

NOTICE OF FILING

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Details of Filing

Document Lodged: Concise Statement
File Number: VID180/2020
File Title: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION v
COMMONWEALTH BANK OF AUSTRALIA ACN 123 123 124
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 16/03/2020 2:04:27 PM AEDT

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



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CONCISE STATEMENT

FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: VICTORIA
DIVISION: GENERAL

NO OF 2020

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

Plaintiff

COMMONWEALTH BANK OF AUSTRALIA (ACN 123 123 124)

Defendant

A. NATURE OF PROCEEDING

1. From May 2005 to 31 December 2015 (**Relevant Period**) the defendant, Commonwealth Bank of Australia (**CBA**) sold 13,063 customers the AgriAdvantage Plus Package (**AA+ Package**). The AA+ Package entitled customers to benefits in the form of fee waivers and interest rate discounts, and bonus interest on savings, on 22 CBA products (**AA+ Package Benefits**) in exchange for payment of package fees. Contrary to the terms of the AA+ Package, certain AA+ Package Benefits were not provided to customers. As a result, customers were overcharged fees and interest on loans, and underpaid interest on savings. CBA also overcharged AA+ Package fees to certain customers. A total of 8,659 customers were harmed by CBA's conduct on 131,542 occasions, in circumstances where CBA benefited from a total of \$8,087,276.23 (including interest) in incorrectly charged fees and interest on loans, and underpaid interest on savings.
2. CBA at all material times held an Australian Financial Services Licence (**AFSL**) No 234945. CBA is a major Australian bank. As at 16 March 2020, CBA was the second largest listed company in Australia by market capitalisation, which was approximately \$117.47 billion as at close of market 13 March 2020. As at 30 June 2019, CBA's total assets exceeded \$900 billion, and CBA reported a net profit of \$8.571 billion (after tax) for the financial year.
3. ASIC contends that in the Relevant Period, when selling the AA+ Package when it had inadequate systems and processes in place to ensure the provision of AA+ Package Benefits, CBA made misleading representations in contravention of s 12DB(1)(e) and (g) of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**), and engaged in misleading or deceptive conduct or conduct that was likely to mislead or deceive in contravention of s 12DA(1) of the ASIC Act. CBA also accepted payment for the provision of the AA+ Package Benefits when there were reasonable grounds for believing that CBA would not be able supply the AA+ Package Benefits, in contravention of s 12DI(3) of the ASIC Act. Further, CBA breached its general obligation to comply with financial services laws in contravention of s 912A(1)(c) of the *Corporations Act 2001* (Cth) (**Corporations Act**). Finally, CBA failed to establish and maintain appropriate systems and processes to ensure it could consistently apply the AA+ Package Benefits, and incorrectly charged AA+ Package fees, in contravention of s 912A(1)(a) of the Corporations Act.

Filed on behalf of the Applicant, Australian Securities and
Investments Commission

File ref: 19004729

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1903

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4. Between 16 March 2014 and 31 December 2015 (**Penalty Period**) (being within the Relevant Period), CBA sold 123 AA+ Packages to 334 customers and accepted fees for the provision of AA+ Package Benefits, on 3,905 occasions from 6,953 customers.

B. RELIEF SOUGHT FROM THE COURT

5. ASIC seeks declarations, pecuniary penalties, publication orders and ancillary orders as set out in the Originating Application.

