



Abacus
Australian Mutuals

Association of Building Societies and Credit Unions

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Discussion Paper – Cost Recovery
Australian Transaction Reports & Analysis Centre
cost_recovery@austrac.gov.au

Dear Sir/Madam,

Submission by Abacus: AUSTRAC Cost Recovery

We appreciate the opportunity to comment on the discussion paper *Cost recovery for AUSTRAC's regulatory functions*.

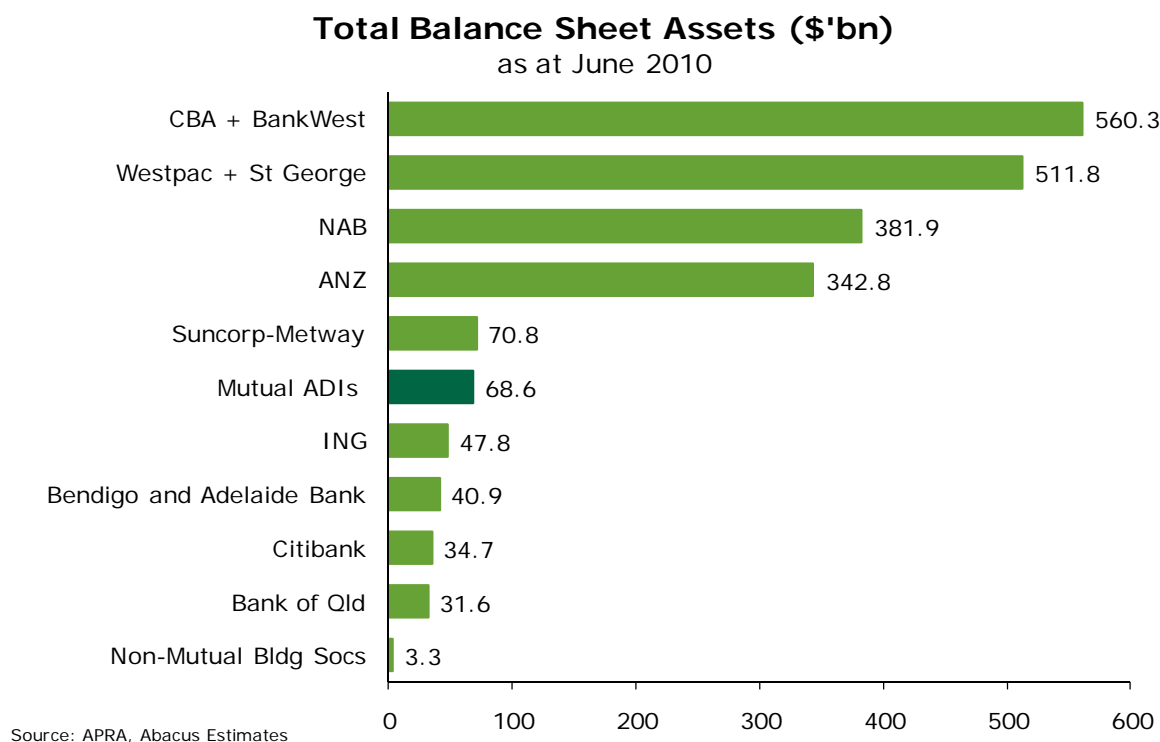
Abacus – Australian Mutuals represents mutual Authorised Deposit-taking Institutions (ADIs): credit unions and mutual building societies. There are 104 credit unions and 9 mutual building societies providing consumer banking services to 4.5 million members. Credit unions and building societies (CUBS) have a strong presence in regional Australia, with around half based outside capital cities. All CUBS are reporting entities under the AML/CTF Act.

Collectively, the mutual banking sector holds around 11.5 per cent of the household deposits market and around 10 per cent of the new home loan market and is a significant competitive force in retail banking. Individually, credit unions and building societies are dwarfed by the major banks. Regulatory compliance costs are a significant concern for smaller participants in the banking market.

Abacus believes the approach to cost recovery proposed in the discussion paper needs to be significantly revisited. However, before addressing the conceptual elements of the proposed approach to cost recovery, we note that the data underpinning some of the estimates is seriously flawed.

Figure 3.2 *Summary of expected levies applicable to different industry sectors* assumes there are 145 CUBS and that all CUBS are 'large entities'. This produces a large entity component levy for the CUBS sector of \$1.44 million. The equivalent levy for the entire domestic banks sector (including CBA, Westpac, ANZ & NAB) is estimated to be \$525,000.

This outcome is, to say the least, anomalous when compared to the asset size of the domestic banks compared to mutual ADIs.



