kind of, their core fixed, their core  
20 recurring expenses, and really, that helps us verify and understand what  
21 it is, what the profile is of the customer? But it also helps them  
22 understand what are the changes or what are their expenses? What are  
23 they going to, where would they like to spend their money moving  
24 forward as well?

**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: And so, say for your first home buyers, how many across that  
2 cohort would the process of making the ultimate decision be informed  
3 by an assumption or an agreed assumption following that discussion  
4 that there will be some reduction in expenses post-loan?

5 MR RILEY: I don't know what the rate would be. But I think what we're trying  
6 to do is work through what's reasonable at the time. We're really using  
7 the categories to help get a full picture of what the customer's expenses  
8 are likely to be rather than just within each of the individual line items.  
9 And so within that, what we would be trying to do is just work through  
10 with the customer – what are their expenses? What are they likely to  
11 be and ongoing? And obviously, some of that is based on what the  
12 customer's view will be of that. A lot of that will also be on what we  
13 think, what do we see in this space? Especially for fixed and for  
14 recurring expenses about what's reasonable and that.

15 MS CHESTER: So you don't have a metric for across the cohort of first home  
16 buyers? How many you might be – but there's an agreement that there  
17 will be a reduction in expenses post loan?

18 MR RILEY: I don't know what that rate is. What we're trying to do is just work  
19 with them to understand what their total expenses might be.

20 MS CHESTER: I think I understand what you're trying to do. I'm just trying  
21 to get an understanding of the order of magnitude of how often that  
22 would occur. You get comfort that in the discussions with the consumer  
23 that there will be reduction in expenses post-loan, but you don't know  
24 what the incidence of that is?

## MELBOURNE PUBLIC HEARING

1 MR RILEY: No. No.

2 MR WALDRON: We can obviously come back to you with that. We just don't  
3 have it off the top of our head.

4 MS CHESTER: That would be great. And I'm assuming it would be higher for  
5 first home buyers than it would be for others, but it would still occur for  
6 people looking to refinance or reshape their home mortgage?

7 MR RILEY: It can absolutely happen across different types of customer  
8 segments. I mean, I think the, what we're trying to do on it is really,  
9 you know, work through what we think is reasonable. What's the  
10 customer, what do they believe they will be? When we have the data,  
11 we try to inform that conversation where there are going to be material  
12 differences. We do deep dive or go back to the customer to really  
13 understand that piece. So it is something where it's that type of  
14 information's not readily available because it's something that we really  
15 work through with the bank, the banker will work through with the  
16 customer to really understand what that piece says. And then  
17 separately, when that application comes in for assessment, then a  
18 second person will go through those expenses again and make sure then  
19 that it is quite, that the expenses by themselves and as part of the overall  
20 application are reasonable.

21 MS CHESTER: So the person who makes the final call on it they're sort of  
22 really accountable then for saying, yes, this is reasonable or plausible,  
23 total expenses pre-loan versus total expenses post-loan, which got them  
24 across the line?

## MELBOURNE PUBLIC HEARING

1 MR RILEY: It would be fundamentally the assessment team would be the ones  
2 who would see it at the very end. And if they had questions, go back to  
3 the bank or go back to the customer to better understand why those  
4 differences occurred.

5 MS CHESTER: And what would guide their thinking there? I mean, apart from  
6 experience, what would guide their thinking in terms of what's  
7 reasonable and not what's not for that individual customer based on a  
8 form that's obviously come through to them in the system? Is it the  
9 percentage of discretionary expenses or I'm just trying to get a handle  
10 on how they make that judgment call?

11 MR RILEY: So I think that the assessors are a really highly skilled team who  
12 look at this continuously. And I think what they, they'd be looking for  
13 a couple of things. One of them is obviously based on their knowledge,  
14 looking at the applications about what's the, where is it reasonable that  
15 this expense would be at this level versus another one? But they would  
16 also be looking at it in the totality of the application as well.

17 MS CHESTER: Thank you.

18 MR HUGHES: In terms of that process that you just described, what level of  
19 supervision and oversight and training is provided to the people doing  
20 those assessments?

21 MR RILEY: So they would be, in terms of, I guess, just for clarity, do you mean  
22 for the bankers, the assessors or both?



## MELBOURNE PUBLIC HEARING

1 MR HUGHES: Both. How do you get assurance that you're meeting your  
2 obligations?

3 MR WALDRON: Well, there's probably two components to it. That if it's the  
4 banker who's actually having the discussion with the customer, there's  
5 a structured program that we have for our, what we call, home lending  
6 specialists that are there, which is around meeting all the responsible  
7 lending obligations, ensuring they're trained. They then have ongoing  
8 obligations to meet that, a certain number of hours per month and per  
9 annum around those obligations. They don't hold a, what we call, a  
10 delegated authority to make a decision. That sits with either the people  
11 who are actually in our operations functions or credit functions, if you  
12 like, that are there.

13 There are different levels of credit authority that individuals have  
14 and they have to go through and pass both an assessment process to  
15 ensure that they have those, and that's based on training and experience,  
16 that they go through to have those credit assessments raised in terms of  
17 the amount that they would have as a delegated authority that is there.  
18 That is then reviewed by other people. We do reviews of their files  
19 et cetera to ensure that they've made decisions that would be consistent  
20 with our credit appetite, by their leaders and people with higher  
21 authorities et cetera to do that. And we use, you know, obviously  
22 coaching et cetera to do that, as well as file review processes to ensure  
23 that they're making decisions in line with our credit appetite and so on  
24 that's there. So there's a number of steps to put over the top of it. Not

**MELBOURNE PUBLIC HEARING**

1 just the individual but then review in that process to ensure that we're  
2 getting to that decision and they've got to go through a structured  
3 learning process to receive their first delegated authority and then to get  
4 the correspondingly high ones as well.

5 MR HUGHES: And has that control framework being changed in any way in  
6 the last few years?

7 MR WALDRON: Certainly the training and the level of training that's been  
8 there is constantly evolving.

9 MR HUGHES: And has there been any reviews either by second line or by  
10 internal auditors as to the adequacy of that framework?

11 MR WALDRON: We've certainly had internal audits across those. I'd have to  
12 go and check exactly timing and so on on those. But we certainly have  
13 functions that review those.

14 MR HUGHES: And from your memory, would you know whether those were  
15 amber rated or red rated reviews?

16 MR WALDRON: Sorry, off the top of my head I'd need to go back and review.  
17 We've certainly got audits that have outstanding items right through our  
18 value chain around mortgages but, you know, that would include in  
19 continuing to raise the education standards.

20 MR HUGHES: In the Sydney hearings we heard from CBA and Bank of  
21 Queensland who indicated that 40 per cent of their portfolio declare  
22 their expenses at or below the HEM level. Whereas Athena, their

**MELBOURNE PUBLIC HEARING**

1 portfolio declared at only 11 per cent below, at or below. Where do you  
2 think NAB would sit in that range of respondents?

3 MR RILEY: In terms of we use HEM as the higher in one in three applications.

4 MR HUGHES: So, one in three would be at or below HEM?

5 MR RILEY: So, two-thirds of our applications through the conversation come  
6 back with a higher expense, a higher declared expense than what would  
7 be in HEM.

8 MR HUGHES: Okay. So you're at 66 per cent. Thank you. Okay.

9 MS CHESTER: So just so we're comparing apples and apples, and not apples  
10 and zebras here. So, your total expenses when compared against HEM,  
11 are they against the expenses in the 10 categories that concord across  
12 with HEM? Or do they include the additional six categories that HEM  
13 do not cover, when you're comparing the total expenses to what's under  
14 or above HEM? So your 33 per cent score card is under HEM?