C. IMPORTANT FACTS GIVING RISE TO THE CLAIM

C1. AA+ Package

6. The AA+ Package was first offered by CBA in May 2005, and was withdrawn from sale to new customers on 12 September 2014 and closed for existing customers on 27 November 2015. Benefits ceased for existing customers on 31 December 2015.
7. During the Relevant Period, 13,063 customers applied for and took up 7,077 AA+ Packages (**Relevant Customers**).
8. Over the Relevant Period, CBA issued brochures in respect of the AA+ Package (**AA+ Package Brochures**), dated 16 September 2005, 25 July 2008, 22 October 2010 17 August 2012, 15 February 2013.
9. As part of the AA+ Package application process CBA provided an application form (**AA+ Package Application Form**) to each Relevant Customer. To be entitled to the AA+ Package Benefits, Relevant Customers submitted a completed AA+ Package Application form through their Relationship Manager.
10. In taking up the AA+ Package, each Relevant Customer entered into a contract with CBA, governed by the AgriAdvantage Plus Terms and Conditions (**AA+ Package Terms and Conditions**). Between May 2005 and 14 September 2010, the AA+ Package Terms and Conditions were contained in AA+ Package Brochures dated 16 September 2005 and 25 July 2008. From 15 September 2010, the AA+ Package Terms and Conditions were contained in documents titled 'AgriAdvantage Plus Terms and Conditions' dated 15 September 2010, 7 June 2011, 6 July 2012, and 17 May 2013. Each of these incorporated by reference details of AA+ Package Benefits, as set out in then applicable AA+ Package Brochures.
11. The AA+ Package Benefits involved the application of benefits and concessions to 22 CBA products already on offer to CBA customers. Between 11 May 2005 and 9 October 2015, CBA did not apply AA+ Package Benefits to some customers for 20 products (**Relevant Products**). The Relevant Products are detailed in **Schedule 1**, item iv, under the heading 'Relevant Products'.
12. The AA+ Package Benefits comprised (in summary):
 - (a) reduced or waived fees on certain Relevant Products;
 - (b) discounted interest rates on certain Relevant Products; and
 - (c) bonus interest on certain Relevant Products providing for interest upon savings.
13. Relevant statements made within the AA+ Package Application Form, the AA+ Package Terms and Conditions, and the AA+ Package Brochures, include those set out in **Schedule 1**.
14. Relevant Customers were required to pay the 'Annual Package Fee' (as described in the AA+ Package Terms and Conditions) on CBA's receipt of the AA+ Package Application Form and on each anniversary of the date of that payment while the agreement continued. During the Relevant Period, the annual fee was \$500 for AA+ Package customers. For customers who purchased an AgriAdvantage Package between May 2005 and 14 November 2010 and whose package was migrated to an AA+ Package on or around 15 November 2010, the annual fee was and remained \$300. From 15 November 2010 onwards, in addition to the annual fee, new customers were also required to pay a 'one-off establishment fee of \$1000 or 0.25% of [the customer's] total borrowing limit, whichever [was] greater'. (These payments are collectively referred to as **AA+ Package Fees**.)

15. During the Relevant Period, on 18,679 occasions, CBA accepted payment of AA+ Package Fees for provision of the AA+ Package Benefits (**Accepted Payments**). Of this, during the Penalty Period there were 3,905 Accepted Payments. Accepted Payments are detailed in **Schedule 2**.

C2. Non-provision of AA+ Package Benefits

16. Over the Relevant Period (including the Penalty Period), CBA failed to apply AA+ Package Benefits to Relevant Products as required by the AA+ Package Terms and Conditions. CBA:
- (a) charged customers fees on certain Relevant Products, to which it was not entitled pursuant to the AA+ Package Terms and Conditions;
 - (b) charged customers interest on certain Relevant Products, at rates higher than that which it was entitled pursuant to the AA+ Package Terms and Conditions;
 - (c) paid customers interest on certain Relevant Products providing for interest upon savings, at rates lower than that obliged pursuant to the AA+ Package Terms and Conditions.
17. These failures caused CBA to, in the case of fees or interest on loans, deduct and, in the case of interest on savings, incorrectly retain a total of \$6,711,105.37 from customers who held an AA+ Package, in circumstances where CBA had no entitlement to overcharge fees and interest on loans, and underpay interest on savings. **Schedule 3** provides a breakdown of the value of the benefits not applied and the number of benefits not applied and the period over which the period over which the failings of the AA+ Package occurred for each of the Relevant Products under the headings 'Period over which benefit not applied', 'Value of benefit not applied' and 'Occasions benefits not applied'. During the Penalty Period there were 32,927 such occasions.

C3. AA+ Package System Failings

18. These failures arose out of CBA's continuing failure over the Relevant Period to establish and maintain appropriate systems and processes to ensure it could provide the AA+ Package Benefits in accordance with the AA+ Package Terms and Conditions; in particular:
- (a) the provision of AA+ Package Benefits involved highly manual processes that relied on a Relationship Manager establishing the product correctly and ensuring AA+ Package Benefits were applied;
 - (b) the AA+ Package was also complex to administer in a highly manual environment, in that the AA+ Package offered benefits on 22 CBA products, with many offering a different, or multiple, benefits to the customer;
 - (c) there was a poor control environment with no adequate system for reporting issues with the package or monitoring of any complaints about the package, or auditing of the package, and with there being no team or person responsible for the AA+ Package;
 - (d) there were inadequacies in the complaints handling system in that CBA did not have systems in place to identify complaints made about the AA+ Package;
 - (e) there was no appropriate IT systems to administer the product, with multiple systems being used and not all products sitting on the same IT system;
 - (f) CBA did not establish any business unit, team or person who was ultimately responsible for ensuring that the AA+ Package Benefits were being applied to the Relevant Products held by customers in accordance with the AA+ Package Terms and Conditions,
- (AA+ Package System Failings).**

C4. Representations

19. By the AA+ Package Brochures, AA+ Package Application Form and AA+ Package Terms and Conditions (**Contractual Documents**), and in all the circumstances, CBA represented to each Relevant Customer:
- (a) that:
 - (i) CBA had adequate systems and processes in place to ensure that AA+ Package customers received AA+ Package Benefits on Relevant Products (as applicable) in accordance with the Contractual Documents; and or
 - (ii) AA+ Package customers received AA+ Package Benefits on Relevant Products (as applicable) in accordance with the Contractual Documents;**(Benefits Representations);** and or
 - (b) that upon acquiring the AA+ Package and during the period for which the customer would be entitled to AA+ Package Benefits:

