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GPO Box 89
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20 August 2014

Submission to the Final Report process of the Financial System Inquiry

Professor O'Brien is Director of the Centre for Law Markets and Regulation (CLMR) within the Faculty of Law, UNSW Australia, and Dr. Gilligan is a Senior Research Fellow at the CLMR. Please find below our joint submission to the Final Report process of the Financial System Inquiry chaired by Mr. David Murray AM.

We hope that this submission assists the Committee in its deliberations. If you require further information please do not hesitate to contact us.

Yours sincerely

Professor Justin O'Brien and Dr. George Gilligan

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Introduction

1. We appreciate the opportunity to make a submission to the Final Report process of the Financial System Inquiry (the Inquiry).
2. Many of the problems facing the Inquiry are circular rather than linear. The solution lies not in reinventing the wheel but ascertaining what mechanisms can better guide ongoing performance. From this perspective, the critical design question focuses on what purpose the financial system should have. **Efficiency and effectiveness mean little if not anchored to verified, and verifiable, institutional purpose.** This cannot be achieved by reliance on ad hoc inquiries or parliamentary investigations alone. Longevity in policy architecture necessitates ongoing calibration taking into account human, as well as technological and structural factors.
3. We have made submissions and provided additional information at request at various stages of the Inquiry. Each has followed two core objectives. First, urging the Inquiry to maintain a strong focus on human agency systems in financial regulation. Second, stressing the importance of culture as a defining force in how financial markets operate:
 - On 28 November 2013 we made a submission on the Inquiry's Draft Terms of Reference (TORs). Our key conclusion in that submission was that the inquiry: **'examines how operational cultural norms within the financial services sector determine the levels of integrity, manageable risk and accountability that may be achieved in capital markets.'**¹
 - On 31 March 2014 we made a first round submission, which contained nine recommendations and in this second round submission we would like to re-emphasise, in particular, recommendations four and seven: **'In line with the UK, assess the precise nature of culture and its impact on competition and advance concrete mechanisms to hold stated commitments to account, thus enhancing accountability'**; and **'Place**

¹ J. O'Brien and G. Gilligan, *Submission to the Financial System Inquiry regarding its Draft Terms of Reference*, 28 November 2013, <http://fsi.gov.au/consultation/>

verifiable conduct at the heart of the Inquiry's response to changed financial conditions to be informed by legislative change.'²

▪ In May 2014 we provided further material to the Inquiry derived from research with our colleague Professor Seumas Miller. The core conclusion of that paper is that: **'sustainable reform necessitates paying sustained attention to how to shift cultural dynamics in the financial sector away from what it can receive towards what it can give.....What is called for is a conscious and sustained attempt to ensure the invisible hand is actually working – that the institutional purposes of the financial markets are actually being served.'**³

4. We believe that a core objective for the Inquiry is to make recommendations to Government that facilitate financial markets serving their institutional purposes, which must be defined. We agree, for example, with the current chair of the Competition Policy Review, Professor Ian Harper, that enhancing competition is a means to an end rather than an end in itself.⁴ Likewise, the overarching framework underpinning this Inquiry must define the purpose of the financial system and put in place concrete mechanisms to evaluate progress towards meeting them. It cannot be a static process. The Murray Inquiry, for example, was convened three years after Wallis (1997),⁵ had reached its self-imposed sell-by date of 2010. The previous iteration, the Campbell Report (1981),⁶ provided the first holistic analysis here since the Royal Commission into the Monetary and Banking System (1936).⁷ In each case, the financial world under investigation was very different from that envisaged.

