

**Sean Hughes – Opening Statement to House of Representatives, Standing Committee, Economics (Australia's four major banks and other financial institutions)  
RE: Members Equity Bank (ME Bank) Redraw issue**

DATE: 3/06/2020

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Thank you Chair. My name is Commissioner Sean Hughes and I am representing the Australian Securities and Investments Commission today, I wish to table a brief opening statement. Joining me today from ASIC is Mr Warren Day, Regional Commissioner – Victoria and Executive Director, Assessment and Intelligence, as well as Mr Tim Gough, acting Executive Director, Financial Services.

I would like to set out for the Committee:

1. ASIC's understanding of the redraw issue
2. ASIC's interaction with ME Bank on this issue
3. Outline the process that entities undertake to report breaches to ASIC; and finally
4. The communication we have had with other regulators and agencies on this issue.

### **1. The redraw issue**

ASIC first become aware of ME Bank's redraw issue in **March 2013**. The redraw issue apparently arose from an error in ME Bank's legacy core bank platform (Ultracs) with the amortisation of amounts available for redraw on the facilities.

As a result of the error, in some circumstances, some limited cohorts of customers have accessed redraw funds taking their loan balance above the amortisation curve. These customers will subsequently experience either an unexpected uplift in repayments amounts later in the loan term, or a balloon repayment at the end of term.

### **2. ASIC's interaction with ME Bank**

In **March 2013**, ME Bank sent ASIC an application for a "No-Action" letter after the bank had identified a number of home loans where the amount available for redraw on the home loan was incorrectly notified. ME identified two categories, namely:

- Red category - 416 home loans where the loan balance was already above the amortisation curve; and
- Amber category - 6,554 home loans, where a full redraw of the 'available funds' amount would put the customer above their amortisation curve.

ASIC decided not to issue a formal "No-Action" letter, as we had not then identified any actionable breach of the law as it stood in 2013, based on our knowledge at the time.

ME Bank advised ASIC that affected Red category customers would be contacted by telephone and Amber category customers would be contacted by letter to explain the redraw error and inform the customers of their correct redraw amount. An option was to be given to customers to apply to retain the additional redraw by undergoing a credit assessment.

ASIC did not at that time receive any customer complaints arising out of these changes and proposed communications by ME Bank.

The IT solution to this error was, and still is, the migration of the loans from Ultracs onto ME Bank's new core banking platform T24, which at the time was scheduled for migration in the second quarter of 2014.

Until then, ME Bank used a manual process, where each month the bank would manually monitor, recalculate and load into Ultracs the correct 'available funds'.

Due to complexities and a number of system issues in the T24 system, ME Bank's home loan portfolio was not migrated over to T24 in 2014 and the manual control remained in place.

#### *Re-occurrence of redraw issue*

ASIC was first notified of the re-occurrence of the redraw issue on **10 December 2019** when ME Bank sent a self-report (**self-report**) to ASIC's misconduct and breach reporting team.

ME Bank advised in this self-report that the redraw error started to re-occur in **2015** when the manual control was compromised. This was not identified by the bank until **October 2019**.

The matter was subsequently discussed at a standard supervisory regulatory issues meeting between ASIC's Financial Services Group and ME Bank on **18 December 2019**. These meetings would customarily occur on a bi-annual basis with ME Bank.

Tim Gough, ASIC's acting Executive Director, Financial Services Group, (who is also attending today) was at this meeting as was Mr Jamie McPhee, CEO of ME Bank.

During the meeting, the redraw issue was referenced by ME Bank, and ASIC discussed with the bank the challenges of effective and timely customer communications as a part of its proposed remediation plan. ASIC noted the particular sensitivities around reducing access to funds to which customers had

thought they were entitled. ASIC also noted that it was important that ME Bank communicated both effectively and promptly with customers to explain why and when these changes were being made i.e. to fix an IT system problem.

For the avoidance of all doubt, ASIC did not endorse ME Bank's remediation or communication plan, nor has it sought to do so.

After consulting with the Financial Services Group, the Misconduct and Breach Reporting team requested an update from ME Bank about the self-report on **30 March 2020**. ME Bank provided a response on **16 April 2020**. ASIC then requested further clarification on **21 April 2020** and this was provided by ME Bank on **23 April 2020**.

ASIC understand that ME Bank made adjustments to approximately 21,000 customers home loan redraw facilities between **23 and 27 April 2020**.

ASIC was therefore unable to raise any concerns regarding ME Bank's communication and remediation plan, before ME Bank implemented its remediation plan.

Since 29 April 2020, ASIC has received 3 complaints regarding this issue. These complaints are currently being assessed. No other complaints have been received by ASIC on this redraw issue since 2013.

ASIC receives approximately 10,000 complaints each year.

### **3. Breach reporting process**

This self-report from ME Bank was managed by our Misconduct and Breach Reporting team and ME Bank was to continue to provide updates to the breach reporting team.

The report would only be escalated from the Misconduct and Breach Reporting team to the Financial Services Group, for more intense supervision or monitoring if necessary.

In assessing breach reports, the Misconduct and Breach Reporting team considers the extent of the harm or loss, benefits of pursuing the misconduct, seriousness of the misconduct and remedial action taken to date to determine whether it warrants further regulatory consideration.

On average, ASIC receives approximately 2,200 breach reports from licensees each year. We note, in the year 2019-2020, there was a significant increase in breach reports following the Financial Services Royal Commission.

#### **4. Interactions with other agencies / ME Bank**

Since the media attention and customer dissatisfaction on this matter started in early **May 2020**, the Financial Services Group has been in regular communication with ME Bank on this matter, and will continue to do so until the issues are resolved to ASIC's satisfaction.

We have also been in communication with APRA and Australian Financial Complaints Authority (AFCA) regarding this matter, and will continue to do so.

We understand that AFCA has received approximately 80 complaints regarding this issue. However, ASIC understands many have already been resolved, and following a discussion with ME Bank, AFCA are confident that most, if not all, would be resolved at an early stage.

#### **Closing comments**

ASIC does have concerns about how this matter has been handled. At a time when there are significant sensitivities for consumers about the economic impacts of the COVID-19 pandemic, this matter **could have** and **should have** been handled better by ME Bank.

It was ASIC's expectation that ME Bank would communicate with their customers in a clear and transparent manner before making any adjustments to redraw facilities.

This should have occurred in any normal setting, but in this instance there should have been heightened awareness and sensitivity to explain to customers what was happening to their account balances and why, given the strained economic environment impacting households.

ASIC will continue to closely monitor ME Bank's conduct and engage with the bank on this issue, so as to ensure a fair and transparent outcome for ME Bank's customers. This has been a disappointing experience for ME Bank and has had an avoidable impact on customer confidence.

**Sean Hughes**  
**Commissioner**