- (i) CBA would have adequate systems and processes in place to ensure that AA+ Package customers would receive AA+ Package Benefits on Relevant Products (as applicable) in accordance with the Contractual Documents; and/or
 - (ii) CBA would apply AA+ Package Benefits on Relevant Products (as applicable) in accordance with the Contractual Documents, **(Future Benefits Representations)**; and or
- (c) that:
- (i) CBA had adequate systems and processes to ensure that AA+ Package customers received fee waivers and interest rate discounts (**AA+ Package Price Benefits**) on Relevant Products (as applicable) in accordance with the Contractual Documents; and or
 - (ii) AA+ Package customers received AA+ Package Price Benefits on Relevant Products (as applicable) in accordance with the Contractual Documents, **(Price Representations)**; and or
- (d) upon acquiring the AA+ Package and during the period for which the customer would be entitled to AA+ Package Benefits:
- (i) CBA would have adequate systems and processes to ensure that AA+ Package customers received AA+ Package Price Benefits on Relevant Products (as applicable) in accordance with the Contractual Documents; and/or
 - (ii) CBA would apply AA+ Package Price Benefits on Relevant Products (as applicable) in accordance with the Contractual Documents, **(Future Price Representations)**, **(collectively, Representations)**, being 7,077 occasions during the Relevant Period and 123 occasions during the Penalty Period.

C5. Mischarged AA+ Package Fees

20. Further, during the Relevant Period, on 2,746 occasions, and in the amount of \$1,376,717.11 (including interest), CBA mischarged AA+ Package Fees for certain customers whose package was migrated from the AgriAdvantage Package (**Mischarged AA+ Package Fees**). Within this, during the Penalty Period there were Mischarged AA+ Package Fees on 837 occasions in the amount of \$237,218 (including interest). Mischarged AA+ Package Fees are detailed in **Schedule 4**.

C6. Identification of Issues with the AA+ Package

21. From on or around 19 June 2014, a CBA review of the AA+ Package revealed that a number of AA+ Package Benefits had not been properly applied. On 14 July 2014, CBA made a 'potential' breach report to ASIC.
22. On 12 September 2014, the AA+ Package was withdrawn from sale to new customers.
23. On 18 September 2014, CBA wrote to ASIC, indicating that CBA had reassessed the potential breaches as 'significant' for the purposes of s 912D of the Corporations Act.
24. From October 2014 to August 2015, CBA quantified the financial impact to customers of the AA+ Package Benefits being incorrectly applied. Between September 2015 and May 2016, CBA provided cheques, made EFT payments of amounts or reduced an existing liability with CBA totalling \$7,396,149.12 million in remediation of non-provision of benefits to 7,722 customers. This amount represented 6,632 AA+ Packages out of a total of 7,077 AA+ Packages established by CBA. CBA has continued to pay remediation to customers after that time, as cheques are presented.
25. CBA closed the AA+ Package to existing customers on 27 November 2015, but continued to calculate the AA+ Package Benefits up to and including 31 December 2015 on the basis that existing customers were entitled to Benefits up to and including that date.

D. PRIMARY LEGAL GROUNDS FOR THE RELIEF SOUGHT

26. The Relevant Products were each a financial product, or financial products, within the meaning of s 12BAA of the ASIC Act. The AA+ Package Benefits were each a financial service, or financial services, within the meaning of s 12BAB(1)(g) of the ASIC Act.