5. The same reality informs international as well as national deliberation. As David Wright, Secretary General of the International Organization of Securities Commissions put it in a

² J. O'Brien and G. Gilligan, *First Round Submission to the Financial System Inquiry*, 28 November 2013, 31 March 2014, <http://fsi.gov.au/consultation/submissions20140520/>

³ J. O'Brien, G. Gilligan and S. Miller, 'Culture and the Future of Financial Regulation: How to Embed Restraint in the Interests of Systemic Stability,' (2014), *Law and Financial Markets Review*, Vol.8, No.2, 115 at 127, <http://www.hartjournals.co.uk/lfmr/sample.html>

⁴ I. Harper, 'Key issues for the Competition Policy Review,' (Speech delivered at the *Competition Law and Policy Conference "Root and Branch" Review: Bolstering Productivity and Efficiency*, Centre for Law, Markets and Regulation, UNSW, Sydney, 6 August 2014).

⁵ Treasury, *Financial System Inquiry, Final Report*, 1997, <http://fsi.treasury.gov.au/content/FinalReport.asp>

⁶ Treasury, *Australian Financial System: Final Report of the Committee of Inquiry*, September 1981, Australian Government Publishing Service, 1981

⁷ Royal Commission into the Monetary and Banking System (1936), <http://trove.nla.gov.au/work/19077392?selectedversion=NBD6111494>

recent interview with Justin O'Brien: 'the global financial system and its regulators or its regulatory bodies have three tools in which to ensure implementation of principles. The first one is colored diagrams. The second one is peer pressure and the third one is prayer. And prayer is probably the strongest of the three.'⁸ While accurate, it is a lesson we ignore at our peril.

6. In recent years it has become abundantly clear that financial markets in Australia and overseas have not been meeting to an acceptable standard their institutional purposes and obligations to the societies in which they function. This is evidenced in the cascade of ongoing conduct scandals (e.g. Libor, foreign exchange manipulation, UK mis-selling of indemnity insurance). These scandals and regulatory failures, which postdate the 2008 Global Financial Crisis have exposed the **limitations of relying on the Efficient Capital Markets Hypothesis (ECMH) and associated Wallis Inquiry assumptions about the philosophical underpinnings of financial regulation**. In part this can be attributed to the fact that an emphasis on structural reform does not to its fullest potential utilise **the levers of purpose and culture**.
7. In our view, and indeed those of many prominent national and international regulatory actors (discussed in more detail below), **there is an imbalance between the privileged participation and potential for rewards as licensed financial services actors that individuals and organisations receive, in comparison to the civic duties and obligations that could or should accompany that privileged status**.
8. Balance can only be restored through normative change at individual, organisational and industry levels. An **emphasis on culture and increased professionalisation** can be a fruitful pathway to **reinvigorate the implied social contract between financial organisations and the financial citizenry**, from whom increasing sophistication is expected by both the state and the industry, notwithstanding evidence that many citizens are incapable of understanding those risks.⁹

⁸ Interview, Madrid, June 2014. The full series of interviews, conducted through funding provided by the Center for International Finance and Regulation and provided to the FSI highlight the cultural factors market conduct regulators are grappling with, <http://cifr.edu.au>

⁹ Litigation in Australia has revealed deep judicial skepticism associated with the bifurcation between sophisticated and professional investors and retail consumers, see *Wingecarribee Shire Council v Lehman Brothers Australia (in liq)* [2012] FCA 1028. and *ABN AMRO Bank NV v Bathurst Regional Council* [2014] FCAFC 65.

9. In order to build a framework that addresses past (and emerging) scandals, as well as acting as an early warning system, we need substantive compliance, warranted commitment to high ethical standards, enhanced accountability and reduced risk. This must occur at an individual institution and systemic level (as can be seen in the CEDAR model, pioneered at the Centre for Law, Markets and Regulation at UNSW Law through Professor O'Brien's Australian Research Council Future Fellowship). We submit that a holistic approach to risk management cannot be vouchsafed by ad-hoc inquiry. It is telling, for example, that although there were two highly significant court cases here in Australia involving the sale of complex financial products (*Wingecarribee Shire Council v Lehman Brothers Australia*) and the risk of ratings failure (*ABN Amro v Bathurst Regional Council*), neither is mentioned in the Interim Report of the FSI, nor the impact on the *Corporations Act* risk to the securitisation market evaluated.¹⁰
10. Similarly, there are serious difficulties associated with reliance on either the courts or parliamentary inquiries to perform an ongoing evaluative role. Parliamentary investigations can be exceptionally useful in identifying failure but suffer from limited and reactive nature. The recent Senate Economic References Committee Inquiry into the performance of ASIC provided limited diagnosis that raised more questions than it answered.¹¹ The upcoming Joint Parliamentary Committee on raising financial standards is likely to suffer a similar fate.¹² All regulatory battles are won and lost at the implementation stage, which occurs far outside short-term media and political timeframes. Proposed solutions will have to be negotiated and followed through.
11. This in turn can only be achieved through ongoing structured dialogue. This serves three interlinked purposes. First, it reinvigorates the implied social contract. Second, it increases the commitment of financial services participants to fulfil their civic duties and obligations. Third it ensures ongoing accountability of each institutional sector, (including regulators and Government), by delineating the balance between rights, duties

