

Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

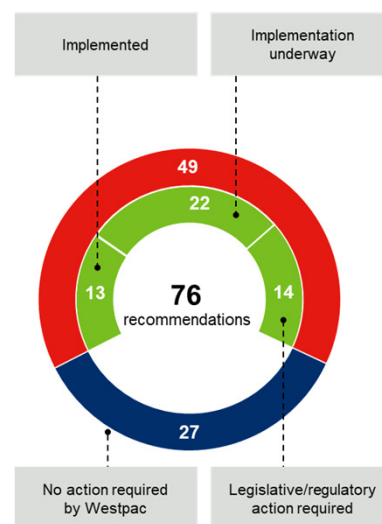
Westpac Group implementation progress update – April 2020

Overview

Westpac continues its program of work to implement the recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. There have been a number of developments since the last update to the Committee.

Of the Royal Commission's 76 recommendations, 49 recommendations presently apply to Westpac. So far:

- 13 have been implemented. We have either established new practices and procedures to meet recommendations or we have existing practices consistent with the recommendation.
- 22 are being implemented. Some recommendations will require legislative or regulatory action before implementation can be completed.
- 14 require legislative or regulatory action before implementation work can commence. We are undertaking preparatory work where possible, including through participation in Government consultation.



The full set of recommendations that presently apply to Westpac are included in the accompanying table.

Key developments

In February 2020, legislation passed to implement several recommendations which impact Westpac, including:

- Introducing a best interests duty for mortgage brokers and reforms to mortgage broker remuneration; and
- Banning unfair contract terms in standard insurance contracts from 5 April 2020.

Implementation work is underway to comply with this legislation.

On 1 March 2020, the updated Code of Banking Practice came into effect. The revised Code has been a key focus for the industry and incorporates changes recommended by the Royal Commission including:

- Ceasing default interest on agricultural loans while farms are affected by drought or natural disaster;
- Ensuring services to people with limited English and those living in remote areas are inclusive and accessible;
- Removing overdraft and dishonour fees on basic, low fee or no fee accounts for concession card holders; and
- Guaranteed features for basic bank accounts.

Westpac has implemented these changes.

On 31 January 2020, the Government released exposure draft legislation to implement a further 22 recommendations, 15 of which are applicable to Westpac. Westpac participated in consultation on the draft legislation and in many cases has commenced implementation work.

As part of the Government's Royal Commission Implementation Roadmap, this legislation was due to be introduced by 1 July 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation



ROYAL COMMISSION RECOMMENDATIONS APPLICABLE TO WESTPAC

The table below includes a status update against the 49 recommendations that presently apply to Westpac.

RECOMMENDATION	WESTPAC STATUS
BANKING	
<p>Recommendation 1.2: Mortgage broker best interests duty</p> <p>The law should be amended to provide that, when acting in connection with home lending, mortgage brokers must act in the best interests of the intending borrower. The obligation should be a civil penalty provision.</p>	<p>Legislation has been passed to introduce the Best Interests Duty, with application from 1 July 2020.</p> <p>Westpac supports the introduction of the Best Interests Duty. Westpac will comply with the legislation from the effective date.</p>
<p>Recommendation 1.3: Mortgage broker remuneration</p> <p>The borrower, not the lender, should pay the mortgage broker a fee for acting in connection with home lending.</p> <p>Changes in brokers' remuneration should be made over a period of two or three years, by first prohibiting lenders from paying trail commission to mortgage brokers in respect of new loans, then prohibiting lenders from paying other commissions to mortgage brokers.</p>	<p>Westpac supports the removal of conflicted remuneration arrangements such as campaign based and bonus commissions and has already removed these.</p> <p>Legislation has been passed to remove conflicted remuneration, with application from 1 July 2020. The Government has also consulted on draft regulations, which set out circumstances in which the ban on conflicted remuneration applies.</p> <p>Westpac will comply with the legislation from the effective date and the regulations once finalised and registered.</p>
<p>Recommendation 1.5: Mortgage brokers as financial advisers</p> <p>After a sufficient period of transition, mortgage brokers should be subject to and regulated by the law that applies to entities providing financial product advice to retail clients.</p>	<p>The Government stated in its Implementation Roadmap that this recommendation will be progressed following the review of financial advice reforms (recommendation 2.3), given that review may recommend changes to the regulation of financial advisers.</p> <p>Westpac will review the amendments once released and determine if further action is required to comply with the legislation and this recommendation.</p>
<p>Recommendation 1.6: Misconduct by mortgage brokers</p> <p>ACL holders should:</p> <ul style="list-style-type: none"> be bound by information-sharing and reporting obligations in respect of mortgage brokers similar to those referred to in Recommendations 2.7 and 2.8 for financial advisers; and take the same steps in response to detecting misconduct of a mortgage broker as those referred to in Recommendation 2.9 for financial advisers. 	<p>Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.</p> <p>Westpac had commenced assessing the impact of draft legislation upon its release and will review any amendments to the draft legislation once reissued to determine what actions are required from Westpac to comply with the legislation and this recommendation.</p>
<p>Recommendation 1.7: Removal of point-of-sale exemption</p> <p>The exemption of retail dealers from the operation of the NCCP Act should be abolished.</p>	<p>Draft legislation has not been released yet.</p> <p>Westpac will review the legislation once released and determine what action is required to comply with the legislation and this recommendation.</p>