27. The Representations were made in trade or commerce, and in connection with the supply or possible supply of financial services, or in connection with the promotion by any means of the supply or use of financial services, within the meaning of s 12DB(1) of the ASIC Act.
28. The Benefits Representations and Future Benefits Representations were each representation that the services had benefits within the meaning of s 12DB(1)(e) of the ASIC Act. The Price Representations and Future Price Representations were each a representation with respect to the price of services within the meaning of s 12DB(1)(g) of the ASIC Act.
29. Further to the matters referred to in Parts C2 and C3 above, the Benefits Representations and the Price Representations were false or misleading.
30. The Future Benefits Representations and the Future Price Representations were representation with respect to a future matter within the meaning of s 12BB(1) of the ASIC Act. They were misleading, within the meaning of s 12BB(1) of the ASIC Act, in that further to the matters referred to in Parts C2 and C3 above CBA did not have reasonable grounds for making the representations.
31. By making each Benefits Representation and/or Future Benefits Representation, CBA:
 - (a) made a misleading representation in contravention of s 12DB(1)(e) of the ASIC Act; and
 - (b) engaged in misleading or deceptive conduct, or conduct that was likely to mislead or deceive, in contravention of s 12DA(1) of the ASIC Act.
32. By making each Price Representation and/or Future Price Representation, CBA:
 - (a) made a misleading representation in contravention of s 12DB(1)(g) of the ASIC Act; and
 - (b) engaged in misleading or deceptive conduct, or conduct that was likely to mislead or deceive, in contravention of s 12DA(1) of the ASIC Act.
33. Further or alternatively, by each Accepted Payment, CBA in trade or commerce accepted payment or other consideration for financial services within the meaning of s 12DI(3)(a) of the ASIC Act. At the time of each Accepted Payment, further to the matters referred to in Parts C2 and C3 above there were reasonable grounds for believing that CBA would not be able to supply the financial services within a reasonable time. By accepting each Accepted Payment, CBA contravened s 12DI(3) of the ASIC Act.
34. By each occasion that CBA contravened as referred to in paragraphs 31, 32 and 33 above, CBA breached its general obligation to comply with the financial services laws in contravention of s 912A(1)(c) of the Corporations Act.
35. By its conduct in each of:
 - (a) failing to apply the AA+ Package Benefits to customer accounts in respect of Relevant Products (on 32,927 occasions) over the Penalty Period (as referred to in Part C2 above) when it was required to do so by the AA+ Package Terms and Conditions;
 - (b) charging the Mischarged AA+ Package Fees (on 837 occasions) over the Penalty Period (as referred to in Part C5 above); and
 - (c) continuing and maintaining throughout the Penalty Period systems that were not capable of ensuring compliance with obligations to customers (as referred to in Part C3 above),CBA breached its obligation to do all things necessary to ensure that the financial services covered by its financial services licence were provided efficiently, honestly and fairly, and thereby contravened s 912A(1)(a) of the Corporations Act.

E. HARM SUFFERED AND PROFITS EARNED FROM THE CONDUCT

36. As a result of the matters referred to above, 8,659 customers were harmed by CBA on 131,542 occasions, in circumstances where CBA accepted payments of \$7,603,850.00, and (prior to remediation) benefited from a total of \$8,087,276.23 (including interest) in incorrectly charged fees and interest on loans, underpaid interest on savings, and as a result of the Mischarged AA+ Package Fees.
37. The CBA customers suffered financial loss (up until the date the CBA customers were remediated) and inconvenience as a result of these failings because they did not have the benefit of the funds for which they were incorrectly charged and because they were required to pay for the cost of AA+ Package Benefits.

CERTIFICATE OF LAWYER

I, Jody Marshall, certify to the Court that, in relation to the concise statement filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 16 March 2020

Handwritten signature of Jody Marshall in black ink.

.....
Jody Marshall
ACS lawyer
for and on behalf of the Australian Government Solicitor
Lawyer for the Applicant

Schedule 1A – AA+ Package Application Form, Terms and Conditions and Brochures

AA+ Package Application Form			
Date	Doc ID	Relevant part	Extract
2010	CBA.0000.0021.2437	Section 1 – Borrower(s) details	The Bank will apply the concessions and benefits as set out in the AgriAdvantage Plus Package to the borrower(s) stated above.
AA+ Package Terms and Conditions			
Date	Doc ID	Provision	Extract ¹
16 September 2005	CBA.0000.0021.2092	Clause 3, “Concessions”	While this Agreement continues, except as otherwise indicated, you (and any other party nominated by you, as per the terms in Clause 1 above), will be entitled to the concessions and benefits from us, as set out in the AgriAdvantage Plus Package Brochure, subject to our usual Terms and Conditions for the respective products and our normal credit criteria and assessment. We may charge establishment fees for any increases in your borrowing limit. ...
25 July 2008	CBA.0000.0021.2755 (at .2763)		
15 September 2010	CBA.0000.0007.2034 (at .2035)		
7 June 2011	CBA.0000.0021.2273 (at .2274)		The concessions will be applied on all of the accounts you have notified to us, either on the Package Application Form or in writing to us, on the day we process your notification. ...
6 July 2012	CBA.0000.0021.2270 (at .2271)		
17 May 2013	CBA.0000.0021.1759		

¹ This extract is from the AA+ Package Terms and Conditions dated 7 June 2011 and later. The AA+ Package Terms and Conditions dated earlier are, so far as is relevant, materially the same.