¹⁰ See J. O'Brien, 'David Murray's Review Relies Too Much on Market Forces,' *Australian Financial Review*, 16 July 2014, http://www.afr.com/p/opinion/david_murray_review_relies_too_much_s0Vkh1alVEbXjTytwnsycJ

¹¹ Senate Economics References Committee, *the performance of the Australian Securities and Investments Commission*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/ASIC/Final_Report/index

¹² Parliamentary Joint Committee on Corporations and Financial Services, *Inquiry into proposals to lift the professional, ethical and education standards in the financial services industry*, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/Financial_Adviser_Qualifications

and responsibilities. Such an approach provides the evidence on which more effective regulatory design can be introduced and evaluated.

Recommendation One: The Inquiry should recommend the establishment of a Standing Regulatory Conference whose independence is underpinned by statute and funded by a levy on industry. The Regulatory Conference would be comprised of Government appointed representatives from: industry; regulatory agencies; consumer groups; government departments and the academy.

12. The proposed Regulatory Conference would be funded by an industry levy, which in terms of contribution reflected the operational scale of regulatory participants. All holders of an Australian Financial Services Licence (AFSL) and other organisations which profit considerably from their engagement with the financial sector, (such as major law firms and advisory firms), would be subject to the levy.
13. The mandate of the Regulatory Conference would not only be to monitor market conduct on an ongoing basis, but also make concrete recommendations to Government on how to improve conduct by individuals and organisations operating in the financial services sector, as well as ensuring accountability of actual and proposed regulatory strategies. As such it would replace and augment the independent source of advice to Government, which has been lost with the recent abolition of the Corporations and Markets Advisory Committee (CAMAC) as part of the Commonwealth Government's cost-savings initiatives. The proposed Regulatory Conference would operate within a more structured environment than CAMAC has done.
14. The proposed Regulatory Conference would be modelled on the Administrative Conference, and the Judicial Conference, both of which were established by statute in the United States. The Administrative Conference was established in 1964 to promote improvements in the efficiency, adequacy, and fairness of the procedures by which federal agencies conduct regulatory programs, administer grants and benefits, and perform related governmental functions.¹³ The US Congress established the Judicial Conference in 1922, (initially as the Conference of Senior Circuit Judges). It serves as the principal policy making body concerned with the administration of Courts in the US,

¹³ *Administrative Conference of the United States*, <http://www.acus.gov/>

through continuous study of the operation and effect of the general rules of practice and procedure in use within the federal courts.¹⁴

15. The independent status of both Conferences not only allow them to function as clearing houses for stakeholders to identify critical issues, but also act as nimble mechanisms within which to evaluate how the spheres that they monitor are functioning and how policy improvements might be made on an ongoing basis. In proposing the Administrative Conference in 1961, President John F Kennedy outlined the rationale. It is a rationale that retains its relevance and legitimacy.