RECOMMENDATION	WESTPAC STATUS
<p>Recommendation 1.8: Amending the Banking Code</p> <p>The ABA should amend the Banking Code to provide that:</p> <ul style="list-style-type: none"> • banks will work with customers: <ul style="list-style-type: none"> ○ who live in remote areas; or ○ who are not adept in using English, to identify a suitable way for those customers to access and undertake their banking; • if a customer is having difficulty proving his or her identity, and tells the bank that he or she identifies as an Aboriginal or Torres Strait Islander person, the bank will follow AUSTRAC’s guidance about the identification and verification of persons of Aboriginal or Torres Strait Islander heritage; • without prior express agreement with the customer, banks will not allow informal overdrafts on basic accounts; and • banks will not charge dishonour fees on basic accounts. 	<p>Westpac worked with the ABA to propose changes to the Banking Code of Practice to implement this recommendation.</p> <p>The revised Code took effect on 1 March 2020. Westpac has implemented changes to comply with the recommendation, as reflected in the revised Code.</p>
<p>Recommendation 1.11: Farm debt mediation</p> <p>A national scheme of farm debt mediation should be enacted.</p>	<p>Westpac has long advocated for a nationally harmonised farm debt mediation scheme modelled on the Farm Debt Mediation Act 1994 (NSW), which it believes is the most robust scheme. This will ensure consistency and certainty for customers and the bank.</p> <p>Westpac will review the scheme once established and determine if any action is required by Westpac to comply with the scheme and this recommendation.</p>
<p>Recommendation 1.12: Valuations of land</p> <p>APRA should amend Prudential Standard APS 220 to:</p> <ul style="list-style-type: none"> • require that internal appraisals of the value of land taken or to be taken as security should be independent of loan origination, loan processing and loan decision processes; and • provide for valuation of agricultural land in a manner that will recognise, to the extent possible: <ul style="list-style-type: none"> ○ the likelihood of external events affecting its realisable value; and ○ the time that may be taken to realise the land at a reasonable price affecting its realisable value. 	<p>APRA issued a final draft of revised Prudential Standard APS 220 in December 2019. The revised Standard has a proposed effective date of 1 January 2022.</p> <p>A program of work is underway to implement changes required by APS 220 and in respect of the first limb of this recommendation Westpac has appointed external valuers to carry out all agricultural land valuations. Westpac will comply with the remaining elements of this revised Standard by its effective date.</p>
<p>Recommendation 1.13: Charging default interest</p> <p>The ABA should amend the Banking Code to provide that, while a declaration remains in force, banks will not charge default interest on loans secured by agricultural land in an area declared to be affected by drought or other natural disaster.</p>	<p>Westpac has already addressed this recommendation through implementing a solution to not charge default interest on business loans secured by agricultural land in the event of a drought or other natural disaster.</p>

RECOMMENDATION	WESTPAC STATUS
<p>Recommendation 1.14: Distressed agricultural loans</p> <p>When dealing with distressed agricultural loans, banks should:</p> <ul style="list-style-type: none"> ensure that those loans are managed by experienced agricultural bankers; offer farm debt mediation as soon as a loan is classified as distressed; manage every distressed loan on the footing that working out will be the best outcome for bank and borrower, and enforcement the worst; recognise that appointment of receivers or any other form of external administrator is a remedy of last resort; and cease charging default interest when there is no realistic prospect of recovering the amount charged. 	<p>Westpac has made significant progress in updating its policies and procedures to address each aspect of this recommendation and is completing the final refinements.</p> <p>Westpac has experienced agricultural bankers in place to manage distressed loans and additional processes, such as the use of ethical checklists to ensure that the appointment of receivers or other enforcement steps are only ever used as a last resort.</p>
<p>Recommendation 1.15: Enforceable code provisions</p> <p>The law should be amended to provide:</p> <ul style="list-style-type: none"> that ASIC's power to approve codes of conduct extends to codes relating to all APRA-regulated institutions and ACL holders; that industry codes of conduct approved by ASIC may include 'enforceable code provisions', which are provisions in respect of which a contravention will constitute a breach of the law; that ASIC may take into consideration whether particular provisions of an industry code of conduct have been designated as 'enforceable code provisions' in determining whether to approve a code; for remedies, modelled on those now set out in Part VI of the Competition and Consumer Act, for breach of an 'enforceable code provision'; and for the establishment and imposition of mandatory financial services industry codes. 	<p>Westpac is a subscriber to major industry codes and supports industry bodies and ASIC making the provisions of the codes enforceable. Westpac will work with the relevant industry bodies to consider any action it needs to take to implement this recommendation further.</p> <p>Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.</p> <p>Westpac will review any amendments to the draft legislation once reissued to determine what actions, if any, are required to comply with the recommendation.</p>
<p>Recommendation 1.16: 2019 Banking Code</p> <p>In respect of the Banking Code that ASIC approved in 2018, the ABA and ASIC should take all necessary steps to have the provisions that govern the terms of the contract made or to be made between the bank and the customer or guarantor designated as 'enforceable code provisions'.</p>	<p>Westpac supports the ABA and ASIC making the codes enforceable. Westpac will work with the ABA to assist this process.</p> <p>The Government expects the ABA to work co-operatively with ASIC to have the relevant provisions of the Banking Code approved as 'enforceable code provisions' as soon as practicable after legislation providing ASIC with these powers (recommendation 1.15) has been enacted.</p>