The scale of the anomaly is magnified by the incorrect number of CUBS (145 vs 113) but much more significantly by the assumption that all CUBS are large entities according to the definition adopted in the discussion paper, i.e. more than 150 full-time equivalent (FTE) staff. In fact, only 16 CUBS would be defined as large entities under this definition.

Figure 3.1 *Reporting entities with significant transaction reporting obligations* shows that “domestic banks” provide 67% of reports by volume and 57% of reports by value whereas CUBS provide 0.17% of reports by volume and 0.03% of reports by value.

Clearly, the vast bulk of activity that is regulated by AUSTRAC is carried out by domestic banks.

Large entities

The discussion paper says

“larger entities have relatively more customers and typically provide products that are more complex over multiple distribution channels and multiple jurisdictions. In addition, large reporting entities are relatively more important to the overall integrity of Australia’s financial system. Accordingly, AUSTRAC applies relatively more supervisory resources toward regulating larger entities compared to small entities.”

This description of “larger entities” fits major banks rather than CUBS.

The discussion paper says:

“AUSTRAC expends relatively more effort and costs in reviewing the ML/TF risk assessment of the larger reporting entities. The larger a reporting entity and the more complex its businesses the more complex is its assessment of risk.”

“The larger and more complex a reporting entity, the more complex are its systems and governance to manage risk.”

“The larger and more complex a reporting entity, the more customers it is likely to have and the higher its exposure to ML/TF risk. In addition the larger a reporting entity, the more varied and complex are its likely customer types.”

Major banks are vastly more diverse and complex than CUBS. In contrast to major banks, CUBS have simple business models, focused on the domestic consumer market.

The discussion paper’s proposed approach to “large entities” would rank Queensland Country Credit Union or Police & Nurses Credit Society with CBA and Westpac. This is not consistent with the principles of cost recovery set out in Figure A.1:

“Cost recovery should not be applied where it is not cost effective, where it is inconsistent with government policy objectives or where it would unduly stifle competition or industry innovation.”

“The design of the levy has taken into account the need to maintain services, particularly in regional and rural areas.”

Regulatory compliance, including compliance with the AML/CTF regime, already disproportionately impacts on smaller businesses because regulatory compliance entails fixed costs. A flat fee for “large entities”, with a low threshold for “large entity” status, is a disproportionately higher cost for smaller entities.

The proxy measure for regulatory effort and cost should reflect the difference between CUBS and major banks. For example, there could be bands, including a “very large entity” category based on asset size. This would reflect the massive distinction in size and complexity, and therefore regulatory effort and cost, between major banks and CUBS.

Benefits of regulation

The discussion paper says that “to the extent that reporting entities operate internationally, they obtain a benefit from operating in a jurisdiction that complies with the requirements of the Financial Action Task Force.”

This benefit applies to major banks but it does not apply to CUBS. Entities that do not gain any benefit from this aspect of regulation should not be required to contribute to the related cost recovery.

Generally, the assertion in the discussion paper that reporting entities benefit from AUSTRAC's regulatory activities is open to dispute. Regulatory requirements to verify identity would be carried out regardless of AUSTRAC's oversight due to the need to manage fraud risk.

While the wider community undoubtedly benefits from law enforcement authorities having access to information provided by reporting entities to Australia's speciality finance intelligence unit, AUSTRAC's regulatory framework does not underpin the operating environment for reporting entities. AUSTRAC's role in relation to its regulated entities cannot be compared to APRA's role in relation to prudentially-regulated entities.

Regulatory activity

AUSTRAC has identified remittance providers and trade-based money laundering as priority areas for regulatory activity and presumably therefore regulatory effort and cost.

CUBS, along with all other ADIs, are subject to strict regulatory regimes under the Banking Act, as AFS licensees under the Corporations Act, and as signatories to codes such as the Mutual Banking Code of Practice and the EFT Code. Remittance providers are likely to be outside all of these regulatory frameworks and, as AUSTRAC notes in its latest annual report, it is "widely recognised that the money remittance sector is particularly vulnerable to the risk of being exploited for criminal purposes."

If the remittance sector is where significant regulatory costs are sustained, then the relevant costs should be recovered from that sector.

AUSTRAC's latest typologies study identifies "trade-based money laundering" at the top of the list of current and emerging threats. "This process involves disguising and moving the proceeds of crime using trade transactions in an attempt to legitimise the source of the funds. In practice, this can be achieved through the misrepresentation of the price, quantity or quality of imports or exports," the typologies report says.

This is another example of regulatory activity that is far more relevant to major banks than to CUBS.

I can be contacted on 02 6232 6666 to discuss any aspect of this submission.

Yours sincerely,

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