The process of modernizing and reforming administrative procedures is not an easy one. It requires both research and understanding. Moreover, it must be a continuing process, critical of its own achievements and striving always for improvement. Judicialization—the method of determining the content of a controversy by processes akin to those followed by the judiciary—may well be the answer in many cases. But new procedures for the analysis of facts, based upon more informal methods and mobilizing the techniques of other disciplines, can be the answer in other cases, provided always that the fundamentals of due process of law are maintained. There can be no single set of conclusive and abiding formulas appropriate for the effective dispatch of all the diverse and ever-changing issues that these agencies are called upon to resolve.¹⁵

16. Just as President Kennedy recognised the need for a specialised administrative conference, we believe there is considerable merit in creating a dedicated forum for policy development and review in the financial regulation space. As with competition policy refinements, financial regulation is a means to an end rather than an end in itself.

17. The proposed Regulatory Conference would generate independent concrete measures and policy recommendations on financial market conduct in Australia on an ongoing basis. It would remove the reliance on static, once in a generation inquiries such as this Inquiry and the Wallis Inquiry, that are dependent for their creation on political will and whose recommendations may have a limited meaningful shelf life due to swiftly-changing technological and other market factors. Moreover, its open focus and inclusive membership enhances accountability and provides an online resource to build capacity

¹⁴ United State Courts, *Judicial Conference of the United States*, <http://www.uscourts.gov/FederalCourts/JudicialConference.aspx>

¹⁵ JF Kennedy, *Special Message to the Congress on the Regulatory Agencies*, 13 April 1961 (further noting ‘the capacity of these regulatory agencies to meet their responsibilities, and the efficiency with which they dispatch their business, become a subject of tremendous significance to the entire nation.’), http://www.jfklink.com/speeches/jfk/publicpapers/1961/jfk_contents_papers1961.html

both here in Australia and internationally. Effective regulation requires partnership and mutually enforceable commitments. Sustainability cannot be achieved by a narrow focus on one element alone, for example, the regulators.¹⁶

18. Representatives of industry as well as those who provide advisory functions would be included in, but not dominate, the setting and execution of the research priorities of the proposed Regulatory Conference. The provision of such a resource ensures ongoing validation and/or calibration of regulatory philosophy, ensuring it remains fit for purpose.
19. The recommendations of an independent statutory authority such as the proposed Regulatory Conference are also much more difficult to ignore. The latter fate for the recommendations of ad hoc inquiries can be seen in the UK Government's response to the Parliamentary Commission on Banking Standards (PCBS), which was critical of mechanistic approaches to compliance and enforcement by UK financial regulators.
20. In its June 2013 Report *Changing Banking for Good*, the PCBS recommended extensive and substantive reforms in: regulatory frameworks for individuals; remuneration; regulatory and supervisory approaches; sanctions and enforcement; and bank governance, standards and culture.¹⁷ However in July 2013 when introducing the formal response of the UK Government into the UK Parliament, the warm language of George Osborne, the UK Chancellor of the Exchequer supporting the work of the PCBS, belied the lack of legislative and other regulatory underpinning of the PCBS's suggested reform agenda. The UK Government announced a new charge of reckless misconduct and agreed to introduce a new Senior Persons Regime. However, the Government rejected the vast majority of PCBS measures designed to improve accountability and transparency and

¹⁶ Significantly the Regulatory Conference that we propose also expands beyond suggestions to place the Council of Financial Regulators on a more formal basis, see A. Erskine, 'Regulating the Australian Financial System,' *Funding Australia's Future*, Australian Centre for Financial Studies, July 2014, http://www.fundingaustraliasfuture.com/sites/fundingaustraliasfuture.com/files/papers/Regulating_the_Australian_Financial_System.pdf. Dr. Erskine argues that 'the most basic premises of 'efficient markets' philosophy, that no one knows the future and that market-based adaptation is the least costly and quickest means of adjusting to changing expectations, are more clearly correct than ever. Though there is greater awareness of behavioural and psychological biases and of pro-cyclicality in finance, there is no comprehensive alternative philosophy on which to base Australia's approach to regulation': 4). This statement is both factually inaccurate and presents an exceptionally emasculated conception of the form and purpose of market conduct regulation, see for example, J. O'Brien, *The Triumph, Tragedy and Lost Legacy of James M Landis: A Life on Fire* (Oxford: Hart Publishing, 2014, forthcoming). The book manuscript is available to the Inquiry on request to Professor O'Brien.