15 MR RILEY: We would consider it essentially a like-for-like basis, so it's the 10  
16 key. The way we would put in the categories is essentially relates to  
17 the core components that are in the HEM, the equivalent HEM that we  
18 would use. So a like-for-like.

19 MS CHESTER: So then for those 33 per cent that fall below the HEM, you take  
20 them up to HEM, what happens with the other eight or nine expenses  
21 items that aren't covered in the HEM? So, your private school fees,  
22 your insurance, your superannuation, your maintenance, your housing  
23 costs. How do they then get added back in?

## MELBOURNE PUBLIC HEARING

1 MR RILEY: So, maybe to help just to step back just for a moment. So, in the  
2 scenario through that the conversation with the customer and capturing  
3 all of the expenses. Two out of three times those declared expenses  
4 through that conversation is higher than the HEM, then that's what we  
5 would use in that. And then, now what we would do is with some of  
6 those additional components is again then add them back in to get the  
7 total expenses. That's what we would then use in assessing the  
8 application and so forth in that.

9 MS CHESTER: But you said you're doing that going forward, the new six  
10 categories, you haven't done those historically?

11 MR RILEY: Well, we've put those in to, as we described earlier, we'd be  
12 capturing that through the 10 categories we had before. So we were  
13 always, we would think that we've been always fairly conservative in  
14 how we've approached this, because we rely on the conversation and  
15 through that conversation seen that more customers, at the end of that  
16 conversation, their declared expenses are much higher than what the  
17 HEM equivalent would have been.

18 MS CHESTER: Okay. So, let me, let me try and understand this. So, for 33 per  
19 cent of your mortgage customers today, you've taken them up to the  
20 HEM, added nothing else above that, so you've taken them up to the  
21 HEM. So, for a third of your customers today, you're assuming that  
22 their total expenses effectively don't include any of those excluded  
23 items, and we know that that's the modest, because it's the median of

**MELBOURNE PUBLIC HEARING**

1 the modest HEM for basic expenses and it's the 25<sup>th</sup> percentile for the  
2 non-basic expenses?

3 MR RILEY: That's right.

4 MS CHESTER: So I just want to make sure that that, it's clear that I'm  
5 understanding that correctly?

6 MR RILEY: I'm not sure I entirely follow your question or what you're seeking  
7 clarity.

8 MS CHESTER: So, there's a big gap between, when you're looking at total  
9 expenses, there's a big gap between what HEM covers and what total  
10 expenses are, those other different categories that you get guidance  
11 from the HEM tables that you need to make sure that you've covered  
12 them in terms of doing responsible lending obligations. But you've just  
13 said that 33 per cent of the folk for home mortgages are below HEM in  
14 their total declared expenses against your 10 categories, so you take  
15 them up to the HEM but you're not adding anything else on top of that  
16 for their total expenses, for assessing them through responsible lending  
17 obligations, because the other six categories aren't covered to date?

18 MR RILEY: But what we're, what we're trying to say is that although we've  
19 enriched the categories by adding the six, we're in the process of adding  
20 the six at the moment. Many of those costs we would have captured  
21 when we were going through the base, through the base 10, so different  
22 elements of that would have been captured as we were going through  
23 that. And so, if anything - - -

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: But you said the base 10 were in concordant with the HEM  
2 categories and didn't include [indistinct]

3 MR RILEY: In terms of broadly understanding somebody's expenses,  
4 understanding their super, understanding their education and so forth,  
5 it's really these additional ones are about enriching that even further.

6 MR HUGHES: But you said that the six are within the 10, the original 10, so  
7 why have you stripped them out?

8 MR RILEY: Because I think what we're trying to do is that, they're very  
9 deliberate sets of expenses, they're ones that in many ways by being  
10 able to have a wider set of expenses, we're able to ask more questions  
11 about it, we're able to stimulate the customer to think about some of  
12 these additional pieces than they might otherwise have thought about  
13 before. So it's just about helping us get, continue to have a better  
14 conversation, to ask better questions about a customer's expenses to get  
15 them to think more about them and therefore to document them that  
16 way.

17 MR HUGHES: Has the loan experience been that those categories have been  
18 more problematic for you in terms of both inquiry and verification?

19 MR RILEY: I don't think - - -

20 MR HUGHES: I'm just trying to understand why, I mean, having a better  
21 quality conversation doesn't really answer the question, to be frank.  
22 What we're trying to understand is, how does the creation or the

## MELBOURNE PUBLIC HEARING

1 establishment of the six additional categories discharge and satisfy your  
2 responsible lending obligations? Why did you do it?

3 MR RILEY: So we would do it, we think we were meeting our obligations  
4 before. What we're doing is continuing to look at ways in order to  
5 improve it even further. And so, what we're trying to do through having  
6 additional categories is again just trying to continue to say, what else,  
7 what are the other steps that we can take to continue to capture more  
8 information, to better understand what those expenses are to give  
9 customers more information about where their expenses are going on  
10 this, to lead to just better overall future outcomes.

11 MS CHESTER: You see where we're coming from, though, in terms of trying  
12 to understand, you've got a third below what's a pretty modest  
13 benchmark, and you're thinking you're capturing all the total expenses  
14 there. So, we're just trying to better understand what's been missing in  
15 action, if at all, based on what you've said this afternoon, Paul.

16 MR RILEY: I think what we're just trying to say, is not, we think this is just a  
17 really important space and we're trying to capture more information  
18 that we can about it and so it's not necessarily that just that we weren't  
19 capturing it before, it's just about how do we continue to kind of lift the  
20 bar in the space in terms of the types of questions we're asking, the  
21 types of information we're capturing, in order to just facilitate ensuring  
22 that we're doing a better job at helping customers.

23 MS CHESTER: Okay. Well, what might help us better then. So, say with the  
24 10 categories that would go to a new customer, so new to NAB, so you

## MELBOURNE PUBLIC HEARING

1 don't have any existing bank statements, and you're not going to do any  
2 verification on their expenses, they've got their 10 categories. Do they  
3 populate those in a document and then provide them to the banker? Or  
4 does the banker talk them through it and make it clear that, oh, we don't  
5 cover super in this category, we would like to pick up super, we don't  
6 cover private school fees in this category, but we want to cover private  
7 school fees. We don't cover any of your housing costs. We're just  
8 trying to understand how you're capturing it in 10 categories that don't  
9 capture it at the moment, and the processes?

10 MR RILEY: So the, the process would be that a banker would sit there, they  
11 might have shared it with the customer ahead of time, just to say, you  
12 know, here it is, we're going to have a talk about your expenses here in  
13 the categories and so forth. They would come in, and they would sit  
14 with the banker, and then they would essentially go through those  
15 categories, ask the customer what it is, if they've got the data for the  
16 existing customers, then they would also include it back in.

17 And, so, in that scenario if the banker was to see, for a NAB  
18 customer, that there was, for instance, you know, insurances going up,  
19 and they would ask what that insurance was for, then they would put in  
20 to the right categories. Equally if they were to see school fees on there  
21 and the school fees of the schools component was zero, then we would  
22 ask the question, which says, well, can you just help us understand,  
23 you've put this as at zero, but we see that it's a \$100, what's the



**MELBOURNE PUBLIC HEARING**

1 difference. And then they would update it sitting there with the  
2 customer based on the information they've got.

3 MS CHESTER: So, sorry, they'd have to see it on the bank statement to prompt  
4 it?

5 MR RILEY: They would go through each of the categories and understand the  
6 customer, if the customer had said zero for whatever reason but we  
7 could see that it was different, then we would ask further questions  
8 about it to better understand it.

