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SUBMISSION

SENATE ECONOMICS COMMITTEE INQUIRY ON THE AUSTRALIAN BUSINESS INVESTMENT PARTNERSHIP BILL, 2009

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1. INTRODUCTION

With its legislation for an Australian Business Investment Partnership (ABIP) the Federal Government has set what could prove a dangerous precedent. Not only does it intend to intervene in order to prop up prices in a narrow sector - the commercial property market - but it undermines one of the basic cornerstones of a well-regulated market economy: a consistent and transparent approach to competition policy.

2. THE BILL

The Bill establishes a new public company under the Corporations Act, the Australian Business Investment Partnership Limited (ABIP). The shareholders will be the Commonwealth and the four major banks.

The ABIP will provide refinancing for commercial property loans for assets for which no other commercial refinancing is otherwise forthcoming from the private sector but which nevertheless is “financially viable”. New refinancing will only be available for two years after the establishment of the ABIP.

The Government and the four major banks will provide collectively $4 billion in undrawn loan facilities, with the Government providing $2 billion and Australia’s four major banks providing $500 million each. If additional financing is required, the AIPB will be able to issue up to $26 billion in debt. This debt will be government guaranteed, and fees will be charged for this guarantee. The level and timing of fees will be determined by the company’s shareholders.

The core (but importantly, not the only) purpose of the ABIP is to fill the gap left by the *possible* withdrawal of commercial lenders, particularly foreign banks, from the Australian commercial property market.

However, Clause 7 (2) of the Bill states that a further object of ABIP is to provide financing in *other* areas of commercial lending through financing arrangements of a kind agreed to by the shareholders of ABIP.

In other words, the Bill does not limit ABIP to the refinancing of commercial property but also allows the ABIP to replace local lenders and authorise loans in other areas of commercial activity. The government has provided little indication as to exactly what kinds of commercial activity it has in mind, or why the scope for such an extension in the new entity’s activities is warranted.

3. THE AUSTRALIAN COMMERCIAL PROPERTY SECTOR

The scheme is premised on the argument that the commercial property market is particularly vulnerable to liquidity problems, relative to other sectors. The scenario being painted is one where any funding gap could result in distressed asset sales and an exaggerated decline in commercial property prices, with the claim that these would create harmful spillover effects for the rest of the economy. In assessing this premise it is important to examine the facts regarding commercial property in Australia.

The first point to note is that there does not appear to be a close empirical relationship between the commercial property sector and the residential property sector. This is unsurprising given zoning and land use restrictions, which tend to separate the markets. The lack of a close correlation in price formation between these markets was recently emphasised by residential property experts, Rismark International:

> *"Yet residential real estate and commercial property are as related to one another as infrastructure is to equities. For a start, the residential property market is far larger than the commercial property market. The total value of all listed and unlisted commercial property in Australia is only 7.4% of the $3.4 trillion housing market.*
>
> *The difference between the two markets is also borne out in the lending aggregates: whereas there is about $990bn worth of home loans outstanding, there is only $165bn worth of commercial property debt.*
>
> *The simple fact is that the two markets share no real commonalities other than those overarching macroeconomic factors that invariably influence all asset classes. While this is intuitively obvious, it is also an empirical fact. The correlation between the returns to the Australian housing market and listed commercial property trusts during the past 26 years has been distinctly negative."*[1]

Vacancy rates for CBD offices in Australia's capital cities continue to remain low. Data published by the RBA (see chart below) also shows that rents and capital values for office property continue to remain high, having fallen from their 2007 peak.

But what of the near term outlook? Recent research published by ANZ suggests that the outlook in the Sydney, Melbourne and Adelaide markets is quite robust, whilst much less positive for Brisbane and Perth. However, on this latter point it should be noted that in relation to office property, many commercial property analysts do not see a repeat of the experience of the early 1990s. For example, Jones Lang LaSalle Research Director, Mr Leigh Warner, recently stated that:[2]