AA+ Package Brochures

Date	Doc ID	Heading	Extract
16 September 2005	CBA.0000.0021.2092	Introducing AgriAdvantage Plus	AgriAdvantage Plus is a unique package of financial products and services that is specially designed for farmers ... What AgriAdvantage Plus Offers: ...
25 July 2008	CBA.0000.0021.2755 (at .2757)		<ul style="list-style-type: none">• Preferential pricing on selected loan products. This includes discounts on interest rates and exemptions from fees so you minimise costs ...
22 October 2010	CBA.0000.0007.2038 (at .2040)	An exclusive package for Australian Agribusinesses	It's an exclusive package of discounted research, advice, banking services and financial solutions designed especially for Australian farmers ...
17 August 2012	CBA.0000.0021.2210 (at .2212)		When you join Agri Advantage Plus, you'll receive discounts and preferential rates on specially selected Commonwealth Bank products and services. So you'll pay less interest and fewer fees, while enjoying higher returns on your money ...
15 February 2013	CBA.0000.0021.2050 (at.2052)		

Schedule 1B – AA+ Package Benefits as referred to in the AA+ Package Brochures

Legend:

N/A – Relevant Product was not included in the Brochure at that date

Blue underlined text – Brochure was amended to include this text / AA+ Package Benefit

~~Red strikethrough text~~ – Brochure was amended to remove this text / AA+ Package Benefit

No change = Brochure remained the same in the next version

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
1.	Business Transaction Account	15 Nov 2010 – 31 Dec 2015	N/A	N/A	<u>No monthly account fee (currently \$10)</u>	<i>No change</i>	<i>No change</i>
2.	Premium Business Cheque Account	15 Nov 2010 – 31 Dec 2015	N/A	N/A	<u>No monthly account fee (currently \$15)</u>	<i>No change</i>	<i>No change</i>
3.	Overdraft Cheque Account	14 Mar 2013 – 31 Dec 2015	N/A	N/A	N/A	N/A	<u>No monthly account fee (currently \$5)</u>
4.	Farm Management Deposit Account	May 2005 – 31 Dec 2015	Additional 0.05% p.a. bonus interest added to 12 month FMD Fixed Term Published Rate	N/A	Additional 0.05% p.a. bonus interest added to 12 month FMD Fixed Term Published Rate <u>We arrange a</u>	<i>No change</i>	We arrange a special rate with you, based on your individual circumstances <u>At-call deposits: Cash rate less</u>

² The earliest AA+ Package Brochure is dated 16 September 2005, however some AA+ Package Benefits were offered from May 2005.

³ The AA+ Package Benefits set out in the 22 October 2010 AA+ Package Brochure did not commence on that date but rather on 15 November 2010. This discrepancy is attributable to a time lag between the production date of the AA+ Package Brochure and the ultimate implementation of the AA+ Package Benefit with the AA+ Package product refresh.

⁴ The AA+ Package Benefits set out in the 15 February 2013 AA+ Package Brochure did not commence on that date but rather on 14 March 2013. This discrepancy is attributable to a time lag between the production date of the AA+ Package Brochure and the ultimate implementation of the AA+ Package Benefit with the AA+ Package product refresh.

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
					special rate with you, based on your individual circumstances		0.1.% pa Fixed term deposits: Additional 0.25% bonus rate on standard advertised rates
5.	Business Online Saver	15 Nov 2010 – 31 Dec 2015	N/A	N/A	Ask your Agribusiness Manager about our current special rates for AgriAdvantage Plus members	No change	Ask your Agribusiness Manager about our current special rates for AgriAdvantage Plus members Additional 0.15% bonus rate on standard advertised rate.
6.	Cash Deposit Account	May 2005 – 31 Dec 2015	0.30% p.a. below the Reserve Bank Target Cash Rate (for At Call Deposits)	No change	0.30% p.a. below the Reserve Bank Target Cash Rate (for At Call Deposits) At call deposits: Cash rate less 0.1% p.a. Term deposits and bank bills: Ask your Agribusiness Manager about our current special rates for AgriAdvantage Plus members	No change	No change

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
7.	Business Credit Cards	May 2005 – 31 Dec 2015	No establishment fee (normally \$300)	<i>No change</i>	<i>No change</i> ⁵	<i>No change</i>	<i>No change</i>
8.	Corporate Charge Cards⁶						
9.	Business Overdraft	May 2005 – 31 Dec 2015	No establishment fee (normally 0.75% of overdraft limit) Standard overdraft line fee waived, instead reduced overdraft facility fee applies: Limit to \$100,000: Free Limit \$100,001 to \$500,000: \$300p.a. Limit \$500,001 to \$1,000,000: \$600p.a. Limit \$1,000,000+: 0.30% of limit p.a.	<i>No change</i>	No establishment fee (normally 0.75% of loan amount) Standard overdraft line fee waived, instead reduced overdraft facility fee applies. Limit to \$100,000: Free Limit to \$100,001 to \$500,000: \$300p.a. Limit \$500,001 to \$1,000,000: \$600p.a. Limit \$1,000,000+: 0.30% of limit p.a. 0.25% discount on our standard establishment fee (currently 0.5% of	<i>No change</i>	0.25% discount on our standard establishment fee (currently 0.5% of the overdraft limit) A discount on our standard Overdraft Line Fee (currently 1.12% of your limit). The size of the discounted fee depends on your overdraft limit: Up to \$100,000: Nil \$100,001– \$500,000: \$300 pa \$500,001– \$1,000,000: \$600 pa \$1,000,000 plus: 0.30% of limit pa <u>\$100,000 plus: 0.20% of limit pa.</u>

⁵ From 22 October 2010, the Business Credit Card product had the benefit: “No establishment fee (currently \$600)”.