9 MS CHESTER: But school fees isn't one of the 10 categories, because HEM  
10 doesn't cover school fees?

11 MR RILEY: Sorry, but we'd still go through, if we saw the customer's expenses,  
12 and we saw some of these expenses coming through, we'd want to  
13 better understand it and then relate it back.

14 MS CHESTER: So it's seeing the bank statements that have shown the school  
15 expenses. Okay. No, I think I can sort of piece it together. Sorry, it  
16 took me a while to get there. One of the things that you did ask us about  
17 in your submission, was wanting more guidance on how to verify  
18 variable expenses. It'd be good for us to get a better understanding of  
19 – I think we now better understand how you verify them to date, it's for  
20 existing customers where you've got bank statements, but what other  
21 further guidance were you looking for from us in the next round of the  
22 RG 209?

## MELBOURNE PUBLIC HEARING

1 MR RILEY: I think what we were trying to call out in there is that, so the  
2 expense conversation is really important. We do try to understand it.  
3 What we try to, within NAB we think where we spend a lot of time  
4 working through with customer is really about those fixed and those  
5 recurring expenses. We think those are really important sets of  
6 expenses because they're the key ones customers have and the ones that  
7 can be more difficult for a customer to adjust, and so we think it's really  
8 important to focus in on those ones. What we've called out is for some  
9 of the other expenses around discretionary and so forth, those can be far  
10 harder to understand, and we think that there are more considerations  
11 that needs to go into how to better use those in there, because, you  
12 know, some of the challenges we see in there would be issues, for  
13 instance, about the completeness of the data ahead of open banking.  
14 Secondly, how to categorise the expenses is something we've  
15 mentioned previously. There's lots of different ways you can expend,  
16 you can do the expenses. And what we're trying to really focus in on,  
17 what's that customer's future outgoing expenses, rather than just what  
18 their current expenses are today.

19 MR WALDRON: And if I might add to that, Paul, I think the other aspect of it  
20 also is when you are dealing in the broker community as well, so in my  
21 role I look after the lending side of our broking from a lend side, but  
22 also we own three aggregation businesses in PLAN, Choice and FAST,  
23 and what we do see in that example is that with different lenders they  
24 have different categorisation, et cetera, as well. That doesn't always  
25 make it easy for the broker to get it right because it can be different

## MELBOURNE PUBLIC HEARING

1 every single lender that you're going to, and therefore you may have  
2 slight variations in the way that, that comes through. Some form of  
3 standardisation in that space would help, and it may lead to an easier  
4 outcome for the customer as well, instead of getting different questions  
5 everywhere they go.

6 MS CHESTER: But you're not following the LIXI categories at the moment?

7 MR WALDRON: No, not completely, but there is a high overlap between what  
8 the LIXI standards are, and we are working with LIXI and they are  
9 looking at an expanded view of that as well.

10 MS CHESTER: So the industry isn't able to, from what we've heard today from  
11 yourselves and others, isn't able to get there on consistency for the  
12 brokers. You want us, through our guidance, to get you guys there, is  
13 that what we're hearing?

14 MR WALDRON: I think there's a need for greater consistency and working  
15 with LIXI ourselves to do that. They haven't set, you know, each of the  
16 lenders, et cetera, has a view on all of those components, and I think  
17 just a greater standardisation will assist in getting greater both  
18 productivity and ease for everybody in that chain, so the customer most  
19 importantly.

20 MS CHESTER: We've heard evidence from some of the smaller credit  
21 assistance providers like Tic:Toc and the like that are doing things with  
22 technology and data use. You've touched on where you're now looking  
23 at expanding your inquiry with six additional categories to pick up  
24 things that weren't previously covered by your inquiries with the 10

## MELBOURNE PUBLIC HEARING

1 categories that concorded across to HEM. That would have required  
2 new changes to systems, so there would have been a business case  
3 around that, so, one, what sort of was the business case? Was it looking  
4 at getting the 33 per cent down below HEM to a different number, or  
5 what was the metric to convince people further up the line that that was  
6 a good investment to your processes? And then I'll come back to some  
7 more automation in a moment.

8 MR RILEY: I think at its core we think data and using more data services is  
9 really important to not just kind of meeting our obligations but also  
10 about making the customer experience simpler and easier as well, and  
11 so when we made investments over the last few years about better using  
12 data, what we're trying to do is we're looking at it holistically in there,  
13 and so what we're trying to do is to say we want to, we know this is a  
14 really important issue for customers. We also know it can be a real pain  
15 point for customers, as well as for bankers, and that's the cornerstone  
16 of how we think about what the business case is in there. We want to  
17 make it easier, simpler, faster for customers, and also obviously kind of  
18 more accurate and simpler for us to, to use it. Those are the – that's  
19 how we think about what the business case is.

20 MS CHESTER: And we've heard some really good cases, mainly from smaller  
21 players, of better use of data and automation and selling those services  
22 to others, including large lenders. So over the last sort of five years,  
23 what significant investments has NAB made with respect to automation  
24 and the use of data with respect to credit provision? And maybe

## MELBOURNE PUBLIC HEARING

1 particularly just focusing on mortgages given that that's such an  
2 important part of your business.

3 MR RILEY: As I said, we think it's a really important component of our  
4 business, and so we've made several investments over the last few years  
5 in it. It can take several different forms, so we were one of the first  
6 main banks to really embrace comprehensive credit reporting and to  
7 have that data come in to us and to be actively using it, both on our  
8 home lending as well as on, in our consumer finance parts of the  
9 business. We also continue to look at different services and different  
10 providers that help us both capture more information but also to better  
11 categorise it, but also to be able to play it back more effectively to both  
12 bankers and customers.

13 So it's an area that we think's really important, but one that we  
14 continue to, to investigate further. I mean, I think when we've thought  
15 about it, our lessons from it are really twofold. I think the first one is  
16 that the data absolutely improves the conversation but it doesn't replace  
17 the conversation. It's still sitting with the customer, better  
18 understanding those expenses is still really important. And I think the  
19 second one is that we need to continue to be mindful about finding the  
20 right balance between the convenience that the services offer to  
21 customers, but also to the privacy considerations that go with that, and  
22 the fact that we always want customers to remain in full control of their  
23 data.

## MELBOURNE PUBLIC HEARING

1 MR HUGHES: So has the adoption of this data done anything to speed up the  
2 time from application to approval?

3 MR RILEY: I think there would be instances in which the technologies and the  
4 data services is absolutely speeding up elements of the application, and  
5 that's why we continue to look at how to invest in that and why, over  
6 the last few years, we've been able to maintain a fairly consistent,  
7 constant time in terms of being able to give customers that  
8 unconditional approval. We know that's a really important aspect, and  
9 while there have been new areas we've had to do, invest more in and  
10 spend more rigour kind of assessing applications. On the flip side  
11 we've been able to reduce it by using some of this automation and some  
12 of these technologies to ensure that the overall time for customers has  
13 remained roughly about the same.

14 MR HUGHES: So net net, the time for processing a loan application has stayed  
15 the same? Is that what you're saying?

16 MR WALDRON: The time to getting the decision for the customer has stayed  
17 about the same. In actual fact, there's probably more effort now than  
18 there has been in previous periods on the actual loan application  
19 process, as more complexity has been added into the process as well.  
20 But net net, the time to the customer has remained the same.

21 MR HUGHES: Great. Thank you. I just wanted to ask a question about the  
22 role of the broker, and in terms of origination, whether it be through  
23 proprietary process or through an intermediary, where do you see the  
24 broker adding the most value for (a) the customer and (b) the lender?