RECOMMENDATION	WESTPAC STATUS
<p>Recommendation 1.17: BEAR product responsibility</p> <p>After appropriate consultation, APRA should determine for the purposes of section 37BA(2)(b) of the Banking Act, a responsibility, within each ADI subject to the BEAR, for all steps in the design, delivery and maintenance of all products offered to customers by the ADI and any necessary remediation of customers in respect of any of those products.</p>	<p>On 28 June 2019, APRA provided a consultation letter to all authorised deposit-taking institutions, including Westpac. Westpac provided a formal submission on 23 August 2019 in response to the consultation paper. The submission was supportive of end-to-end product responsibility and sought clarification on our interpretation.</p> <p>The Government has announced that the work and outcomes of this consultation on end-to-end product responsibility will be subsumed into the Government’s proposed extension of the accountability regime (see e.g. recommendation 3.9 below). APRA intends to release further information on product responsibility when the Government consults on the exposure draft legislation and the implementation timeframe for the new regime.</p>



RECOMMENDATION
WESTPAC STATUS
FINANCIAL ADVICE
Recommendation 2.1: Annual renewal and payment

The law should be amended to provide that ongoing fee arrangements (whenever made):

- must be renewed annually by the client;
- must record in writing each year the services that the client will be entitled to receive and the total of the fees that are to be charged; and
- may neither permit nor require payment of fees from any account held for or on behalf of the client except on the client's express written authority to the entity that conducts that account given at, or immediately after, the latest renewal of the ongoing fee arrangement.

Draft legislation was released for consultation on 31 January 2020. ASIC also released Consultation Paper 329 Implementing the Royal Commission recommendations: Advice fee consents and independence disclosure on 10 March 2020, and the consultation closed on 7 April 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac has a program of work underway to implement the relevant changes applicable to product providers to accept and process client consents in conjunction with the changes under recommendation 3.3 (see below). Westpac will review any amendments to the draft legislation once reissued and continue to prepare for implementation.

Recommendation 2.4: Grandfathered commissions

Grandfathering provisions for conflicted remuneration should be repealed as soon as is reasonably practicable.

Westpac ceased all grandfathered remuneration to employed advisors, aligned product providers and aligned dealer groups from 1 October 2018.

Legislation has been passed to end grandfathered remuneration by 1 January 2021 and require financial product manufacturers to pass through to their retail clients the benefits of any previously grandfathered conflicted remuneration still in contracts after 1 January 2021.

Westpac will comply with legislation from the effective date. Westpac is also working with third party licensees to secure an early end to their contracted arrangements. However, if licensees do not commit to early termination, Westpac is contractually bound which prevents removal of those grandfathered remuneration arrangements earlier than required by law.

Recommendation 2.7: Reference checking and information sharing

All AFSL holders should be required, as a condition of their licence, to give effect to reference checking and information-sharing protocols for financial advisers, to the same effect as now provided by the ABA in its 'Financial Advice – Recruitment and Termination Reference Checking and Information Sharing Protocol'.

Westpac provides references consistent with the ABA reference checking protocol to any requesting licensee provided we have received adviser consent.

On 30 September 2019, the exit of the provision of personal financial advice by Westpac Group salaried financial planners and authorised representatives was completed, however, we have retained a team with the capabilities to continue managing the reference checking process.

Draft legislation was released for consultation on 31 January 2020, that provided for ASIC to create a reference checking and information sharing protocol to replace the existing ABA protocol. The COVID-19 pandemic may alter the Government's timeline for passing the legislation and for finalization of the ASIC protocol.

Westpac will review the ASIC protocol (once drafted) to determine what actions, if any, are required to ensure that it complies with the new protocol.