⁶ Includes Commonwealth Bank Business Card product.

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
					the overdraft limit) A discount on our standard Overdraft Facility Fee (currently 1.12% of your limit). The size of the discounted fee depends on your overdraft limit: Up to \$100,000: Nil \$100,001 - \$500,000: \$300 pa \$500,001 - \$1,000,000: \$600 pa \$1,000,000 plus: 0.30% of limit pa		
10.	CommBiz	15 Nov 2010 – 31 Dec 2015	N/A	N/A	Two free security tokens (currently \$27.50 each). No monthly token fee for two tokens (currently \$5.50 each) No establishment	No change	No change

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
					fee (currently \$66)		
11.	Asset Finance	May 2005 – 31 Dec 2015	No Fixed Forward rate documentation fee (normally \$400) \$100 discount on final documentation fee	<i>No change</i>	No Fixed Forward rate documentation fee (normally \$400) \$100 discount on our final standard documentation fees (currently \$395) \$200 discount on establishment of the Master Agreement (currently \$395) Discounted interest rates when you spend more than \$250,000 a year.	<i>No change</i>	<i>No change</i>
12.	Agri Line of Credit	May 2005 – 31 Dec 2015	No establishment fee (normally 0.75% of loan amount)	<i>No change</i>	No establishment fee (normally 0.75% of loan amount) 0.25% discount on our standard establishment fee (currently 0.5% of loan amount)	<i>No change</i>	<i>No change</i>
13.	Better Business Loan	May 2005 – 31 Dec 2015	No establishment fee (normally 0.75% of loan amount)	<i>No change</i>	No establishment fee (normally 0.75% of loan amount)	<i>No change</i>	<i>No change</i>

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
			No loan service fee.		No loan service fee. 0.25% discount on our standard establishment fee (currently 0.5% of loan amount)		
14.	Commercial Bill⁷	May 2005–31 Dec 2015	No establishment fee (normally 0.75% of loan amount)	<i>No change</i>	No establishment fee (normally 0.75% of loan amount) 0.25% discount on our standard establishment fee (currently 0.5% of loan amount)	<i>No change</i>	<i>No change</i>
15.	Business Wealth Management	May 2005 – 12 Sep 2014	\$400 discount off the fee for preparing a financial plan for your needs.	<i>No change</i>	A \$400 discount off on the fee for preparing a financial plan for your needs your wealth management plan.	<i>No change</i>	<i>No change</i>
16.	Wealth Protection	15 Nov 2010 – 31 Oct 2014	N/A	N/A	A 5% discount on the first year's premium	<i>No change</i>	<i>No change</i>
17.	Standard Variable Rate Home Loan /	May 2005 – 31 Dec 2015	Discount off Standard Variable Rates of:	<i>No change</i>	Discount off Standard Variable Rates of:	<i>No change</i>	<i>No change</i>

⁷ Includes the Better Business Bill Facility with Interest Rate Risk Management product. Terms of Reference document for Better Business Bill Facility identifies that that product was introduced in May 2005: CBA.0000.0021.3257.

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
	Investment Home Loan ⁸		<p>\$150,000 to less than \$250,000 - 0.40% p.a.</p> <p>\$250,000 to less than \$500,000 - 0.50% p.a.</p> <p>\$500,000 to less than \$1,000,000 - 0.60% p.a.</p> <p>\$1 million+ - 0.70% p.a.</p> <p>No upfront loan Standard Establishment Fee (normally \$600)</p> <p>No monthly Loan Service Fee (normally \$8 per month)</p>		<p>\$150,000 to less than \$250,000 - 0.40% p.a.</p> <p>\$250,000 to less than \$500,000 - 0.5% p.a.</p> <p>\$500,000 to less than \$1,000,000 - 0.60% p.a.</p> <p>\$1 million+ - 0.70% p.a.</p> <p><u>Interest rate discounts</u></p> <p><u>\$150,000 - \$349,999: 0.5% pa</u></p> <p><u>\$350,000 - \$749,999: 0.6% pa</u></p> <p><u>More than \$750,000: 0.7% pa</u></p> <p><u>Other benefits</u></p> <p>No up-front loan Standard Establishment Fee (currently \$600)</p> <p>No monthly Loan Service Fee</p>		

⁸ Includes the Home Loan / Investment Home Loan between May 2005 and 14 November 2010, and 1 Year Guaranteed Home Loan / Investment Home Loan and 12 Month Discount Variable Home Loan or Investment Home Loan products between 10 November 2010 to 31 December 2015.