## MELBOURNE PUBLIC HEARING

1 MR WALDRON: Yeah, so, look, from a customer perspective, I think the key  
2 thing that brokers add value in is that they give access to credit and  
3 access to lenders it wouldn't be able to access if it wasn't for the broking  
4 community that's out there. And so that's one of the key things that  
5 that has brought. It's brought competition to the marketplace  
6 [indistinct] and I think that's one of the key drivers of competition in  
7 the mortgage market today has been access to distribution, which  
8 brokers provide. So I think that's the key point for that one.

9 In terms of, you know, from our own perspective what role do  
10 they play essentially for us, in receiving the application that we are  
11 getting from the brokers for the customer, you know, essentially whilst  
12 it's coming from them, we've still got to do all of our own verification  
13 and so on ourselves. I think the value that they're adding in that  
14 discussion is twofold. It's, as they're going through that preliminary  
15 assessment, as you described it earlier there, and getting to that decision  
16 on which lender to, to, the customer should, should be using, with the  
17 customer's own input, it's really the value that is being added is that  
18 they are doing a review from their experience and so on as well, so  
19 there's almost like a second check on that, even though we then need to  
20 review everything ourselves.

21 MR HUGHES: And do you see them performing a gatekeeper role?

22 MR WALDRON: I wouldn't describe it as a gatekeeper role at all. I'd see them  
23 as providing access.

**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: So access in terms of collating information and getting a  
2 distribution channel through to you, but not assessing suitability of  
3 product in doing that?

4 MR WALDRON: No, so when I'm saying access I mean, for example, if you  
5 look outside the big four, big five sort of lenders that we have, the only  
6 real access that most people would have to those lenders is because of  
7 the broking community. That's what I was meaning by access.

8 MR HUGHES: Did you have any closing remarks?

9 MR WALDRON: In closing, other than thank you for your time today and  
10 engaging us as part of it and if there is anything further we can provide,  
11 please let us know.

12 MS CHESTER: I think we left you some homework in terms of some of the  
13 metrics you were unable to help us with today. So if you could get back  
14 to us on that, that would be very much appreciated.

15 MR WALDRON: Absolutely.

16 MR HUGHES: Thank you very much for joining us and for your submission.



## MELBOURNE PUBLIC HEARING

1 ANZ

2 MR HUGHES: And now we look forward to inviting our final participants for  
3 the day, representatives from the ANZ, please. So, good afternoon,  
4 Kate Gibson and Dr Martin Joy. Would you like to introduce  
5 yourselves for the transcript and make any brief opening remarks. And  
6 I'm conscious we're running over time so forgive us for that.

7 MS GIBSON: Thank you. Kate Gibson, I'm the Managing Director for  
8 Consumer Banking at ANZ.

9 MR JOY: Martin Joy, Senior Manager for Public Policy.

10 MR HUGHES: Martin, we're going to ask you just to move your microphone a  
11 little closer to your mouth when you speak. Thank you very much. So  
12 in your consumer lending practices, what typically is the sorts of  
13 information that ANZ would gather from its customers for a standard  
14 home loan?

15 MS GIBSON: So with regards to the information we gather, I suppose, with  
16 regard to the nature of this consultation with respect to responsible  
17 lending particularly, we would seek to understand the customer's needs  
18 and objectives with respect to seeking the home loan. We would gather  
19 a standard set of information through the loan application which would  
20 include an understanding of their financial situation and then we would  
21 do the, getting the other documentation required by that application.

22 MR HUGHES: And would that vary, sorry, would that information assessment  
23 vary depending on the nature of the product sought, so non-home loans

## MELBOURNE PUBLIC HEARING

1 and what variability is introduced by red flags or other risk factors  
2 associated with the customer?

3 MS GIBSON: There's a couple of things there. If I could start perhaps with, in  
4 terms of the information we seek and how that varies, probably the area  
5 of variance – there's certain elements of that application that are very  
6 much standard but, for instance, in terms of loan purpose, I think the  
7 volume of questions that we would put to a customer who was seeking  
8 a home loan for instance and the nature of those questions about what  
9 they are seeking in terms of features of the product, would, would vary  
10 because the product features vary between that and, for instance, a  
11 credit card. In terms of the questions around red flags, I think with each,  
12 when we're looking at a loan application, if we see red flags and those,  
13 you know, those, there can be a range of red flags, but they would  
14 normally prompt us to, you know, inquire further of the customer or  
15 seek to understand what was behind those. You know, the sorts of  
16 things we're talking about here is if, for instance, we saw through our  
17 review of CCR data, if we saw undisclosed liabilities that the customer  
18 hadn't brought to our attention, that would be a reason, you know, for  
19 us to make further inquiry.

20 MR HUGHES: And at what stage in the assessment process do you move from  
21 an automated data collation activity into one that's more tailored to the,  
22 to the credit risk score that the particular customer presents for you?

23 MS GIBSON: I think I would characterise the – I'm not sure I would  
24 characterise our data collection as automated. We have a loan

## MELBOURNE PUBLIC HEARING

1 application form that we get a customer to fill in, that could be, they  
2 may have sourced that before coming in to talk to a lender, for instance,  
3 in the case of a home loan appointment and taken some steps to  
4 complete it or it might be completed in discussion with the lender. The  
5 automation, the automated checks is something that happens after the  
6 loan application has been submitted.

7 MR HUGHES: So it's a verification tool, the automation?

8 MS GIBSON: No. I would, I would say that the automation had, there are  
9 certain points in the process where there are automated checks, be that  
10 a call out to a CCR data fee, for instance, be that, you know, the way be  
11 might look at some rules around what level of valuation or what type of  
12 valuation we would seek for the sort of property that was being sought  
13 to be secured by the loan. That's more what I was referring to.

14 MR HUGHES: And for a non-ANZ customer, how would that process change?

15 MS GIBSON: So in terms of if we have someone who comes, comes to us for  
16 a loan, we will seek the same information from them in terms of that  
17 application. We will do the same, they, they go through the same credit  
18 checks that we would have for a non, sorry, for a non or an ANZ  
19 customer. I'm not sure if I necessarily fully understood your - - -

20 MR HUGHES: Well, presumably with an ANZ customer you've got a picture  
21 already of their banking history with you. So to what extent do you  
22 need – what additional inquiries are you going to undertake for a non-  
23 ANZ customer who's approaching you for a credit product?

## MELBOURNE PUBLIC HEARING

1 MS GIBSON: I think today, we actually, our current processes, we don't start  
2 from a position of looking at the data. We might use that, for instance,  
3 to vary the way we do income verification where we would seek bank  
4 statements to verify payslips for a home loan application for a non-ANZ  
5 customer. If you are an ANZ customer and your salary is being paid  
6 into an ANZ account, then we would conduct that check against the  
7 account information we hold rather than asking you to give us bank  
8 statement.

9 MS CHESTER: Maybe we can unbundle that a little bit more, Kate, by going  
10 through sort of the income, indebtedness and expenses side of the  
11 equation. If you could just step us through those three buckets, I think  
12 two of those three buckets you focussed on in your submission to us,  
13 the role of each in terms of responsible lending and the steps in terms  
14 of inquiry and verification and what's automated and what's not?