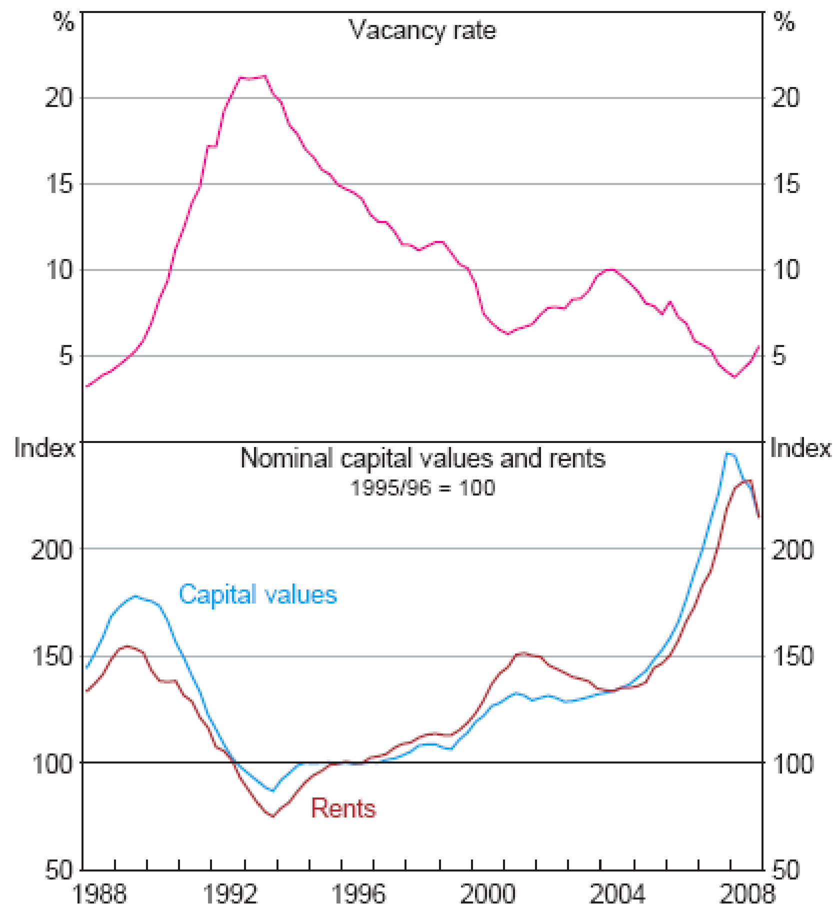
> *"By the time the recession hit in 1990 the Brisbane office market had grown by 38% over the preceding four years, vacancy had already reached above 8.5%, and the buildings under construction were the 'speculative froth' at the height of a building boom."*
>
> *"In contrast, the current economic slowdown has hit at a time when vacancy remains very low after an extended period of under-supply and, while 2009 will see a record 221,400sqm of stock added to the market, it is around three-quarters committed and far from speculative froth.*
>
> *"Indeed, it has been the credit crunch at the heart of the current economic slowdown that has itself stopped speculative development from gaining momentum and saved the Brisbane office market from following the same damaging pattern as the 1990s."*

---

1 *The Rismark Monthly*, February 2009, page 11.

2 *Brisbane Commercial Property Outlook: 2009 The market will avoid a 1990s type slump* http://www.joneslanglasalle.com.au/Australia/en-AU/Pages/NewsItem.aspx?ItemID=9148

Chart 1 **National Office Property Indicators**



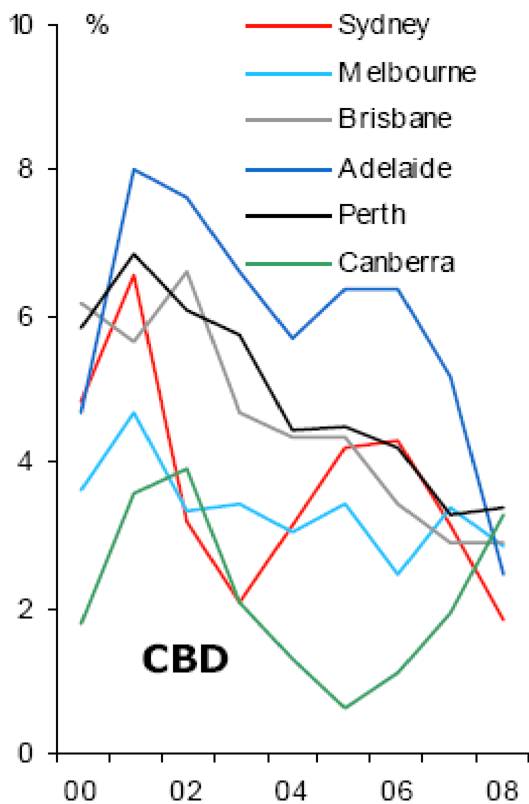
Source: RBA Statement on Monetary Policy, February 2009, page 38.

Even if 1990s-style excess supply was a problem, there is no evidence to suggest that artificially propping up prices would improve any underlying demand-supply imbalances. After all, basic economics suggests that oversupply of a commodity cannot be corrected by artificially keeping prices above market clearing levels. Rather, such action is likely to prolong and aggravate the oversupply.

In the retail property sector, vacancy rates are still low by historical standards although they have risen slightly in some areas (particularly Canberra), up from historic lows (see chart below). Of the retail sector, ANZ's recent March 2009 Property Outlook has noted that:

> *"Low vacancies were maintained despite a record 819,000 sqm of new retail floor space being added nationally in 2008, the highest annual addition in at least twenty years."*

Chart 2 **Annual Average Retail Vacancies**



Source: ANZ Property Outlook, March 2009, page 9

As for capital values of retail property, there is evidence that these have fallen in 2008, but little evidence of "distressed" selling. As Jones Lang Lasalle recently noted:

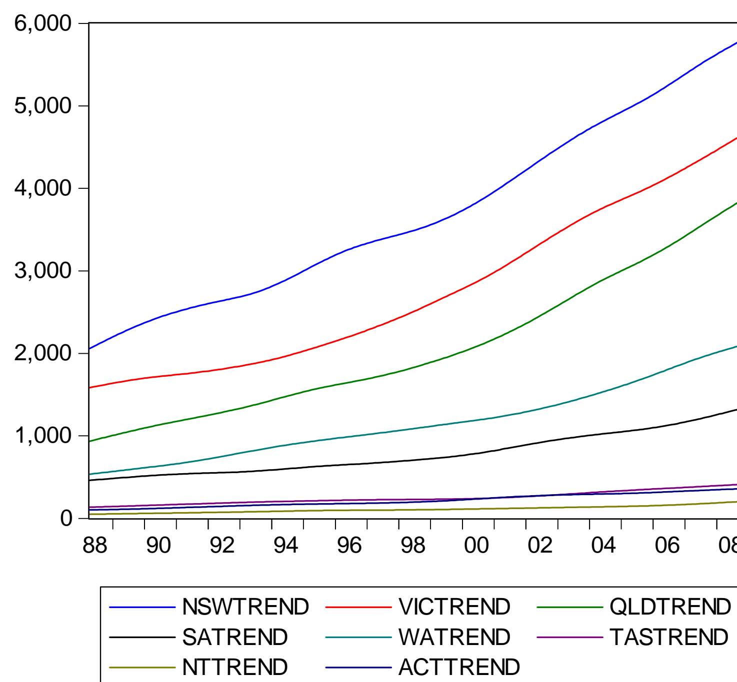
> *"While 2008 witnessed a number of motivated vendors, few sellers were "distressed" and forced to sell at significant discounts. This in turn worked against the opportunistic or even vulturistic buyers in the market.*
>
> *The investment market in 2008 witnessed the return of private investors who, after being net sellers of property assets for a number of years, emerged as the most active investors accounting for 53% of the major purchasers by value, up from 19% the previous year. These investors stepped in to take up the void left by the institutional investors. They have been lured back into the market by more attractive prices and the availability of high quality assets.*
>
> *2008 also witnessed the non-traditional private investor drawn toward the property market as other investment alternatives became increasingly volatile and the retail market provided an opportunity to gain a positive yield spread in the short term. These private investors typically focused their attention on the sub $30 million convenience based neighbourhood assets due to their anti-cyclical characteristics, providing a more secure risk-adjusted investment."*[3]

[3] See pages 5-6. Jones Lang LaSalle, Australian Shopping Centre Investment Review 2008, published February 2009, http://www.joneslanglasalle.com.au/Australia/en-AU/Pages/ResearchDetails.aspx?TopicName=&ItemID=1628&ResearchTitle=Australian%20Shopping%20Centre%20Investment%20Review%202008

One driver of retail vacancy rates and rents is retail turnover, although high quality empirical research on the precise nature and extent of the links between the two seems to be difficult to come by.

Retail turnover in Australia varies by location, size of establishment and the nature of the goods and services that are being sold. The chart below plots trend data for retail turnover in the Australian States and Territories.[4] The long term trend is clearly increasing but this trend masks important short term cyclical movements.

Chart 3 **Long Term Trends in Retail Turnover, 1988-2009**



Source: Australian Bureau of Statistics, Cat 8501.0 - Retail Trade, Australia, Feb 2009 and own calculations

In Australia these cyclical retail turnover movements are quite regular and are shown in the chart below.

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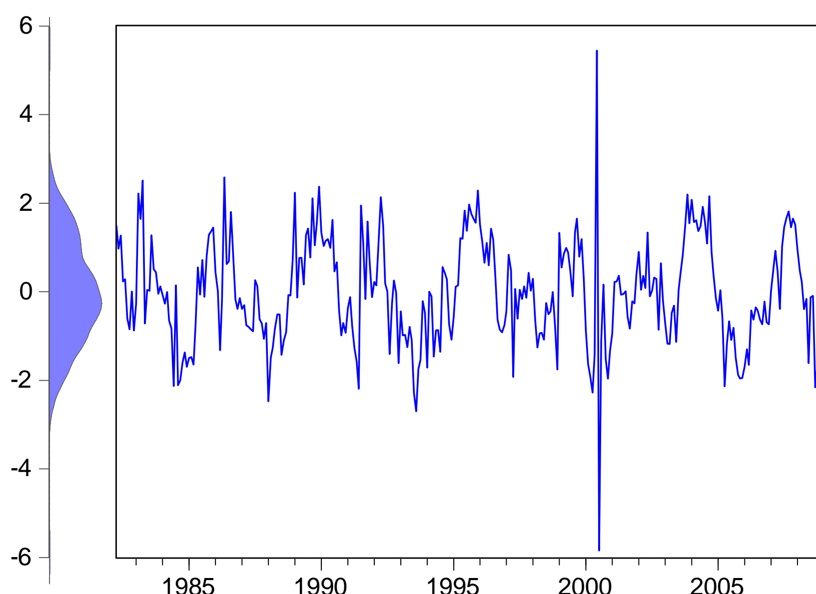
[4] The trend for each state and territory is calculated using the Hodrick-Prescott filter, with λ= 14400. For each series the cyclical component is computed actual levels minus this trend level.

Chart 4 **Cyclical Component of Retail Turnover, 1982-2009.**



Source: Australian Bureau of Statistics, Cat 8501.0 - Retail Trade, Australia, Feb 2009 and own calculations

The aggregate retail turnover data does not illustrate the fact that monthly cyclical movements do not tend to be geographically uniform and vary considerably by state. The table below plots the correlations amongst the states and shows that whilst the correlations of monthly cyclical movements are positive between various locations, they are not overwhelmingly strong. This absence of close correlation will dampen the overall cyclicality of retail property prices.