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
					(currently \$8 per month)		
18.	Fixed Rate Home Loan / Investment Home Loan⁹	May 2005 – 31 Dec 2015	Discount off Standard Fixed Rates of 0.15% p.a. No upfront loan Standard Establishment Fee (normally \$600) No monthly Loan Service Fee (normally \$8 per month)	<i>No change</i>	Discount off Standard Fixed Rates of 0.15% p.a. Interest rate discounts 0.15% pa Other benefits No up-front loan Standard Establishment Fee (currently \$600) No monthly Loan Service Fee (currently \$8 per month)	<i>No change</i>	<i>No change</i>
19.	CommSec Margin Loan	May 2005 – 31 Dec 2015	0.25% p.a. discount off the Standard Variable Rate	<i>No change</i>	0.25% p.a. discount off the Standard Variable Rate variable or fixed rate	<i>No change</i>	<i>No change</i>
20.	Standard Business Cheque Account	1 May 2005 – 14 Nov 2010	A choice of: a) Standard Business Cheque Account (interest bearing option), with interest paid on credit funds	<i>No change</i>	A choice of: a) Standard Business Cheque Account (interest bearing option), with interest paid on credit funds	N/A	N/A

⁹ Includes the Home Loan / Investment Home Loan between May 2005 and 14 November 2010.

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴	
			<p>calculated daily and paid monthly: Up to \$50,000: 0.70% pa \$50,001 - \$100,000: Reserve Bank Target Cash Rate less 3% \$100,001 - \$200,000: Reserve Bank Target Cash Rate less 2% \$200,000 +: Reserve Bank Target Cash Rate less 1%</p> <p>b) Standard Business Cheque Account (non-interest bearing option) with no credit interest, that offers \$1.50 in transaction fee rebate for every \$1,000 minimum monthly credit balance maintained in account</p> <p>c) Premium Business Cheque Account available</p>		<p>calculated daily and paid monthly: Up to \$50,000: 0.70% pa \$50,001 - \$100,000: Reserve Bank Target Cash Rate less 3% \$100,001 - \$200,000: Reserve Bank Target Cash Rate less 2% \$200,000 +: Reserve Bank Target Cash Rate less 1%</p> <p>b) Standard Business Cheque Account (non-interest bearing option) with no credit interest, that offers \$1.50 in transaction fee rebate for every \$1,000 minimum monthly credit balance maintained in account</p>			

No	Relevant Product	Period benefit offered	Brochure at 16 September 2005 ²	Brochure at 25 July 2008	Brochure at 22 October 2010 ³	Brochure at 17 August 2012	Brochure at 15 February 2013 ⁴
			upon request for clients who maintain credit balances of greater than \$10,000 every month		e) Premium Business Cheque Account available upon request for clients who maintain credit balances greater than \$10,000 every month		

Schedule 2 – Accepted Payments

Year	No. of \$300 Accepted Payments	No. of \$500 Accepted Payments	No. of all Accepted Payments	Total value of accepted payments
2005	1	0	1	\$300.00
2006	158	116	274	\$112,200.00
2007	758	445	1,203	\$533,900.00
2008	1,740	1,117	2,857	\$1,181,800.00
2009	1,708	1,013	2721	\$1,021,300.00
2010	1,760	1,090	2850	\$1,079,200.00
2011	1,485	1,229	2714	\$1,055,200.00
2012	224	196	420	\$172,400.00
2013	598	540	1,138	\$486,300
2014	1,467	1,503	2,970	\$1,302,200.00
2015	727	804	1,531	\$659,050.00
Total	10,626	8,053	18,679	\$7,603,850.00

Schedule 3 – Value and occasions of AA+ Package Benefits not applied

No	Relevant Products	Benefit required to be applied but not applied	Period benefit available	Period over which benefits not applied	Value of benefits not applied ¹⁰	Occasions benefits not applied
1.	Business Transaction Account	\$10 monthly access fee waived	15 Nov 2010 – 31 Dec 2015	15 Nov 2010 – 1 Aug 2015	\$93,528.82	8,450
2.	Premium Business Cheque Account	\$15 monthly access fee waived	15 Nov 2010 – 31 Dec 2015	15 Nov 2010 – 1 Aug 2015	\$98,491.38	5,643
3.	Overdraft Cheque Account	\$5 monthly access fee waived	14 Mar 2013 – 31 Dec 2015	14 Mar 2013 – 1 Aug 2015	\$95,687.57	17,638
4.	Farm Management Deposit Account	Special rate	May 2005 – 31 Dec 2015	26 Dec 2006 – 29 Jun 2017	\$785,836.14	29,187
5.	Business Online Saver	Special rate	15 Nov 2010 – 31 Dec 2015	14 Mar 2013 – 31 Jul 2015	\$114,432.63	4,611
6.	Cash Deposit Account	Special rate	May 2005 – 31 Dec 2015	28 Jun 2008 – 31 Jul 2015	\$56,733.35	1,196
7.	Business Credit Card	Establishment fee waived	May 2005 – 31 Dec 2015	22 Apr 2008 – 23 Dec 2011	\$1,300.00 ¹¹	3
8.	Corporate Charge Card	Establishment fee waived				
9.	Business Overdraft	Establishment fee waived/discounted	May 2005 – 31 Dec 2015	12 Jan 2007 – 26 May 2014	\$143,117.27	324
		Overdraft line fee waived/discounted	May 2005 – 31 Dec 2015	24 Oct 2005 – 1 Aug 2015	\$2,487,856.60	7418
10.	CommBiz	Two free tokens	15 Nov 2010 – 31 Dec 2015	30 Nov 2010 – 30 Jun 2015	\$102,040.23	15,596

¹⁰ Value includes interest paid by CBA.