RECOMMENDATION	WESTPAC STATUS
<p>Recommendation 2.8: Reporting compliance concerns</p> <p>All AFSL holders should be required, as a condition of their licence, to report 'serious compliance concerns' about individual financial advisers to ASIC on a quarterly basis.</p>	<p>Westpac currently has a well-developed process of reporting 'serious compliance concerns' about financial advisers to ASIC, as soon as possible (as opposed to on a quarterly basis).</p> <p>Westpac exited the provision of personal financial advice by salaried financial planners and authorised representatives on 30 September 2019. Accordingly, this recommendation can only apply to financial adviser conduct arising prior to that date.</p> <p>Draft legislation implementing this recommendation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.</p> <p>Westpac had commenced assessing the impact of draft legislation upon its release and will review any amendments to the draft legislation once reissued to determine what actions, if any, are required to implement this recommendation.</p>
<p>Recommendation 2.9: Misconduct by financial advisers</p> <p>All AFSL holders should be required, as a condition of their licence, to take the following steps when they detect that a financial adviser has engaged in misconduct in respect of financial advice given to a retail client (whether by giving inappropriate advice or otherwise):</p> <ul style="list-style-type: none"> • make whatever inquiries are reasonably necessary to determine the nature and full extent of the adviser's misconduct; and • where there is sufficient information to suggest that an adviser has engaged in misconduct, tell affected clients and remediate those clients promptly. 	<p>Westpac has well-developed processes to determine the nature and full extent of an adviser's misconduct, tell affected clients and remediate those clients promptly.</p> <p>Westpac exited the provision of personal financial advice by salaried financial planners and authorised representatives on 30 September 2019. Accordingly, this recommendation can only apply to financial adviser conduct arising prior to that date.</p> <p>Draft legislation implementing this recommendation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.</p> <p>Westpac had commenced assessing the impact of draft legislation upon its release and will review any amendments to the draft legislation once reissued to determine what actions, if any, are required to implement this recommendation.</p>
<p>Recommendation 2.10: A new disciplinary system</p> <p>The law should be amended to establish a new disciplinary system for financial advisers that:</p> <ul style="list-style-type: none"> • requires all financial advisers who provide personal financial advice to retail clients to be registered; • provides for a single, central, disciplinary body; • requires AFSL holders to report 'serious compliance concerns' to the disciplinary body; and • allows clients and other stakeholders to report information about the conduct of financial advisers to the disciplinary body. 	<p>On 30 September 2019, the exit of the provision of personal financial advice by Westpac Group salaried financial planners and authorised representatives was completed and accordingly this recommendation, once implemented through amending legislation, is not expected to have any application to Westpac.</p> <p>As and when the new disciplinary system is established Westpac will consider further whether it applies to Westpac (in any way) – including whether any changes to our processes are required in order to comply with sub-recommendation (c).</p>

RECOMMENDATION
WESTPAC STATUS
SUPERANNUATION
Recommendation 3.1: No other role or office

The trustee of an RSE should be prohibited from assuming any obligations other than those arising from or in the course of its performance of the duties of a trustee of a superannuation fund.

Westpac has established a program to implement these changes involving the removal of its Super Trustees/Registered Superannuation Entities from acting as Responsible Entity (RE) for approximately 100 Managed Investment Schemes (MISs). This process will continue subject to the final legislative approach.

Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac had commenced assessing the impact of the draft legislation and preparing for implementation. Westpac will review any amendments to the draft legislation once reissued and continue to prepare for further implementation.

Recommendation 3.2: No deducting advice fees from MySuper accounts

Deduction of any advice fee (other than for intra-fund advice) from a MySuper account should be prohibited.

Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac has a program of work underway to implement these changes which apply to a relatively small number of customers. These changes will involve rewriting of processes and implementation of software changes. Westpac will review any amendments to the draft legislation once reissued and continue to prepare for implementation.

Recommendation 3.3: Limitations on deducting advice fees from choice accounts

Deduction of any advice fee (other than for intra fund advice) from superannuation accounts other than MySuper accounts should be prohibited unless the requirements about annual renewal, prior written identification of service and provision of the client's express written authority set out in Recommendation 2.1 in connection with ongoing fee arrangements are met.

Draft legislation was released for consultation on 31 January 2020. ASIC also released Consultation Paper 329 Implementing the Royal Commission recommendations: Advice fee consents and independence disclosure on 10 March 2020, and the consultation closed on 7 April 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac has a program of work underway to implement these changes which involves rewriting of processes and implementation of software changes. Westpac had commenced assessing the impact of the draft legislation and preparing for implementation. Westpac will review any amendments to the draft legislation once reissued and continue to prepare for implementation.

Recommendation 3.4: No hawking

Hawking of superannuation products should be prohibited. That is, the unsolicited offer or sale of superannuation should be prohibited except to those who are not retail clients and except for offers made under an eligible employee share scheme. The law should be amended to make clear that contact with a person during which one kind of product is offered is unsolicited unless the person attended the meeting, made or received the telephone call, or initiated the contact for the express purpose of inquiring about, discussing or entering into negotiations in relation to the offer of that kind of product.