15 MS GIBSON: Okay. So if I step back and think about our responsible lending  
16 obligations, as I mentioned earlier we see that as needing to understand  
17 the needs and objectives that the customer has then taking reasonable  
18 steps to inquire into and verify their financial situation for the purposes  
19 of them making an assessment about whether or not it would be  
20 appropriate to extend the credit and giving regard to ensuring that we're  
21 not extending credit when that would be unsuitable for the customer.  
22 For that reason, we have a view on income, we have, we would like to  
23 understand the full gamut of income that a customer has. We think it's  
24 very important to understand all existing credit commitments that they

## MELBOURNE PUBLIC HEARING

1 have. And we have then a view that what's important to understand are  
2 the ongoing expenses that we would expect to see into the future once  
3 they have, if they were to get the loan contract and also having regard  
4 to what is a level of expenses below which it wouldn't reasonable to  
5 expect them to be able to reduce their expenditure in the future if their  
6 circumstances changed.

7 MS CHESTER: So income and indebtedness, there is inquiry and verification  
8 and expenses, a focus on the ongoing, so we'll come back to that in a  
9 moment. So in your submission, you said it was more critical for the  
10 ability to sort of, in looking at service and hardship with respect to the  
11 credit to focus on income and indebtedness rather than expenses. But  
12 I'm taking it from what you've said, instead of looking at total expenses  
13 just focussing on ongoing expenses to get an understanding around  
14 hardship, about what's sustainable and what's not post-loan. Is that  
15 what you're suggesting?

16 MS GIBSON: The distinction I'm making, I suppose, is that what we consider  
17 reasonable with regard to verification does vary for us between income,  
18 liabilities and expenses insomuch as we don't believe that it's necessary  
19 in order to fulfil our obligations under responsible lending to form a  
20 very comprehensive, fully verified against bank statements view of  
21 someone historical total expenses. What we do want to know is, a level  
22 of expense that we would expect to be ongoing and so we take a number  
23 of steps to verify that. I'm not meaning to imply we make no steps to  
24 verify expenses.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: Maybe talk us through then, so for a current ANZ customer and  
2 a non-current ANZ customer, how would you go about first identifying  
3 what's ongoing versus non-ongoing and then establishing those total  
4 expenses and how would you verify them?

5 MS GIBSON: Again, I think the way we think about the expenses is we do think  
6 about those expenses that you would expect to be ongoing. So the first  
7 one being accommodation costs for instance. So we would expect to  
8 see something declared from the customer around rental or if they've  
9 already got a mortgage, for instance, that they have a home loan. We  
10 look to credit commitments which, I mean, we call them as credit  
11 commitments but obviously they are an expense for the customer in  
12 terms of what they need to be able to service from their income. We  
13 then have a range of expense categories that we ask customers to think  
14 through and declare to us. I think, I realise you've probably heard  
15 numerous different versions of this, we've got 14 categories and break  
16 down into 10 that we would consider living expenses and another four  
17 expense categories that tend to be more variable.

18 MS CHESTER: And do the 10 – I might be jumping ahead here – do the 10  
19 concord to HEM?

20 MS GIBSON: Broadly speaking, yes, but I'd have to say there's complex  
21 mapping that goes on, but they broadly concord with HEM, yes, so they  
22 cover things like groceries, utilities, transport, you know, household  
23 costs.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: And what are the extra special four categories that you've added  
2 on to get you to the magical 14?

3 MS GIBSON: So I wouldn't say there's any magic associated with it, but, look,  
4 they are things that, you know, may not occur at all for customers, so  
5 things like child maintenance expenses, private education, personal  
6 insurances like life insurance, and then we have an "other" category,  
7 and that's where in our applications we do provide guidance for  
8 customers about the sorts of things that would fall into these categories.  
9 That's where we would expect to see a customer include voluntary  
10 superannuation contributions or a HECS debt, although it might be  
11 called something else now, but the, you know, student loan.

12 MS CHESTER: So you're trying to get all those ones that aren't covered by  
13 HEM in the four categories [indistinct]

14 MS GIBSON: Yes, we are.

15 MS CHESTER: And how long have you had the 14 in place?

16 MS GIBSON: Look, I think for home loans that was introduced, oh, look, it  
17 might be about a year ago. I'd have to get confirmation of that.

18 MS CHESTER: And before then it was just the 10?

19 MS GIBSON: No, before that I believe we were asking for a total living  
20 expenses and providing guidance about the sorts of things that would  
21 be in it. We found or we felt that it was useful to break out those  
22 categories and provide more specific guidance against each to just  
23 prompt that level of inquiry with the customers and help customers who

**MELBOURNE PUBLIC HEARING**

1                   were in the process of filling those forms in before they came in to think  
2                   through what might be in those categories.

3                   MS CHESTER: So the vexed categorisation of discretionary versus non-  
4                   discretionary, or what you could adjust pre- or post-loan, you'd expect  
5                   that most of those would be covered in the additional four that took you  
6                   from the 10 to 14, then? Is that - - -

7                   MS GIBSON: I suppose we've got a slightly different view about the pre-/post-  
8                   loan. We, we try and ensure that we're having a good conversation with  
9                   customers, and customers have an opportunity to think about their full  
10                  expenses that they have. We test the 10 categories, the living essentials,  
11                  against HEM for the purposes of testing the reasonableness of what's  
12                  being provided to us, but we would use the higher of declared expenses  
13                  or the HEM. So we're not working on the basis that we expect people  
14                  to reduce expenses post-loan. We, we, that's why we take their declared  
15                  expenses if that's higher than the HEM threshold.

16                 MS CHESTER: So you're not having a discussion with, say, a new home owner  
17                 about whether or not they're going to tighten the belt post-loan?

18                 MS GIBSON: Absolutely that conversation might be occurring. It might be  
19                 occurring with any customer. What I'm saying is that what we do, post  
20                 that conversation, we then capture the level of expenses that they are  
21                 declaring that they will have post the loan or that they expect to have  
22                 ongoing.

23                 MS CHESTER: Okay, so you've got two declared expenses, two declared total  
24                 expenses based historically on what the, and today and then what they



## MELBOURNE PUBLIC HEARING

1                   said they may be able to do going forward, but it's something you  
2                   require the customer to declare?

3                   MS GIBSON: I think the challenge will be it's not that we would be capturing  
4                   in our loan documentation, both those numbers as you've just described  
5                   them. It might be that when they come in we will talk through and  
6                   arrive at a version of the expenses that is the customer's declared  
7                   expenses. As I said, there's a number of steps we take around  
8                   verification. One is comparing those 10 fields to the HEM benchmark.  
9                   The other is having consideration to other information we might have  
10                  that would suggest there are material expenses that have been excluded  
11                  that would be a reason to have further inquiry.

12                 MS CHESTER: We might come back to HEM in a little while, but one of the  
13                 other proposals in your submission, which I think was unique to your  
14                 submission, was to use the customer's debt-servicing ratio and available  
15                 monthly income as a filter to determine whether extra steps need to be  
16                 taken to verify declared expenses. So again it comes back to this focus  
17                 on sort of income and indebtedness over expenses. Talk us through the  
18                 logic of doing that and what would preclude that from happening today.

19                 MS GIBSON: Look, I think when we were putting that into the submission, we  
20                 were just giving regard to the fact that there had been discussion about  
21                 whether there were other factors that you might use with reference to  
22                 scalability to decide to make further inquiry. That's a measure, whether  
23                 it's a debt-servicing ratio or debt-to-income ratio, it's one of the  
24                 measures you could use. It could be a reason to trigger a further level

**MELBOURNE PUBLIC HEARING**

1 of inquiry above and beyond what we do today, so we, I suppose we  
2 proposed it as something we were looking at.

