



# Submission to Financial System Inquiry - Draft Terms of Reference

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## About CHOICE

CHOICE exists to unlock the power of consumers. Our vision is for Australians to be the most savvy and active consumers in the world.

As a social enterprise we do this by providing clear information, advice and support on consumer goods and services; by taking action with consumers against bad practice wherever it may exist; and by fearlessly speaking out to promote consumers' interests - ensuring the consumer voice is heard clearly, loudly and cogently in corporations and in governments.

To find out more about CHOICE's campaign work visit [www.choice.com.au/campaigns](http://www.choice.com.au/campaigns) and subscribe to CHOICE Campaigns Update at [www.choice.com.au/ccu](http://www.choice.com.au/ccu).

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## Introduction:

1. CHOICE welcomes the commencement of the Financial System Inquiry process and the opportunity to comment its draft terms of reference. We support a comprehensive inquiry into Australia's financial system, given the substantial changes in the way consumers interact with financial services and products since the Wallis Inquiry. These include the rapid evolution of new technologies and the upheaval brought about by the global financial crisis (GFC), which led to further growth in the market share of Australia's big four banks.
2. CHOICE recognises that the banking sector plays a crucial role in Australia's economy, and that its continued health is a key driver of economic growth. We also recognise that Australia's banks provide essential services to Australian consumers, and occupy a privileged position in our community, supported by a range of explicit and implicit taxpayer-funded guarantees.
3. Given consumers are the single largest group of end-users affected by Australia's financial services system, we would urge the committee to consider benefits for consumers, including consumer protection, as fundamental priorities, underpinning an efficient, competitive and flexible financial system, and consistent with financial stability, prudence, integrity and fairness.

## Approach to the inquiry

We welcome the indication in the Treasurer's media release that the inquiry will release an interim report by September 2014. Given the importance of this inquiry and the breadth of issues to be covered, we strongly support this approach.

### Potential Panel Members

#### **Recommendation: Consumer Policy Expert be included on the panel**

Given consumers are the single largest group of end-users of Australia's financial system, CHOICE urges that the panel include a member with a deep understanding of consumer issues across the span of the financial services sector.

We will be happy to provide the names of a range of panel members with suitable experience.

## Terms of Reference:

### 2.1

The current wording of term of reference 2.1 suggests a trade-off between, on the one hand, competition, innovation and efficiency, and on the other, stability and consumer protection. CHOICE believes that the rights of consumers are best protected through efficient, competitive markets in which consumers have the information they require to make decisions in their best interests. Consumer protection should not, therefore, be seen as an opposing force to factors

such as competition, innovation and efficiency. Each of the factors listed in 2.1 are crucial for the continuing health of our financial system.

**Recommendation:** Amend the wording of ToR 2.1 to make it clear that these considerations should not be considered mutually exclusive. Suggested wording is 'balancing competition, innovation, efficiency, stability and consumer protection'.

## 2.3

Ultimately it is consumers who bear the burden of both poor regulation, through increased costs and reduced benefits, and a failure to regulate, through market failure. The performance of Australia's financial system through the Global Financial Crisis showed the importance of well-designed regulations in supporting stability, prudence, integrity and fairness, and in providing a platform for 'stable competition' as the economy grows. With this in mind, we would urge that it is not simply the consequences of financial regulation that should be assessed, but the effectiveness of regulation in achieving its intended outcomes. Factors such as regulatory cost and barriers to flexibility and innovation should be assessed in the context of the problems that regulation is intended to address, and the costs of failing to address those problems.

**Recommendation:** Amend the wording of 2.3 to focus on effectiveness, including in relation to consumer protection. Suggested wording is 'assessing the effectiveness of financial regulation, including its impact on compliance costs, flexibility, innovation, financial services trade and consumer protection'.

## Section 4

Consumer protection should be a baseline consideration in any reforms to the financial services sector, and at the very least, the Committee should be free to recommend policy options that promote consumer protection. For this reason, CHOICE recommends that a statement is included in Section 4 of the terms of reference that puts consumer protection within the scope of the Committee's possible recommendations.

**Recommendation:** Include an additional point in Section 4:

'improve consumer protection in the context of efficient and competitive markets'

## 4.3

CHOICE believes that in supporting '...individuals and businesses to...manage their finances...', there must be some consideration of the different capacities and needs of consumers. While some consumers have the skills to reasonably manage their finances, many do not. There are also those who are particularly vulnerable and have limited capacity to understand the nature of the risk reward relationship. This issue is likely to become more significant in the coming years as compulsory superannuation makes many Australians first-time investors in their retirement. We believe it is important to not simply support individuals, but to ensure that the design and availability of financial products, particularly essential products, takes account of the differing

capacities of consumers to manage their finances. The same observation is relevant in relation to some businesses, including many small businesses.

**Recommendation:** Amend 4.3 to include the words 'taking into account the differing levels of capacity of individuals and businesses to analyse risks and rewards'.