Table 1 **Correlations of cyclical component of retail turnover, 1988-2009**

	NSW	VIC	QLD	SA	WA	TAS	NT	ACT
NSW	1.00	0.39	0.47	0.30	0.26	0.21	0.30	0.21
VIC		1.00	0.32	0.24	0.37	0.23	0.30	0.11
QLD			1.00	0.35	0.13	0.21	0.29	0.03
SA				1.00	0.12	0.12	0.30	0.18
WA					1.00	0.03	0.20	0.17
TAS						1.00	0.01	0.12
NT							1.00	0.03
ACT								1.00

Source: Australian Bureau of Statistics, Cat 8501.0 - Retail Trade, Australia, Feb 2009 and own calculations

In any case, while growth in aggregate retail turnover has weakened over the last 12 months, it is still holding up well relative to other industrial economies. It does not automatically follow that a decline in the growth rate of retail turnover in Australia would induce foreign retail property investors to pull funds out of Australia and into retail property sectors in these other economies (or indeed in other sectors) if returns there are likely to be worse.

Indeed, as the RBA has recently noted:

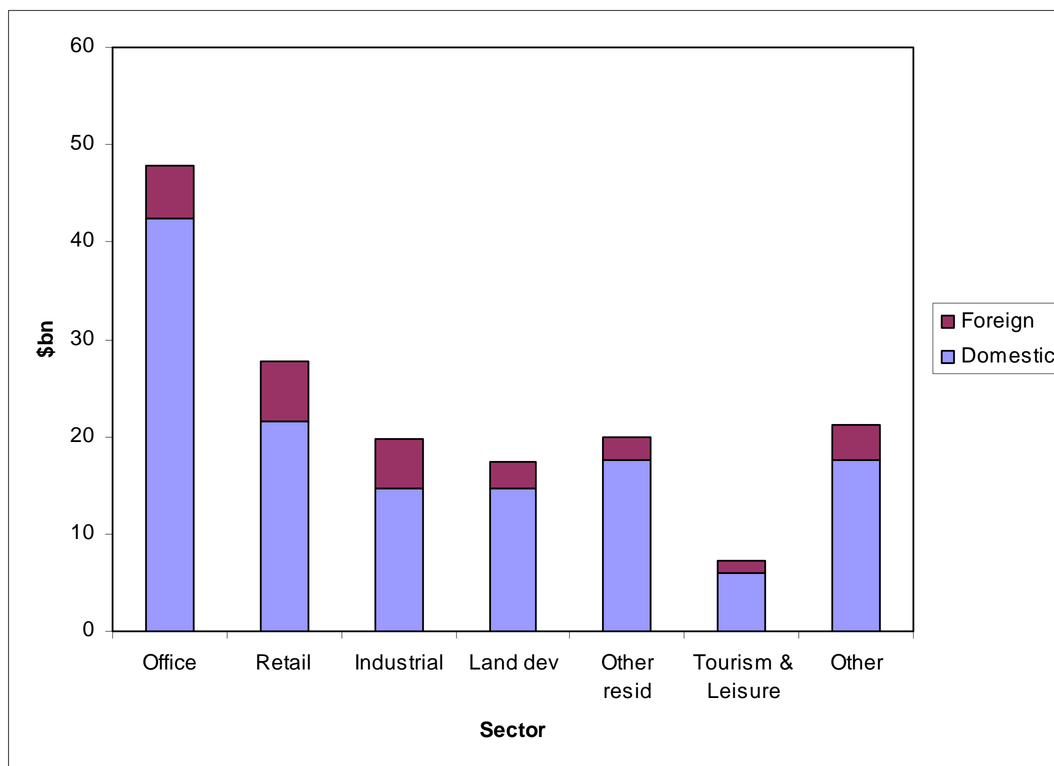
> *"Over recent months there has been some speculation that many foreign-owned banks will withdraw from the Australian market and that this will create a significant funding shortfall for businesses. While there is a risk that some foreign lenders will scale back their Australian operations, particularly if offshore financial markets deteriorate further, at this stage there is little sign of this, with most of the large foreign-owned banks planning to maintain their lending activities in the Australian market."* [5]

4. BANK COMMERCIAL PROPERTY EXPOSURES

The majority of commercial property exposures in Australia are held by domestic banks. In particular, most exposures are held by the proposed shareholders of the new entity – the four major banks.

The most recently available (March 2008) data from the Australian Prudential Regulation Authority (APRA) indicates that for all banks, commercial property exposures totalled $164.6 billion. The sectoral breakdown and breakdown by domestic and foreign banks in each sector is shown in the chart below.

Chart 5 Foreign and Domestic Bank Exposures to Commercial Property, March 2008.



Source: APRA Insight, Issue 3 2008, Table A3, page 26, and own calculations

Australia's major banks hold $103.8 billion or 63.1 per cent of commercial property exposures, with $30.5 billion (18.5 per cent) held by other domestic banks (9 institutions in total). Most domestic exposures are in office, retail and industrial property.

[5] RBA *Statement on Monetary Policy*, February 2009, page 55.

$16.4 billion is owed to locally incorporated foreign banks (11 institutions in total), and $13.8 billion owed to foreign bank branches (32 institutions in total).

Thus, as at March 2008 foreign entities had a total of $30.2 billion in exposures to Australian commercial property, around 18.3 per cent of all commercial property exposures.