3 MS CHESTER: So talking about requiring a higher level of verification - - -

4 MS GIBSON: Yes.

5 MS CHESTER: - - - above and beyond what you're doing today?

6 MS GIBSON: Yes.

7 MS CHESTER: So the verification today is, just so I understand it, it's expenses  
8 in the 10 categories and the 40 categories. For an ANZ customer  
9 already it's against bank statements?

10 MS GIBSON: Sorry, with - - -

11 MS CHESTER: In terms of verification?

12 MS GIBSON: It's also now accommodation costs, so we'd say that's also put  
13 in. So, sorry, in terms of we compare those expenses?

14 MS CHESTER: Yes, for verification.

15 MS GIBSON: For verification we would look at, the reasonable test is against  
16 HEM, and then the bank statements are used to detect if there are, or  
17 look for any material expenses that hadn't been declared that are evident  
18 in the bank statements we would then use to follow up with the  
19 customer. What we're, what we're not doing is trying to re-create from  
20 the bank statements in a line-by-line review of the bank statements.  
21 We're not trying to re-create the declared expenses.

**MELBOURNE PUBLIC HEARING**

1 MS CHESTER: So the trigger for doing any verification against bank statements  
2 would be if their declared expenses were below the HEM?

3 MS GIBSON: No, we, we're saying that when a - - -

4 MS CHESTER: I'm just trying to work out what, where is verification triggered.

5 MS GIBSON: Yeah, no, what we're saying is, well, the verification steps that  
6 I've described happened regardless of the trigger, so we would, for all  
7 of the applications we receive, we will compare those 10, the expenses,  
8 the declared expenses against HEM, and we will consider any  
9 information that we have and look for the material discrepancies in  
10 terms of the, checking the reasonableness of what's been provided to  
11 us.

12 MR HUGHES: So just so we're clear, it's 100 per cent verification against HEM  
13 or only where there's a variation from HEM?

14 MS GIBSON: We would check all of our applications against HEM for a  
15 reasonableness check.

16 MR HUGHES: Even if it's above HEM?

17 MS GIBSON: Yes. And then if it was above HEM we would use the declared  
18 expenses rather than HEM.

19 MS CHESTER: So bank statements probably don't enter in the verification  
20 process.

21 MS GIBSON: No, they do because we do expect that our assessors would look  
22 at those, or our lenders would look at those, and have regard to whether

## MELBOURNE PUBLIC HEARING

1                   there was things in those bank statements that we should, you know,  
2                   that we can see are inconsistent. An example, you know, if, if we're  
3                   seeing something in the bank statements that hasn't been declared at all,  
4                   an example would be private school fees, if you can see that in the bank  
5                   statements and they haven't declared it, you would need to have a  
6                   conversation with them about that.

7                   MS CHESTER: So that is what I would consider, that's verification, isn't it,  
8                   then?

9                   MS GIBSON: Yes.

10                  MS CHESTER: But a negative verification. So if something that you've spotted  
11                  that hasn't been declared, as opposed to checking what's been declared  
12                  against what's in the total expenses as captured in the bank statements?  
13                  Sorry, that's a very long-winded way of - - -

14                  MS GIBSON: Yes, and that's, that's because we're having regard to the  
15                  statements we have, and so we might, we seek bank statements from  
16                  non-ANZ customers for the three months prior to their application for  
17                  the purposes of verifying their income. So we have two verification  
18                  steps with income. For PAYG customers it would be looking at pay  
19                  slips and bank statements, and then having received those bank  
20                  statements we look at them, but we recognise that those bank statements  
21                  might not represent a complete picture of someone's expenses because  
22                  they may have multiple bank accounts, for instance. So what we're not  
23                  doing, we're not seeking to get a customer or a potential customer to  
24                  give us a hundred per cent view of all of their expenses. What we're

**MELBOURNE PUBLIC HEARING**

1 giving regard to are the documents that they've provided to us, then  
2 what we see in those documents.

3 MS CHESTER: So the role then you're suggesting around the debt-servicing  
4 ratio is really where you're currently not verifying expenses against a  
5 bank statement. If the debt-servicing ratio was not a good one, you'd  
6 want us to give guidance that you should be doing greater verification?

7 MS GIBSON: I'm not sure that I - - -

8 MS CHESTER: I'm just trying to understand what - - -

9 MS GIBSON: Yeah, I'm not sure that I would even draw that link. I think we,  
10 we sit, you know, we're trying to respond to the question around what  
11 sorts of indicators might suggest further inquiry was needed. We  
12 weren't trying to draw an inference about what that further inquiry  
13 should be directed to be.

14 MS CHESTER: I have to confess I'm a little confused now. So you said look  
15 at debt-servicing ratio but you didn't really have in mind dialling up or  
16 dialling down verification for any particular risk attached to it. I'm just  
17 trying to understand, you're making a suggestion to us to change  
18 responsible lending guidance. I'm just trying to work out what, the  
19 changes that you want and why.

20 MS GIBSON: When we think, when we have looked at the process you're going  
21 through in terms of consulting on guidance, what we would welcome  
22 in the updated guidance is greater, more clarity. We recognise we still,  
23 there needs to be some flexibility in the way that the guidance is framed.

## MELBOURNE PUBLIC HEARING

1 I think what we are, an example of that would be in how bank  
2 statements should be used. We've been describing to you how we use  
3 them today and we, we feel we are meeting our responsible lending  
4 obligations, but I think that would be one area where greater clarity  
5 around what your expectations are of how those bank statements should  
6 be used would be useful.

7 MS CHESTER: And where is the lack of clarity coming from at the moment  
8 with the current responsible lending guidelines?

9 MS GIBSON: Well, I don't know that it's actually in the current guidelines. I  
10 think as we have reflected on, you know, the descriptions and the  
11 information that was provided in the consultation paper, particularly  
12 with regards to the view that what information was reasonable, and I  
13 think we mention this in our submission. A certain degree of what,  
14 clarity around understanding, I think you used the phrase in the  
15 consultation paper, "If not, why not?" and you've described certain  
16 information that you believe would be considered generally readily  
17 available and that lenders should articulate why they hadn't used that  
18 information, if it was readily available.

19 As I said, because we have a view that we're looking at what are  
20 the reasonable steps with regards to the financial situation, for the  
21 purposes of making a responsible lending decision. At the moment we  
22 don't seek to form a holistic picture of the full expenses across all the  
23 bank categories and bank accounts. If that is an expectation that bank  
24 statements are readily available and they should be sought and then

**MELBOURNE PUBLIC HEARING**

1                   used, beyond the way we use them to date, we think that would be  
2                   helpful guidance, if that's your expectation.

3                   MS CHESTER: Okay. I think I understand the genesis now. Thank you very  
4                   much. That's helpful.

5                   MR HUGHES: In terms of your 14 categories, so we're going to back to HEM  
6                   again. When did you put in place the carve-out of the four, or the  
7                   creation of the additional four categories, when did that take place?

8                   MS GIBSON: I may need to go back and check this, I believe it was late in 2018  
9                   for, I think. Can I come back to you with the date?

10                  MR HUGHES: Yeah, so less than a year ago?

11                  MS GIBSON: Yeah.

12                  MR HUGHES: Yep. And is it across all channels, proprietary and broker-led?

13                  MS GIBSON: Yes, it is.

14                  MR HUGHES: Okay. Are any of the categories either within the 10 concordant  
15                  with HEM or the four additional, do they relate to items of expenditure  
16                  that could be characterised as luxury?

17                  MS GIBSON: So the four that are excluded are ones that HEM explicitly  
18                  excludes from HEM. I think the challenge with a characterisation of  
19                  luxury, is that some people will put things that might be considered  
20                  luxury into those. So, we have lifestyle expenses, that includes travel,  
21                  some people's travel might include overseas trips, that might be  
22                  considered luxury by some people.