Westpac no longer sells superannuation products in branches.

Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac had commenced assessing the impact of the draft legislation and preparing for implementation. Westpac will review any amendments to the draft legislation once reissued to determine what actions are required from Westpac to comply with the legislation and this recommendation.

RECOMMENDATION	WESTPAC STATUS
<p>Recommendation 3.5: One default account</p> <p>A person should have only one default account. To that end, machinery should be developed for ‘stapling’ a person to a single default account.</p>	<p>In its Implementation Roadmap, the Government noted that implementation of this recommendation will be considered in the context of the findings and recommendations of the Productivity Commission’s report Superannuation: Assessing Efficiency and Competitiveness, with no timeframe identified.</p> <p>Westpac supports a competitive superannuation selection process, consistent with the Productivity Commission’s recommendation, and one that enables consumers to choose a default account once and take that account with them until they choose a different option.</p> <p>Westpac will review the amendments once released and determine actions required to comply with the legislation and this recommendation.</p>
<p>Recommendation 3.6: No treating of employers</p> <p>Section 68A of the SIS Act should be amended to prohibit trustees of a regulated superannuation fund and associates of a trustee, doing any of the acts specified in section 68A(1)(a), (b) or (c) where the act may reasonably be understood by the recipient to have a substantial purpose of having the recipient nominate the fund as a default fund or having one or more employees of the recipient apply or agree to become members of the fund.</p> <p>The provision should be a civil penalty provision enforceable by ASIC.</p>	<p>Legislation has been passed to implement this recommendation by amending section 68A of the Superannuation Industry (Supervision) Act 1993.</p> <p>Westpac already had controls in place to monitor compliance with the “no treating” obligations under s68A. A further review has been carried out and completed to ensure it has appropriate processes and controls for the expanded prohibition.</p>
<p>Recommendation 3.9: Accountability regime</p> <p>Over time, provisions modelled on the BEAR should be extended to all RSE licensees, as referred to in Recommendation 6.8.</p>	<p>Westpac’s current BEAR mapping processes extend to its RSE subsidiaries.</p> <p>The Government published for consultation a proposal paper to extend the executive accountability regime on 22 January 2020. The consultation closed on 14 February 2020 and Westpac made a submission.</p> <p>The Government has not yet determined an implementation timeframe and intends to consult on timeframes as part of the consultation on the exposure draft legislation.</p> <p>Westpac will review exposure draft legislation once released and determine any further actions required to comply with the legislation and this recommendation.</p>

RECOMMENDATION

WESTPAC STATUS

INSURANCE

Recommendation 4.1: No hawking of insurance

Consistently with recommendation 3.4, which prohibits the hawking of superannuation products, hawking of insurance products should be prohibited.

Westpac supports regulation that prevents inappropriate unsolicited insurance sales practices. Westpac does not offer insurance through outbound telephone sales.

Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac has commenced assessing the impact of the draft legislation and is preparing for implementation. Westpac will review any amendments to the draft legislation once reissued and continue to prepare for implementation.

Recommendation 4.3: Deferred sales model for add-on insurance

A Treasury-led working group should develop an industry-wide deferred sales model for the sale of any add-on insurance products (except policies of comprehensive motor insurance). The model should be implemented as soon as is reasonably practicable.

Westpac no longer distributes add-on insurance products for motor vehicles or consumer credit. However, the definition of add-on insurance may extend to home and contents insurance and landlord insurance offered at the same time as a home loan.

Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac has commenced assessing the impact of the draft legislation and is preparing for implementation. Westpac will review any amendments to the draft legislation once reissued and continue to prepare for implementation. Westpac is working with the Insurance Council of Australia to assist ASIC with the implementation of this recommendation.

Recommendation 4.5: Duty to take reasonable care not to make a misrepresentation to an insurer

Part IV of the Insurance Contracts Act should be amended, for consumer insurance contracts, to replace the duty of disclosure with a duty to take reasonable care not to make a misrepresentation to an insurer (and to make any necessary consequential amendments to the remedial provisions contained in Division 3).

Westpac's practices are already broadly consistent with this recommendation. That is, Westpac asks specific questions of a prospective insured when applying for insurance, rather than relying on the broader duty of disclosure, being in summary "to disclose to the insurer, before the relevant contract of insurance is entered into, every matter that is known to the insured, being a matter that the insured knows to be a matter relevant to the decision of the insurer whether to accept the risk and, if so, on what terms".

Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac had commenced assessing the impact of the draft legislation and preparing for implementation. Westpac will review any amendments to the draft legislation once reissued and continue to prepare for implementation.