What proportion of these exposures are impaired? APRA data shows that as at March 2008 the impaired[6] commercial property exposures for these locally incorporated foreign banks and foreign bank branches totalled $1.1017 billion, or 3.36 per cent of all commercial property exposures held by foreign entities. $870 million of this was held by foreign bank branches, accounting for 6.3 per cent of their total commercial property exposures.

These foreign held impaired exposures have increased from September 2007, when impaired commercial property exposure for locally incorporated foreign banks and foreign bank branches only totalled $136 million, or around 0.46 per cent all commercial property exposures for foreign entities.

For the major domestic banks, 0.1 per cent (around $100 million) is impaired, and for other domestic banks 1.2% of exposures (around $366 million) is impaired.

Unfortunately, APRA does not publish data on which particular commercial property sectors (office, retail, etc) these impaired assets belong to.

5. THE SYNDICATED DEBT MARKET

The Treasurer had indicated that one of the main purposes of the new entity is to protect against the possibility of foreign banks pulling out of syndicated commercial property loans.[7] Syndicated lending is that for which groups of banks (instead of a single bank) provide funds to the borrower. This form of lending has expanded considerably in recent years. In 2006 the RBA noted that:

> *"Contributing to growth in business credit in the past few years and, in part, the strength of cross-border lending, has been increased activity in the syndicated lending market. A record $84 billion of syndicated loans were approved in 2005/06, 17 per cent higher than in the previous year. Almost all the growth in syndicated lending was due to an increase in the average loan size, reflecting an increase in the number of 'jumbo' deals, defined as loans in excess of A$1 billion each. Though refinancing remained the primary use for syndicated loans in 2005/06, accounting for almost 40 per cent by value, the pick-up in lending activity from the previous year was mostly due to mergers and acquisitions. Acquisition-related deals accounted for 30 per cent of syndicated loans in 2005/06, up from 22 per cent in the previous year."*[8]

APRA does not publish separate data on syndicated debt. However, the Reserve Bank of Australia regularly publishes data on syndicated loan approvals. The chart below, from the RBA's November 2009 *Statement on Monetary Policy,* shows the latest data on syndicated loan approvals.

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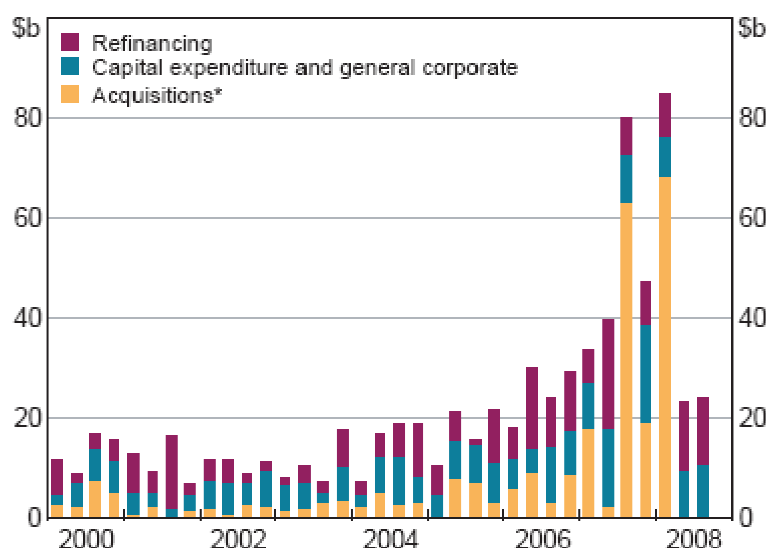
6 "Impaired assets" are defined by APRA as "the aggregate of a bank's restructured and non-accrual exposures, both on-and off balance sheet, plus any assets acquitted through security enforcement." See page 68 of *APRA Insight*, Issue 3, 2008.

7 House of Representatives Hansard, Thrusday, 19 March, p 3299.

8 RBA Statement on Monetary, August 2006, page 44.

Chart 6 **Quarterly Syndicated Loan Approvals**



Data from March 2008 and September 2007 are each affected by one large transaction. Source: RBA *Statement on Monetary Policy*, November 2008, page 56.

The data shows that the Australian syndicated debt market grew rapidly in the years leading up to the onset of the global financial crisis, and was still very robust during late 2007 and 2008. Even during the second and third quarters of 2008, approvals for refinancing and capital acquisitions remained relatively healthy.

Which entities have been involved on the supply side of syndicated lending? In 2005 the RBA noted that:

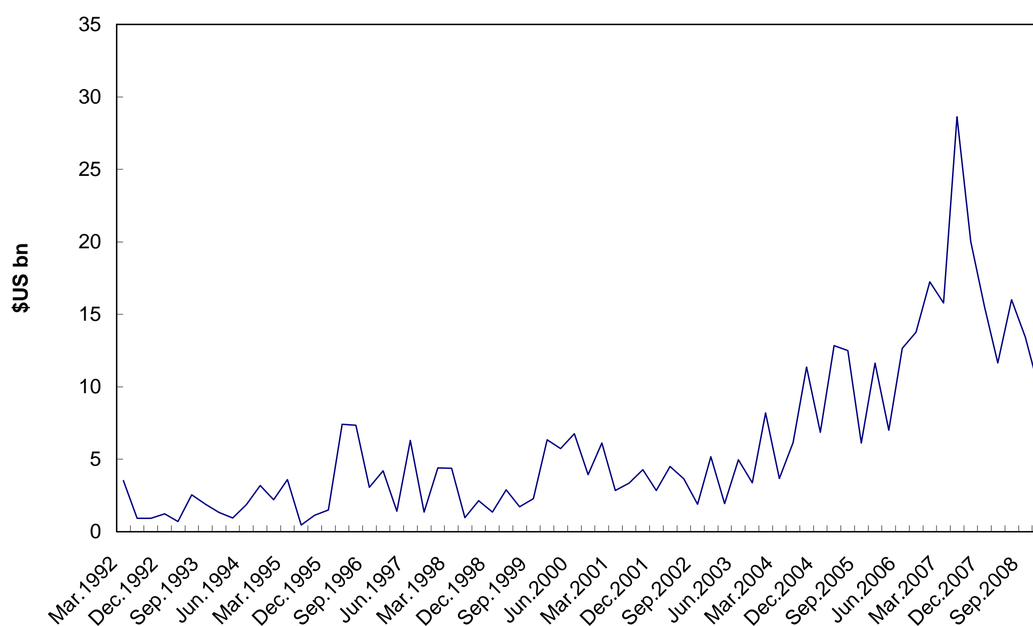
> *"In terms of the main participants, the four major banks play a dominant role in the syndicated loan market in Australia. In nearly all of the deals completed in 2004/05, at least one of the major banks was involved in arranging the loans, and together they committed around half of the funding for these deals. However, foreign banks, particularly Asian, are said to have been increasingly active in the Australian market in recent years, with syndicated loans providing a convenient means for them to gain exposure to Australian credits without the need for a large domestic presence. According to BIS data, foreign banks, including their domestic subsidiaries, participated in deals that together accounted for around three-quarters of the value of total signings in 2004, though it is difficult to measure the exact size of their contributions. Their increased presence reflects a number of factors, including Australia's perceived political, legal and economic stability. It has also been suggested that returns have generally been higher in Australia than in other markets."* [9]

This Bank for International Settlements data on international syndicated lending (where at least one party to the syndicate is not a domestic bank) is shown below.

Again, a similar picture emerges from this data: syndicated lending increased rapidly just prior to the onset of the global financial crisis and has since decreased (apparently in an orderly manner), but still remains high relative to earlier levels.

[9] "Syndicated Lending", RBA Bulletin, September 2005.

Chart 7 **Australian Signed International Syndicated Credit Facilities**

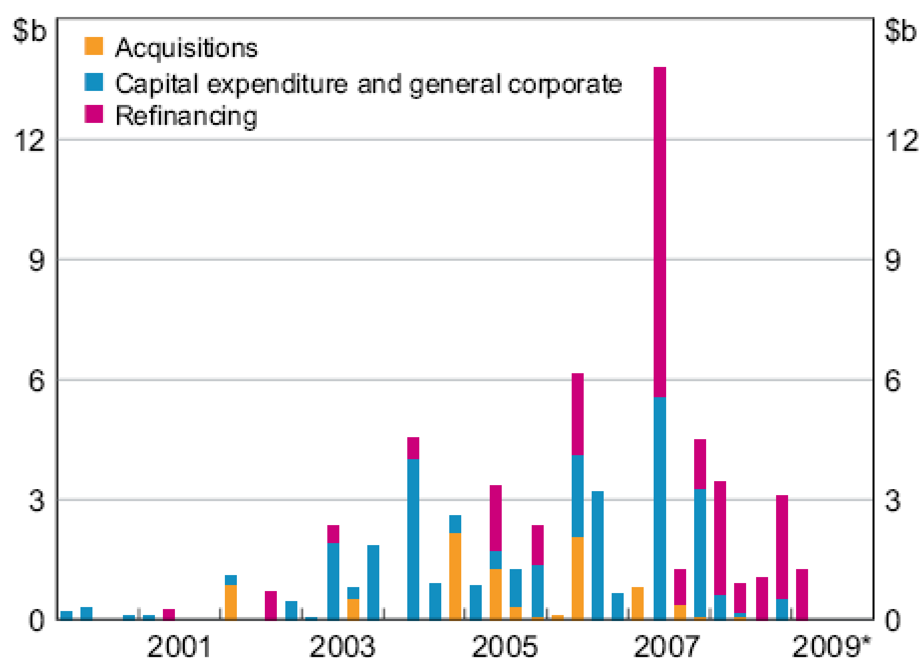


Source: Bank for International Settlements Quarterly Review, March 2009, Table 10, page A82. ,

It is important to note that these figures refer to *all* syndicated lending, not just syndicated lending for commercial property. However, the Reserve Bank's March 2009 *Financial Stability Review* published data on syndicated lending for real estate. The data shows that in the last two years – and in contrast with the aggregate syndicated lending data - most syndicated lending was for the purpose of refinancing rather than for capital expenditure or acquisition purposes. In other words, most syndicated loan approvals have been for rolling over existing debt.