## MELBOURNE PUBLIC HEARING

1 MS CHESTER: So, for the total expenses you're getting around the 10  
2 categories which are concordant with the HEM, of those declared by  
3 customers, what percentage of them are under the HEM?

4 MS GIBSON: I think, we've recently updated our HEM tables and so we have  
5 seen a bit of an up-tick. I think the latest figures I've seen for home  
6 loans is that it was at 57 per cent, where we are bringing them up to a  
7 HEM number.

8 MR HUGHES: So, 57 per cent below HEM?

9 MS GIBSON: Yes.

10 MR HUGHES: Okay.

11 MS CHESTER: And then you bring them up to HEM and then do you add in  
12 the additional four categories then?

13 MS GIBSON: Yes. And the accommodation costs and the other credit  
14 commitments.

15 MS CHESTER: Okay.

16 MR HUGHES: And just so I'm clear, which version of HEM are you basing  
17 your 10 categories against?

18 MS GIBSON: So the ones that were most recently published I believe in March  
19 and we implemented them in May.

20 MR HUGHES: Thank you.

21 MS CHESTER: And this is HEM with income, geography and household  
22 liability?



**MELBOURNE PUBLIC HEARING**

1 MS GIBSON: No. We, we have adopted the tables that distinguish between  
2 income levels and household construct. So, single couple, and I think  
3 there's four different categories of number of dependants. We are  
4 aware that the, you know, the tables do distinguish by geography, metro  
5 and non-metro, but we don't see that that provides the level of material  
6 differentiation that we see on the other dimensions.

7 MS CHESTER: Yeah, we heard that evidence this morning from Professor Kalb  
8 as well, it's the other two that are the main drivers - - -

9 MS GIBSON: Yes.

10 MS CHESTER: - - - given the geography is only by state?

11 MS GIBSON: Yeah.

12 MS CHESTER: And housing costs aren't included in HEM - - -

13 MS GIBSON: They're not.

14 MS CHESTER: - - - so, yep. Thank you.

15 MR HUGHES: You described earlier the process by which you go to verify  
16 expenses. Which categories of expenses do you find the most  
17 problematic to verify?

18 MS GIBSON: I'm not sure that I would say that we find particular categories  
19 problematic to verify. I think the challenges that we've described in  
20 terms of verifying expenses with respect to bank statements, tend to  
21 focus on the fact that there are expenses that could be cash, where unless  
22 you sit down and have a conversation with the customer about what

## MELBOURNE PUBLIC HEARING

1 they're spending that on, that's difficult to, and even if you do have a  
2 conversation, you know, verifying what cash is spent on, is difficult.

3 We have challenges in using bank statements to verify where, for  
4 instance, we have people who have joint bank accounts and yet, it's a  
5 sole applicant for the loan, so they've shared expenses there. The fact  
6 that people might have inter-account transfers and therefore there's not  
7 information on the statement that helps you understand what the nature  
8 of that transfer is. There's challenges we have, you know, we see a lot  
9 of people have self-employed income and there might be mixing of  
10 business expenses and personal expenses on a bank statement. So those  
11 are some of the challenges we see in interpreting the data.

12 MR HUGHES: And did any of those challenges, or in fact any other compliance  
13 issues give rise to the change in categorisation that you outlined before,  
14 at the end of last year? The creation of the additional four categories,  
15 or is that entirely independent?

16 MS GIBSON: Look, I think the genesis of why we were asking for the, well,  
17 putting the greater level of detail into the application forms, was more  
18 around how do we try and ensure that, it was more guidance for  
19 customers and lenders to make sure they were covering the full range  
20 of types of expenses and, yeah, it was more around that than it was about  
21 any specific challenge on expense category.

22 MR HUGHES: And, and what's it done, sorry to cut you off. What had that  
23 done to processing times?

## MELBOURNE PUBLIC HEARING

1 MS GIBSON: I'm not sure that we would be able to point to the specific impact  
2 of introducing those categories on processing times. Our processing  
3 times tend to go up and down for a range of reasons.

4 MR HUGHES: All right. So, what would some of those reasons be?

5 MS GIBSON: Well, it can be things like, we went through a major system  
6 implementation earlier this year, that has implications because you have  
7 to train people on new systems. We introduced, you know, additional  
8 requirements around additional bank statements for income verification  
9 for home loans. That led to some more challenges and just time in the  
10 process. Volume, variation in volume, because loans get looked at by  
11 assessors. It takes time to train assessors and so if we see volumes go  
12 up or down, we can find that the capacity of our assessment team  
13 doesn't always flex at the same speed that the volume might. So that,  
14 those can all lead to changes in processing time.

15 MR HUGHES: But over the period of time that you've been working in your  
16 role, would you say that with greater efficiencies and technology, that  
17 overall processing times from initiation through to approval, have  
18 stayed the same, gone up, or gone down?

19 MS GIBSON: Look, I think we have seen in particular and it's been in the public  
20 domain, we saw our processing times go up quite considerably towards  
21 the end of last year and we've worked hard to bring them down. But,  
22 so, I'm not sure whether I can say with the advent of technology that  
23 you would expect to always see efficiencies, sometimes the efficiencies  
24 you're going through the use of technology, you invest back in to, you

## MELBOURNE PUBLIC HEARING

1 know, longer conversations or, you know, other steps. So, it's, I'd say  
2 it's broadly consistent, but I would have to acknowledge, it has been  
3 variable over time.

4 MR HUGHES: Okay. Thank you.

5 MS CHESTER: So processing times go up post-investment, root cause analysis  
6 requested to identify why, or what was really driving the processing  
7 times going up, was that investigated?

8 MS GIBSON: Look, we, yeah, we have intense interest in the processing times,  
9 particularly when we get feedback from our customers and our lenders  
10 that they find those, if they've gone up, they get understandably  
11 frustrated with that. So, yes, we do look at it, but as I said, it's more in  
12 the case that on a daily basis trying to understand where we're at, what  
13 sorts of reasons are bankers giving us for why there might be delays.

14 MS CHESTER: And what did, was there root cause analysis given the  
15 processing times went up, were you able to establish what was driving  
16 it?

17 MS GIBSON: Well, it's been a range of things over the last period. As I said,  
18 we used to have, I think, sort of three different loan origination  
19 platforms, we have transitioned all of our broker and mobile loan  
20 applications onto the same platform, core platform that we use for our  
21 proprietary channels. That meant we needed to take out assessment  
22 team through a training program to learn the new systems, that led to,  
23 you know, a reduction in capacity in assessment. So that, until they  
24 were trained and back on the floor, so that, that was one contribution.

## MELBOURNE PUBLIC HEARING

1 As I said, prior, last year, we introduced these additional verification  
2 step on income with regard to bank statements. I think our CEO has  
3 mentioned that we perhaps didn't implement that as smoothly as we  
4 might have. That led to a lot of back and forth between assessment  
5 teams and lenders trying to understand the information. So all, all those  
6 things have played a part.

7 MS CHESTER: Yeah, okay. But in terms of sort of the automation side of it,  
8 to really try to speed up processes and better use of data and technology,  
9 apart from what you mentioned before with the consumer credit,  
10 reporting and the data from that and from, I think, there was data also  
11 around valuations. There's been no change or major investments into  
12 the processes and systems around mortgage lending to try to reduce  
13 processing times?