RECOMMENDATION	WESTPAC STATUS
<p>Recommendation 4.6: Avoidance of life insurance contacts</p> <p>Section 29(3) of the Insurance Contracts Act should be amended so that an insurer may only avoid a contract of life insurance on the basis of non-disclosure or misrepresentation if it can show that it would not have entered into a contract on any terms.</p>	<p>Westpac's practices are already consistent with this recommendation. That is, unless the innocent non-disclosure or misrepresentation is such that we would not have provided cover on any terms, Westpac will not avoid a contract for innocent non-disclosure or misrepresentation of a health issue. In these circumstances, Westpac would provide the cover that we would have offered should that non-disclosure have not occurred.</p> <p>Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.</p> <p>Westpac had commenced assessing the impact of the draft legislation and preparing for implementation. Westpac will review any amendments to the draft legislation once reissued and continue to prepare for implementation.</p>
<p>Recommendation 4.7: Application of unfair contract terms provisions to insurance contracts</p> <p>The unfair contract terms provisions now set out in the ASIC Act should apply to insurance contracts regulated by the Insurance Contracts Act. The provisions should be amended to provide a definition of the 'main subject matter' of an insurance contract as the terms of the contract that describe what is being insured.</p> <p>The duty of utmost good faith contained in section 13 of the Insurance Contracts Act should operate independently of the unfair contract terms provisions.</p>	<p>Legislation has been passed to extend the unfair contract terms regime to insurance contracts, with application from 5 April 2021.</p> <p>Westpac is reviewing and updating product disclosure documentation and related collateral against the requirement of the legislation to make any changes required to comply with the new regime. Westpac will comply with legislation from the effective date.</p>
<p>Recommendation 4.8: Removal of claims handling exemption</p> <p>The handling and settlement of insurance claims, or potential insurance claims, should no longer be excluded from the definition of 'financial service'.</p>	<p>Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.</p> <p>Westpac has commenced assessing the impact of the draft legislation and is preparing for implementation. Westpac will review any amendments to the draft legislation once reissued and continue to prepare for implementation.</p>
<p>Recommendation 4.9: Enforceable code provisions</p> <p>As referred to in Recommendation 1.15, the law should be amended to provide for enforceable provisions of industry codes and for the establishment and imposition of mandatory industry codes.</p> <p>In respect of the Life Insurance Code of Practice, the Insurance in Superannuation Voluntary Code and the General Insurance Code of Practice, the Financial Services Council, the Insurance Council of Australia and ASIC should take all necessary steps, by 30 June 2021, to have the provisions of those codes that govern the terms of the contract made or to be made between the insurer and the policyholder designated as 'enforceable code provisions'.</p>	<p>Westpac is a subscriber to major industry codes and supports industry bodies identifying and ASIC making the relevant provisions of the codes enforceable.</p> <p>Draft legislation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.</p> <p>Westpac will review any amendments to the draft legislation once reissued to determine what actions, if any, are required to comply with the recommendation.</p>

RECOMMENDATION	WESTPAC STATUS
<p>Recommendation 4.10: Extension of the sanctions power</p> <p>The Financial Services Council and the Insurance Council of Australia should amend section 13.10 of the Life Insurance Code of Practice and section 13.11 of the General Insurance Code of Practice to empower (as the case requires) the Life Code Compliance Committee or the Code Governance Committee to impose sanctions on a subscriber that has breached the applicable Code.</p>	<p>Westpac will work with the Financial Services Council and Insurance Council of Australia to implement this recommendation.</p>
<p>Recommendation 4.11: Co-operation with AFCA</p> <p>Section 912A of the Corporations Act should be amended to require that AFSL holders take reasonable steps to co-operate with AFCA in its resolution of particular disputes, including, in particular, by making available to AFCA all relevant documents and records relating to issues in dispute.</p>	<p>Westpac has principles and processes in place to engage with AFCA co-operatively, including being open and co-operative in providing relevant documents related to issues in dispute.</p>
<p>Recommendation 4.12: Accountability regime</p> <p>Over time, provisions modelled on the BEAR should be extended to all APRA-regulated insurers, as referred to in Recommendation 6.8.</p>	<p>Westpac's current BEAR mapping processes extend to its insurance business subsidiaries.</p> <p>The Government published for consultation a proposal paper to extend the executive accountability regime on 22 January 2020. The consultation closed on 14 February 2020 and Westpac made a submission.</p> <p>The Government has not yet determined an implementation timeframe and intends to consult on timeframes as part of the consultation on the exposure draft legislation.</p> <p>Westpac will review exposure draft legislation once released and determine any further actions required to comply with the legislation and this recommendation.</p>
<p>Recommendation 4.13: Universal terms review</p> <p>Treasury, in consultation with industry, should determine the practicability, and likely pricing effects, of legislating universal key definitions, terms and exclusions for default MySuper group life policies.</p>	<p>Westpac will review the proposed changes once released and determine actions required to comply with the implementing legislation and this recommendation.</p>