Notably, the data for both total syndicated lending and syndicated real estate lending shows that in early to mid 2007 there was a flurry of refinancing of syndicated loans, with refinancing reaching over $8 billion in the June 2007 quarter. Since then, however, syndicated loan refinancing for real estate has returned to more normal (and one would have thought, more sustainable) levels. Importantly, in syndicated real estate lending this return to earlier levels of approvals occurred in mid 2007 - and has yet to result in "fire sales" of assets.

Chart 8 **Syndicated Loan Approvals – Real Estate**



Data for March 2009 is quarter to date.

Source: RBA Financial Stability Review, March 2009, page 33.

Syndicated debt facilities account for $23 billion of total outstanding debt of the Real Estate Investment Trust (REIT) sector, with foreign lenders providing $16.6 billion of this debt. The weighted average duration is 2.4 years.[10] Thus, one would have expected that since the onset of the global financial crisis (and in particular, in late 2008), borrowers may have had difficulty rolling over debt that may have been originally financed in around 2005 or earlier. But the data above suggests that on the whole, the ability to refinance real estate lending was not significantly impaired in the last quarter of 2008, when conditions on global credit markets were at their most difficult.

Indeed, in its most recent *Financial Stability Review*, the RBA noted (at page 32) that:

> *"The available evidence also suggests that, despite the tightening in conditions, banks have continued to lend to the commercial property sector. According to APRA data, banks' outstanding exposures to Australian commercial property increased by nearly $9 billion, or 5 per cent, over the December quarter. Information from the syndicated loan market also suggests that most property companies that had large refinancing requirements during 2008 were generally able to rollover their debt, albeit on less accommodating terms than in the recent past."*

6. PROBLEMS AND UNINTENDED CONSEQUENCES

There seems to be little convincing evidence justifying the primary rationale for the proposal – bailing out distressed syndicated commercial property lenders and preventing fire sales – and even less evidence of a market failure in respect of the secondary purpose of financing commercial lending in general.

[10] UBS, Australian Real Estate Sector Update, 21 January 2009.

This points to one of the major problems with the proposal: the moral hazard that it creates. There is a material risk that the initiative could actually encourage the very actions it is designed to forestall. Faced with a one-way bet, developers have an incentive to play off their existing foreign lenders which, in turn, could accelerate their withdrawal from the Australian market.

The evidence also suggests that the shareholders of the new entity – the major banks – are the primary domestic players in the syndicated lending market and could face considerable conflicts of interest in their decisions to refinance using the entity's facilities. After all, the individual shareholders stand to be the major beneficiaries of their own decisions to use taxpayer funds to refinance loans and support commercial property prices. Since the banks' balance sheets must reflect market prices, ABIP's shareholders – the major banks – would be very reluctant to accept any taxpayer refinancing of loans if that support constitutes less than 100 cents in the dollar. This becomes problematic if the true market value of that asset is far less than 100 cents in the dollar – taxpayers will effectively end up paying too much too much to refinance these loans.

No amount of assurances from government that the entity is temporary and not intended to support problem assets or to bail out shopping centre developers that borrowed too heavily in the boom can overcome the moral hazard and other risks that sit at the heart of the scheme. Targeting asset prices in this way may mean that property markets are even more cyclical in the long run.

Simply put, the government has not explained why supporting loans to developers of shopping centres and other forms of commercial property should be a particular policy priority. The vast bulk of loans relate to assets that already exist or are at advanced stages of development. When commercial property prices fall, the owners of those assets take a loss, while the purchasers of the assets, and the assets' users (that is, tenants) make a gain.

As revenues from properties almost invariably continue to exceed the buildings' operating costs, the assets continue to be operated, so the real flow of services to the economy is unchanged.

Reductions in commercial property prices may force banks to write down the value of their property investments. In practice, the impacts are likely to be very small, as most of the banks' commercial property loans have been securitised and are no longer on the banks' books.

But even putting that aside, any such impacts are no different from those that occur when prices fall for the many other asset classes that banks have invested in or relied upon as collateral. Should the result threaten the adequacy of banks' capital base, the right policy response is to facilitate the banks' recapitalisation, rather than artificially propping up the price of one particular kind of asset. Directly facilitating recapitalisation would be far more transparent and far less distorting of the pattern of asset prices in the economy as a whole.

With commercial property accounting for some 12 per cent of the investments made by Australian super funds, reductions in commercial property prices would also have an impact on the funds and especially on those that have been negligent or tardy in writing down the value of their property investments. It is understandable that the Government would be concerned about the resulting write-downs. But on the other hand a decline in prices presents an opportunity for more prudently managed funds to acquire high quality assets at

more realistic prices. Moving to a policy of trying to control asset prices is a very big call; and it seems foolish to get into that game by targeting the prices of one and only one class of asset, and a relatively minor one at that, for the purpose of protecting funds that are so poorly managed that they have failed to properly disclose the deteriorating quality of their balance sheet.

All this is not to deny that credit restrictions will result in some development projects for commercial property being cancelled or deferred. But the projects at risk are those that are most marginal and whose value to the economy has in fact diminished as growth has slowed. It makes no sense for the Government to prevent those cancellations and deferrals from occurring, all the more so as our economy, whatever its defects, is hardly short of office blocks.

This is especially the case as commercial property values are notoriously cyclical. Developers know this, and most developers hedge their position by securing anchor tenants (such as large supermarket chains in the case of shopping centres) to underpin their revenue base and their ability to secure finance. By intervening to prop up the market, the Government sends all the wrong signals, both in the short run and in the longer term.