14 MS GIBSON: The investment that we have been making is with regard to the  
15 advent of open banking. So we're quite conscious, in addition to  
16 responsible lending obligations, we're also facing into customer  
17 expectations about the bank being able to use data, and so one of the  
18 things that we have been investing in is, in preparation for open  
19 banking. So one, investment in being able to participate in the open  
20 banking regime, but also giving regard to, as I said earlier, we see a part  
21 of the challenge is in the interpretation of the data. So while open  
22 banking, we anticipate, will provide efficiencies in the way you gather  
23 data, what we're interested in doing is understanding how do we then,  
24 you know, automate, when you talk about automating that

## MELBOURNE PUBLIC HEARING

1 interpretation, we're still interested in how will we deal with those sorts  
2 of challenges that I described before in an automated world, rather than  
3 perhaps open banking just being a more efficient way of gathering data.  
4 So we have invested in, in a capability, we've just very recently started  
5 piloting that with a small number of lenders to try and understand how  
6 that will work in the future.

7 MS CHESTER: So just going back to some metrics before that you mentioned  
8 of declared expenses for the 10 categories that concord with HEM.  
9 You've got the metrics for ANZ are 57 per cent of the declared expenses  
10 are below the HEM, so thus you bring them up to the HEM and then  
11 add the four. We've heard ranges of 30 to 40 per cent from the other  
12 major lenders and from some of the smaller lenders or aggregators who  
13 are using technology, they've gotten theirs down to 11 per cent. So the  
14 57 per cent is starting to sound like a little bit of an outlier. What does  
15 that prompt in terms of your thinking around what might be required  
16 going forward or whether that's a reasonable number to expect?

17 MS GIBSON: So we've – no, look, we, we would like to see that number  
18 coming down. We, in fact, had seen that number coming down, I  
19 believe it was in the 40s prior to us implementing the new HEM tables,  
20 which when the new HEM tables came in, those numbers are higher  
21 than what they had been in the last table, reflecting the increase in, you  
22 know, the cost of living, and therefore we were not necessarily  
23 unsurprised that the rate went up but we are continuing to work to bring  
24 that number down over time using a range of measures through training

## MELBOURNE PUBLIC HEARING

1 of lenders, having a look at the, where we see particular lenders perhaps  
2 are seeing a higher rate, we would go in and focus our coaching efforts  
3 with them.

4 MS CHESTER: And in terms of rate of overall approvals for home lending,  
5 what's that rate tracking at, at the moment?

6 MS GIBSON: I would say, I think that it's in the 60s from what I've seen  
7 recently, but what I would say is that sometimes that number can be not,  
8 a little bit harder to interpret perhaps than you might think. Only  
9 because loan applications can go through a number of stages so, and  
10 sometimes they're withdrawn before we even get to the point of an  
11 approval. So if we were to receive an application, we might approve it  
12 conditionally subject to, for instance, finding a property that is suitable  
13 or finding property that the customer wants to buy. So some of those  
14 may never progress to approval because the customer may not find a  
15 house or the customer may decide to go ahead with another lender.

16 MR HUGHES: So in terms of those approval rates, how would be compare that  
17 relative to volume at this time last year?

18 MS GIBSON: I don't think the approval rates have dramatically differed for the  
19 given volume of lending that's come through.

20 MR HUGHES: And volume?

21 MS GIBSON: The volume is down.

22 MS CHESTER: Can I just ask one other quick question? It comes back to sort  
23 of the root cause again. In terms of then understanding the drivers for

## MELBOURNE PUBLIC HEARING

1 the volumes coming through, what attribution analysis do you do at  
2 ANZ when you said that approvals are still about the same but volumes  
3 of applications coming through are down?

4 MS GIBSON: Well, I mean, there are some obvious macroeconomic factors at  
5 play there. I think the, you know, there's public data that suggests that  
6 applications are down across the board. Ours have been down  
7 somewhat more so and that's reflected in, you know, public statements,  
8 data that's available through APRA. What we have done in looking at  
9 that, you know, we actually do listen to our lenders in terms of their  
10 feedback about why people might not be applying with us. I think one  
11 of the very major factors is the time to decision when people want to  
12 know if they can go to auction or make a bid on a property, they want  
13 to know whether or not they can afford to purchase and how much they  
14 can afford to borrow. We unfortunately were in a state where we had,  
15 I believe longer times than some other, you know, lenders and therefore  
16 customers who have a choice might go to someone who's able to give  
17 them an answer more quickly.

18 MS CHESTER: So, Kate, from your perspective, then, when you're looking at  
19 the drivers or the attribution at the moment to the lower denominator  
20 coming through to ANZ's door, it's more about demand and maybe  
21 improving processing times going forward?

22 MS GIBSON: Yes, I think that's fair.

23 MS CHESTER: Macro demand, yes.

24 MS GIBSON: Yes.



## MELBOURNE PUBLIC HEARING

1 MS CHESTER: That's helpful, thank you.

2 MR HUGHES: And my last question is where do you think you sit on the  
3 spectrum of how much change we need to make to the guidance note in  
4 terms of additional detail, case studies et cetera? I mean, do you think  
5 it requires significant change or are you saying more tweaking at the  
6 edges?

7 MS GIBSON: I think we would say, we would welcome more clarity around  
8 things as I've discussed, like how you expect us, lenders, to use bank  
9 statements. I think probably at the tweaking end rather than a  
10 substantive changes end.

11 MS CHESTER: And just so I can understand. The motivation for getting more  
12 prescriptive guidance on how to use bank statements, you said earlier  
13 that how ANZ is using the bank statements, you think you're  
14 discharging your current responsible lending obligation. So what's  
15 prompted you to want more guidance from us on that then?

16 MS GIBSON: I think it's the, the nature of some of the conversations that are  
17 being had and, look, I think we went through the royal commission and  
18 there are different views out there about how bank statements should be  
19 used and we would welcome, you know, ASIC's guidance on that.

20 MR HUGHES: And presumably you would like is to address the issue of  
21 document fraud, so people who create false bank statements as well, is  
22 that something you'd like us to address?

23 MS GIBSON: I think - - -

## MELBOURNE PUBLIC HEARING

1 MR HUGHES: Has that been an issue for you?

2 MS GIBSON: Look, I think we, obviously there is a risk of fraud in lending  
3 applications and we have measures in place to detect that and manage  
4 that. I'm not sure if that's the role of the responsible lending guidance,  
5 I think that's a matter for you.

6 MR HUGHES: Thank you. Did you have any closing remarks you'd like to  
7 make?

8 MS GIBSON: Other than, you know, we appreciate that the consultation is  
9 occurring and thank you for the opportunity to, to talk today.

10 MR HUGHES: Well, thank you coming out on a miserable day and thank you  
11 for your submissions and answering our questions, thank you.

12 MS GIBSON: Thanks again.

13 MR HUGHES: On behalf of all the Commissioners, I'd like to thank all the  
14 participants who attended today. We do appreciate your time and your  
15 submissions and we particularly appreciate those who have travelled to  
16 attend the hearing, especially those from the west or further afield. We  
17 also want to thank our venue hosts here at the Stamford and those who  
18 have provided the recording transcription and other services. We think  
19 that today has been invaluable in gaining a greater understanding of  
20 business operations across the credit industry and the experience of  
21 consumers accessing and obtaining credit, including through the broker  
22 channel and we are confident this consultation process will lead to  
23 ASIC producing guidance that is clear, relevant and timely. On behalf

## MELBOURNE PUBLIC HEARING

1 of Deputy Chair Chester and myself and Commissioner Press, we  
2 would like to thank everybody for your participation. This hearing is  
3 now concluded. Thank you.

4 **ADJOURNED**