¹⁷ Parliamentary Commission on Banking Standards, *Changing Banking for Good*, HM Stationery Office, Westminster, 2013

thereby improve operational culture standards in UK banking.¹⁸ This is a trap of *realpolitik* that an initiative such as a Regulatory Conference can help avert. Critically, it can also ensure that deliberation can occur in a calmer less contested and less adversarial manner than reliance on the courts or parliamentary inquiries (notwithstanding their value).

21. Moving on from the issue of independence itself, the Regulatory Conference also could facilitate sustained efforts to improve operational cultures within the financial sector itself and there is overwhelming evidence in recent times in Australia about the need for such improvement.
22. Financial markets are heavily dependent on sociologies of trust and these sociologies of trust are currently in a dilapidated state not only in Australia, but also in many overseas jurisdictions, precisely because the implicit social contract discussed above has broken down. For example, Mike Smith, CEO of the ANZ Banking Group, one of Australia's Big Four banks: 'We do need to re-establish trust in the financial services industry... That trust has to be re-earned frankly by the industry.'¹⁹ Similarly, the Edelman Survey, which is the largest global exploration of trust by surveying 33,000+ respondents (1,000 in 33 countries) annually, found that again in 2014, as in 2013, financial services was the least trusted globally of 15 consumer industries. Australia ranked 14th of 33 countries surveyed with only 46% of Australians respondents trusting those in the financial services sector.²⁰
23. The trust deficit and other culture and market conduct problems in Australian financial services were graphically highlighted on 26 June 2014 when the Senate Economics References Committee, (the Committee), released its much anticipated Final Report (the Report) into the performance of the Australian Securities and Investments Commission (ASIC).²¹ The report not only has a very specific focus on the performance of ASIC, but also through a case study of Commonwealth Financial Planning Limited (CFPL), a

¹⁸ HM Treasury, *The Government's response to the Parliamentary Commission on Banking Standards*. July 2013, 11, <https://www.gov.uk/government/publications/the-governments-response-to-the-parliamentary-commission-on-banking-standards>

¹⁹ J. Eyers, 'Moneymen must regain public trust', *The Australian Financial Review*, 23 July 2014, 41

²⁰ Edelman, *2014 Edelman Trust Barometer*, <http://www.edelman.com/insights/intellectual-property/2014-edelman-trust-barometer/>

²¹ Senate Economics References Committee, *the performance of the Australian Securities and Investments Commission*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/ASIC/Final_Report/index

wholly owned subsidiary of Australia's largest bank the Commonwealth Bank of Australia (CBA), a general focus on contemporary sales cultures in Australian financial services. In the words of the Committee's chair, Senator Mark Bishop:

The CFPL scandal needs to stand as a lesson to the entire financial services sector. Firms need to know that they cannot turn a blind eye to rogue employees who do whatever it takes to make profits at the expense of vulnerable investors.... unethical, dishonest, well below professional standards and a grievous breach of their duties... That a major financial institution could have tolerated for so long conduct that included apparent criminal behaviour is not easy to accept.²²

24. Senator Bishop's remarks are damning indeed. **They highlight concerns which an Inquiry such as this simply must respond to.** Recommendation Ten of our submission to the Senate Inquiry was: **'Conduct a comprehensive systematic review of the cultural factors that inform Australian practice in the design, marketing and sale of complex financial products.'**²³ If it is not possible for this Inquiry to perform such a review before it delivers its final report (scheduled for November 2014), then we urge the Inquiry to set such a systematic review as an ongoing core task for the Regulatory Conference suggested above in Recommendation One.