In the short run, as mentioned above, the scheme seems likely to induce developers to play off their existing foreign lenders against the safety net the scheme provides. This could accelerate the very withdrawal of foreign lenders the scheme is intended to guard against, while allowing developers to secure some free kicks on the basis of what amounts to taxpayer-funded insurance.

As for the longer run, the risk is that of protecting precisely those developers who did not take adequate precautions, while signalling to others the likelihood of government bailouts. The result will be to make property markets more, rather than less, cyclical.

What about the impact on jobs? There has been no convincing evidence put forward to support this claim. To begin with, changes in the value of existing assets in no way directly alter employment prospects. Indeed, were rents to fall, business costs would be reduced and that might improve conditions across a wide range of sectors. True, the development projects that would otherwise not occur may create some jobs. But why would those jobs be any more valuable than the jobs that could be created by using the $2 billion for other purposes, including cutting economically distorting taxes?

The Government claims to be acting on behalf of the 150,000 people employed in the commercial property sector, many of whom are tradespeople such as plumbers, electricians and carpenters. But what of the hundreds of thousands of shop assistants, cleaners, delivery drivers whose jobs will now not be “supported” by lower commercial property prices flowing through to lower retail rental costs?

The very essence of highly selective interventions to prop up specific sectors is the creation of both winners and losers. Put simply, there is no escaping the trade-offs that arise from favouring certain favoured interests over others, including taxpayers and those who do not have the ear of government. The effect of such selective intervention is, unfortunately, to create incentives for rent-seeking by other parties, with resources being wasted and distortions being introduced in the process.

The Government claims that taxpayers will make money from its proposed investments. This claim seems difficult to believe, especially when account is taken of the high level of risk

involved in what are likely to be the most marginal commercial property projects in Australia. Funds devoted to those projects need to earn a return far above the bond rate if they are to cover their economic costs: and that is precisely why banks, foreign or domestic, are reluctant to underwrite them. If the Government has credible estimates that show it can do better as an investor than the commercial banks, with their many years of experience in real estate lending, it should make those estimates public. Until it does, taxpayers surely have every right to be sceptical.

At the end of the day, the risk is that the proposed fund would simply act as a wealth transfer: from taxpayers to property developers, banks and the managers of the most poorly run superannuation schemes that would otherwise have had to incur reductions in asset values.

Finally, and very worryingly, the Government's decision to exempt the entity from the competition provisions of the Trade Practices Act opens the door to the creation of longer term barriers to entry by new lenders – whether intended or not. The four major banks who will be shareholders, and who otherwise compete for the supply of finance to property developers, will be agreeing on the terms and conditions on which an entity of which they are owners will make loans to property developers. Thus, the problem is that the shareholders will continue to compete outside of the entity, but within the entity they will be able to exchange information about and reach agreements on loans that are substitutes for the loans that they provide in the marketplace. This would allow them to coordinate (or better coordinate) the prices they charge for the loans they provide in their own right.

Ordinarily, such an arrangement would constitute price fixing and would almost certainly require authorisation under the authorisation provisions of the Trade Practices Act. Those provisions ensure that where conduct that might otherwise breach Part IV of the Act confers public benefits that exceed the competitive detriments it causes, claims to that effect can be tested through a transparent public process and if those claims are found to be correct, the conduct can be authorised. There is no reason why the proposed scheme should not be subject to that process. Instead, the Government is proposing to simply exempt the entity from the competition provisions of the Trade Practices Act.

In the Competition Principles Agreement, the Commonwealth committed itself to the highest levels of transparency in the assessment of public policy measures that could adversely affect competition. A far-reaching exemption from the competition provisions of the Trade Practices Act seems inconsistent with that commitment, and appears a far cry from commitments to restart the competition policy agenda and to press ahead with deregulation.

Moreover, the government has not explained why an exemption from the competition provisions of the Trade Practices Act is required, or why it would be in the public interest. Nor has it explained why such an exemption, even if justified, would appropriately extend beyond ss45 and 47. Nor does it appear to have provided, as required under the Competition Principles Agreement, for a public review of the costs and benefits of the exemption (which amounts to a restriction on competition).

The element of "mission creep" in the APIB legislation beyond the commercial property market only heightens concerns with this exemption, as (depending on how the APIB's operations evolved) its effects could be felt far more widely than commercial property alone.

7. CONCLUSION

This legislation - and the government's approach to these issues more generally - is best characterised as lacking in transparency, accountability and prudence.

There is little evidence to support the government's justifications for this Bill. Indeed, the major problem with the Bill is the moral hazard that it could create: ABIP could precipitate the very events that it seeks to forestall.

There remain significant questions over the conflicts of interest that could arise with this legislation, as well as the potential for "mission creep" into other areas of lending – none of which have been justified. The legislation does not seem geared towards using taxpayer funds prudently or transparently.

Finally, the legislation sets a poor precedent for the application of competition policy principles. There has been no attempt to justify why would otherwise be held to constitute cartel behaviour (which the Government says should be subject to criminal sanctions, including imprisonment) is so desirable and indeed so urgently necessary in this instance, but is inimical to economic welfare in most other situations.