<p>Recommendation 4.14: Additional scrutiny for related party engagements</p> <p>APRA should amend Prudential Standard SPS 250 to require RSE licensees that engage a related party to provide group life insurance, or who enter into a contract, arrangement or understanding with a life insurer by which the insurer is given a priority or privilege in connection with the provision of life insurance, to obtain and provide to APRA within a fixed time, independent certification that the arrangements and policies entered into are in the best interests of members and otherwise satisfy legal and regulatory requirements.</p>	<p>The existing engagement of Westpac Life Insurance Services (WLIS) for insurance services is the Group's only life insurance arrangement potentially falling within the scope of this recommendation. The Westpac Group's Half Yearly Results announcement released on 14 April 2020 confirmed WLIS and BT Super intend to end their existing relationship. As a result, WLIS will stop providing group life insurance to BT Super. WLIS will continue to provide other selected forms of life and income protection insurance.</p> <p>The existing insurance arrangements are already managed closely under Prudential Standard SPS 250 and the Trustees Insurance Management Framework.</p> <p>On 25 November 2019, APRA released for consultation its proposed revisions to SPS 250, which implement this recommendation. Submissions on this consultation closed on 3 February 2020.</p> <p>Due to the COVID-19 pandemic, APRA suspended all substantive public consultations and actions to finalise revisions to the prudential framework that are currently underway or upcoming, including consultations on prudential and reporting standards.</p> <p>Westpac will review the finalised SPS 250 once released and determine any further actions required to comply with the Standard.</p>
<p>Recommendation 4.15: Status attribution to be fair and reasonable</p> <p>APRA should amend Prudential Standard SPS 250 to require RSE licensees to be satisfied that the rules by which a particular status is attributed to a member in connection with insurance are fair and reasonable.</p>	<p>On 25 November 2019, APRA released for consultation its proposed revisions to Prudential Standard SPS 250, which implement this recommendation. Submissions on this consultation closed on 3 February 2020.</p> <p>Due to the COVID-19 pandemic, APRA suspended all substantive public consultations and actions to finalise revisions to the prudential framework that are currently underway or upcoming, including consultations on prudential and reporting standards.</p> <p>Westpac has a program of work underway to implement these changes. Westpac will review the finalised Prudential Standard once released and determine any further actions required to comply with the Prudential Standard and this recommendation.</p>

RECOMMENDATION
WESTPAC STATUS
CULTURE, GOVERNANCE AND REMUNERATION
Recommendation 5.1: Supervision of remuneration – principles, standards and guidance

In conducting prudential supervision of remuneration systems, and revising its prudential standards and guidance about remuneration APRA should give effect to the principles, standards and guidance set out in the Financial Stability Board's publications concerning sound compensation principles and practices. Recommendations 5.2 and 5.3 explain and amplify aspects of this Recommendation.

On 23 July 2019, APRA released a discussion paper and draft Prudential Standard CPS 511 to strengthen remuneration practices across all APRA-regulated entities. Consultation on the proposed reforms took place in October 2019 and APRA has been considering the extensive feedback received. Westpac provided its response on 18 October 2019.

Due to the COVID-19 pandemic, APRA suspended all substantive public consultations and actions to finalise revisions to the prudential framework that are currently underway or upcoming, including consultations on prudential and reporting standards. It presently does not plan to recommence consultation on any non-essential matters before 30 September 2020.

Westpac will review the amendments once released and determine further actions required to comply with the Prudential Standard (once registered) and this recommendation.

Recommendation 5.2: Supervision of remuneration – aims

In conducting prudential supervision of the design and implementation of remuneration systems, and revising its prudential standards and guidance about remuneration, APRA should have, as one of its aims, the sound management by APRA-regulated institutions of not only financial risk but also misconduct, compliance and other non-financial risks.

Refer to 5.1.

Recommendation 5.3: Revised prudential standards and guidance

In revising its prudential standards and guidance about the design and implementation of remuneration systems, APRA should:

- require APRA-regulated institutions to design their remuneration systems to encourage sound management of non-financial risks, and to reduce the risk of misconduct;
- require the board of an APRA-regulated institution (whether through its remuneration committee or otherwise) to make regular assessments of the effectiveness of the remuneration system in encouraging sound management of non-financial risks, and reducing the risk of misconduct;
- set limits on the use of financial metrics in connection with long-term variable remuneration;
- require APRA-regulated institutions to provide for the entity, in appropriate circumstances, to claw back remuneration that has vested; and
- encourage APRA-regulated institutions to improve the quality of information being provided to boards and their committees about risk management performance and remuneration decisions.

Refer to 5.1.