¹¹ Business Credit Card and Corporate Charge Card were not included as separate items of remediation in the updated remediation spreadsheet provided on 2 December 2019: CBA.1006.0001.0001.

No	Relevant Products	Benefit required to be applied but not applied	Period benefit available	Period over which benefits not applied	Value of benefits not applied ¹⁰	Occasions benefits not applied
11.	Asset Finance	\$100 off document fee \$200 off establishment fee	May 2005 – 31 Dec 2015	11 May 2005 – 12 Aug 2015	\$797,012.83	5,017
12.	AgriLine of Credit	Establishment fee waived	May 2005 – 31 Dec 2015	7 May 2007 – 13 Dec 2013	\$42,290.92	43
13.	Better Business Loan	Establishment fee waived	May 2005 – 31 Dec 2015	8 Dec 2006 – 7 May 2014	\$268,530.37	417
		Loan service fee waived	May 2005 – 31 Dec 2015	1 Dec 2005 – 1 Aug 2015	\$311,399.53	4,990
14.	Commercial Bill	0.25% off establishment fee	May 2005 – 31 Dec 2015	29 Jun 2007 – 1 May 2014	\$260,566.93	100
15.	Business Wealth Management	\$400 off initial advice fee	May 2005 – 12 Sep 2014	1 Jul 2009 – 28 Jun 2014	\$169,593.92	367
16.	Wealth Protection	5% off personal risk insurance on first year	15 Nov 2010 – 31 Oct 2014	14 Jan 2011 – 25 Apr 2015	\$5,038.13	190
17.	Standard Variable Rate Home Loan / Investment Home Loan	Establishment fee waived	May 2005 – 31 Dec 2015	1 Feb 2006 – 28 May 2015	\$26,495.80	45
		Loan service fee waived	May 2005 – 31 Dec 2015	18 Oct 2005 – 12 Aug 2015	\$116,272.32	11,129
		Tiered discounted interest rate	May 2005 – 31 Dec 2015	19 Jul 2005 – 18 Aug 2015	\$582,905.67	12,990
18.	Fixed Rate Home Loan / Investment Home Loan	Establishment fee waived	May 2005 – 31 Dec 2015	<i>See Standard Variable Rate Home Loan / Investment Home Loan above</i>	<i>See Standard Variable Rate Home Loan / Investment Home Loan above</i>	<i>See Standard Variable Rate Home Loan / Investment Home Loan above</i>
		Loan service fee waived	May 2005 – 31 Dec 2015	<i>See Standard Variable Rate Home Loan / Investment Home Loan</i>	<i>See Standard Variable Rate Home Loan / Investment Home Loan above</i>	<i>See Standard Variable Rate Home Loan / Investment Home Loan</i>

No	Relevant Products	Benefit required to be applied but not applied	Period benefit available	Period over which benefits not applied	Value of benefits not applied ¹⁰	Occasions benefits not applied
		0.1% off interest rate	May 2005 – 31 Dec 2015	<i>See Standard Variable Rate Home Loan / Investment Home Loan above</i>	<i>See Standard Variable Rate Home Loan / Investment Home Loan above</i>	<i>See Standard Variable Rate Home Loan / Investment Home Loan above</i>
19.	CommSec Margin Loan	Discounted interest rate	May 2005 – 31 Dec 2015	9 Nov 2006 – 16 Aug 2015	\$25,450.31	1,577
20.	Standard Business Cheque Account	Discounted interest rate	1 May 2005 – 14 Nov 2010	30 Nov 2005 – 14 Nov 2010	\$126,524.65	2,544
Total					\$6,711,105.37	129,475

Schedule 4 – Mischarged AA+ Package Fees

Year	No. of Incorrectly Charged Package Fees	Value of Incorrectly Charged Package Fees (including interest)
2005	0	\$0.00
2006	29	\$19,451.24
2007	209	191,513.14
2008	390	\$293,191.19
2009	360	\$201,691.71
2010	313	\$168,749.86
2011	312	\$172,875.53
2012	89	\$39,785.80
2013	207	\$51,694.47
2014	598	\$185,024.65
2015	239	\$52,193.51
Total	2,746	\$1,376,717.10