

Royal commission call on banks grows louder

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When Commonwealth Bank boss Ian Narev hits the podium on August 9 to present the bank's full-year financial results he will need to think long and hard about the way he answers questions relating to serious allegations that the country's biggest bank breached money-laundering and terrorism finance laws.

He should also think about the reason for the growing calls for a royal commission into the financial services sector and the anger felt in the community about this latest turn of events.

Greens Treasury spokesperson Senator Peter Whish-Wilson says the Turnbull government needs to relent on a royal commission after the latest scandal and the board should cancel all executive bonuses.

"I am calling on the board of Commbank to scrap any bonus payments they were considering giving to the CEO and senior executives. The public will never forgive an organisation that pays millions in bonuses to people who couldn't even ensure that their company could obey laws put in place to stop organised crime," Senator Whish-Wilson said on Friday.

It won't be the first time Narev has had to face questions about an alleged scandal involving the bank's compliance and culture. Since he took the top job in December 2011, he and the bank have had to front a series of inquiries and respond to a series of scandals, including those over financial planning and life insurance.

Last year CBA shareholders took a stand and slapped the bank with a historic first strike against its remuneration report.

My colleague Clancy Yeates reported at the time that the "trigger for the backlash was a move to link Narev's long-term bonus

to new 'soft targets', and concerns about the payment of multi-million-dollar bonuses despite a series of scandals".

Despite all of this, the board – past and present – has never felt compelled to make any executives responsible. In some cases, executives involved in the planning scandal left the bank and set up shop elsewhere.

When Narev presents the bank's full-year results he will be receive a series of questions from analysts about how CBA plans to deal with the government's financial intelligence unit Austrac's legal action, how much it is likely to cost, whether it will make any provisions and what sort of remedies are in place. For now the best the bank will do is inform the ASX that the matter is subject to court proceedings.

"We are currently reviewing Austrac's claim and will file a statement of defence," CBA said in a statement to the ASX on Friday. It says it will keep the market informed of any updates.

But the elephant in the room is how a company considered to be fabulous with big IT can get itself into a situation where Austrac has had to resort to a 500-page statement of claim in the Federal Court.

The regulator alleges CBA committed 53,506 contraventions of the Act, which attracts a maximum fine of \$18 million per transaction or equivalent to \$966 billion. If the allegations hold up, it is highly unlikely that such a figure would be the ultimate penalty as it would rock the sector and involve nationalising the bank.

But even a fraction of that amount would have an impact on the financial accounts of the bank, never mind the reputational damage to a brand that has already taken a beating – all of its own doing.

Managing risks and engendering trust is the be-all and end-all of a bank. Without it, things fall apart. It is what a banking licence is all about. It is why getting the culture right is paramount and it is why the board needs to show some strength.

If the allegations are even partly right, CBA will have a lot of damage to repair.

As outlined in the summary of Austrac's statement of claim the Australian Federal Police informed CBA that numerous accounts in one syndicate were connected to a serious investigation into serious criminal offences, but CBA allowed some of the accounts to remain open and further transactions occurred. There are a litany of other cases where checks and balances didn't happen.

CBA isn't the first bank to be busted for failure to comply with anti money-laundering laws.

In 2012 – while CBA was rolling out a new ATM system, known as Intelligent Deposit Machines (IDMs), which are at the heart of the latest allegations – HSBC was fined \$US1.9 billion for a “blatant failure” to implement anti money-laundering controls.

HSBC, for its part, copped the fine and said it was “profoundly sorry for past mistakes” that allowed Mexican drug traffickers to deposit hundreds of thousands of dollars each day in HSBC accounts.

The spotlight again went on money laundering in 2014 when Standard Chartered was fined \$US300 million by the New York State Department of Financial Services. It followed a similar fine in 2012 that related to its anti-money-laundering compliance, which was described as leaving the American financial system “susceptible to terrorists and drug kingpins”. All up, in 2012 Standard Chartered paid \$US667 million to regulators.

Other banks have been slapped with fines for failure to have the proper systems in place to spot and report suspicious transactions.

Austrac alleges CBA didn't carry out any risk assessment of money laundering or counter terrorism when it rolled out its IDMs, which enabled crooks to set up fake accounts and deposit money anonymously.

When word got around that CBA had a blind spot in its systems, crooks went into overdrive and cash deposits into IDMs started to rise exponentially. Austrac alleges the bank failed to investigate what might be going on. Nor did it do anything in response to alerts raised in internal transaction monitoring systems or review its money laundering risk assessment despite identification by law enforcement of significant instances of money laundering through IDMs.

While CBA mulls over its response to the legal action, the investment community –

and Australians – want some clarity and leadership.

But in the case of anti-money-laundering systems, Westpac, ANZ and NAB are confident their machines are fully compliant. Let's hope this court case sends a message to one and all how important it is to get it right.

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