RECOMMENDATION	WESTPAC STATUS
<p>Recommendation 5.4: Remuneration of frontline staff</p> <p>All financial services entities should review at least once each year the design and implementation of their remuneration systems for front line staff to ensure that the design and implementation of those systems focus on not only what staff do, but also how they do it.</p>	<p>Westpac conducts an annual review of the design and implementation of remuneration arrangements for our front-line roles in our Consumer and Business divisions. We have established governance committees to support the review and approval of front-line performance and reward frameworks and have a structured framework to annually test and understand the effectiveness of our remuneration arrangements.</p> <p>Key changes over the last few years have focused on continuing to support our service culture and strategy and ensure alignment to the Sedgwick recommendations.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • limiting financial measures in scorecards to no more than 30%; • removing variable reward for all teller roles from 1 April 2019; • from 1 October 2019, most frontline roles are on a discretionary framework rather than a formulaic scorecard to determine their variable reward. 800 front line roles (retail lending roles) continue to have a balanced scorecard for FY20 reflective of the wider market practice; and • introducing a maximum variable reward cap for lending roles of 50% of fixed pay effective from 1 October 2019. Only a very small number of lenders have earned above this level historically and the majority receive well below 50% of fixed pay in variable reward.
<p>Recommendation 5.5: The Sedgwick Review</p> <p>Banks should implement fully the recommendations of the Sedgwick Review.</p>	<p>Westpac was compliant with the Sedgwick recommendations relating to its employees effective 1 October 2018. Westpac has implemented all Sedgwick Recommendations relating to third-party arrangements effective from 1 January 2019 (excluding Recommendation 18 relating to mortgage broker remuneration given the Government's policy reform in this area).</p>
<p>Recommendation 5.6: Changing culture and governance</p> <p>All financial services entities should, as often as reasonably possible, take proper steps to:</p> <ul style="list-style-type: none"> • Assess the entity's culture and its governance; • Identify any problems with that culture and governance; • Deal with those problems; and • Determine whether the changes it has made have been effective. 	<p>Westpac has frameworks in place which encompass regular assessments of risk culture, organisational culture and governance.</p> <p>In addition to the usual cycles, other more detailed reviews of culture and/or governance are undertaken to determine the effectiveness of our existing cycles. Currently, the most prominent of these is the reassessment of Westpac's culture, governance and accountability self-assessment which was carried out in 2018. This reassessment is due to APRA by 30 June 2020.</p>

RECOMMENDATION

WESTPAC STATUS

REGULATORS

Recommendation 6.7: Statutory amendments

The obligations in sections 37C and 37CA of the Banking Act should be amended to make clear that an ADI and accountable person must deal with APRA and ASIC (as the case may be) in an open, constructive and co-operative way. Practical amendments should be made to provisions such as section 37K and section 37G(1) so as to facilitate joint administration.

Westpac's approach to dealing with regulators and its documented strategy in how we deal with regulators is to act in open, co-operative and constructive way.

The Government published for consultation a proposal paper to extend the executive accountability regime on 22 January 2020. The consultation closed on 14 February 2020.

The Government has not yet determined an implementation timeframe for the FAR and intends to consult on timeframes as part of the consultation on the exposure draft legislation.

Westpac will review any exposure draft legislation once released and determine any further actions required to comply with the legislation and this recommendation,

Recommendation 6.8: Extending the BEAR

Over time, provisions modelled on the BEAR should be extended to APRA-regulated financial services institutions. APRA and ASIC should jointly administer those new provisions

Westpac's current BEAR mapping processes extend to all its APRA-regulated financial services subsidiaries.

The Government published for consultation a proposal paper to extend the executive accountability regime on 22 January 2020. The consultation closed on 14 February 2020 and Westpac made a submission.

The Government has not yet determined an implementation timeframe and intends to consult on timeframes as part of the consultation on the exposure draft legislation.

Westpac will review exposure draft legislation once released and determine any further actions required to comply with the legislation and this recommendation.

OTHER IMPORTANT STEPS

Recommendation 7.1: Compensation scheme of last resort

The three principal recommendations to establish a compensation scheme of last resort made by the panel appointed by government to review external dispute and complaints arrangements made in its supplementary final report should be carried into effect.

The Government has confirmed that it proposes an industry-funded, forward-looking compensation scheme of last resort, and for the payment of historical unpaid claims in accordance with the resources allocated in the 2019-20 Budget.

In December 2019, the Government released for public consultation a discussion paper to further explore and seek views on four aspects of the CSLR. The Consultation closed on 7 February 2020.

Recommendation 7.2: Implementation of recommendations

The recommendations of the ASIC Enforcement Review Taskforce made in December 2017 that relate to self reporting of contraventions by financial services and credit licensees should be carried into effect.

Draft legislation implementing this recommendation was released for consultation on 31 January 2020. The COVID-19 pandemic may alter the Government's timeline for passing the legislation.

Westpac had commenced assessing the impact of draft legislation upon its release on 31 January 2020 and will review any amendments to the draft legislation once reissued to determine what actions are required from Westpac to comply with the legislation and this recommendation.