25. Our concern to prioritise culture in regulatory discourse as the key to resuscitating sociologies of trust has been echoed by several of the world's most influential financial regulators. For example, Christine Lagarde, Managing Director of the International Monetary Fund (IMF):

To restore trust, we need a shift toward greater integrity and accountability. ..What is the social purpose of the financial sector? Or, as Aristotle would have asked: 'what is its *telos*? We need a stronger and systematic ethical dimension.... the true purpose of finance. Its goal is to put resources to productive use — to enrich society.... Getting back on the right path requires education and leadership that is sustained over many years. It requires alert watchdogs, including from civil society. Most importantly of all, it requires investors and financial leaders taking values as seriously as valuation, culture as seriously as capital.²⁴

²² Senate Economics References Committee, *the performance of the Australian Securities and Investments Commission*, Media Release, 26 June 2014,

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/ASIC/Media_Releases

²³ J. O'Brien and G. Gilligan, *Submission to The Senate Economic References Committee Inquiry into the Performance of the Australian Securities and Investments Commission - ASIC*, (2013),

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/ASIC/Submissions

²⁴ C. Lagarde, 'Economic Inclusion and Financial Integrity—an Address to the Conference on Inclusive Capitalism', *International Monetary Fund*, London, May 27, 2014, <https://www.imf.org/external/np/speeches/2014/052714.htm>

26. Ms Lagarde's sentiments were echoed by Mark Carney Governor of the Bank of England and Chair of the Financial Stability Board (FSB): '...just as any revolution eats its children, unchecked market fundamentalism can devour the social capital essential for the long-term dynamism of capitalism itself. To counteract this tendency, individuals and their firms must have a sense of their responsibilities for the broader system.'²⁵ Similarly, Martin Wheatley CEO of the UK Financial Conduct Authority in March 2014:

We have the narrowest of windows here to make cultural change stick before memories of financial crisis fade. The narrowest of windows to restore the long link between ethics and growth that dominated financial services for most of their history...One of the more worrying stats to emerge last year was a survey of senior executives in UK financial services by the Economist Intelligence Unit. In a poll that should set alarm bells ringing, some 53% of financial service executives reported that career progression at their firm would be tricky without 'flexibility' over ethical standards – rising to 71% of investment bankers...These Economist figures suggest...that not all cultural reform proposals have been understood or accepted; it is an imperative they are.²⁶

27. These highly prominent national and international regulators share our belief in the need for normative change in the financial sector. Normative change that seeks to restore the emphasis on the *telos*/institutional purpose of financial markets and restore balance in the social contract between financial markets and the societies in which they reside. As such we hope that with regard to this Inquiry's Final Report that *we are pushing on a partially open door* in stressing culture as the keystone for improving standards of market conduct in Australia. In his speech of 7 May 2014 to the Centre for International Finance and Regulation (CIFR) Workshop on this Inquiry chairman David Murray said:

We tend to focus very, very hard on technological systems, and we tend to focus much less on human systems...In theory, a lot of work is done on agency and agency risks. But human systems are about more than that – they're predominantly about culture...Analysts don't care about it...Proxy voters have managed to construct a cookie-cutter model of annual meetings that doesn't care about these things...If owners of financial institutions don't take more of an interest in the people who govern those financial institutions and how they interact with the management of those institutions, it gets harder for us to encourage great cultures in financial institutions.²⁷

²⁵ M. Carney, *Inclusive capitalism: creating a sense of the systemic*, Speech given by Mark Carney, Governor at the Conference on Inclusive Capitalism, London on Tuesday 27 May 2014, p.3, <http://www.bankofengland.co.uk/publications/Pages/speeches/2014/731.aspx>

²⁶ M. Wheatley, *Ethics and Economics*, Financial Conduct Authority Speeches, March 2014, <http://www.fca.org.uk/news/speeches/ethics-and-economics>

²⁷ K. Maley, 'Make culture your king: Murray', *The Australian Financial Review*, 8 May 2014, 21.

28. We believe that Mr Murray’s remarks go to the heart of the most pressing problem in contemporary Australian financial services and markets – creating incentives for all stakeholders, especially large institutional investors and those who are affected by their investment decision-making to actively promote and sustain good operational cultures amongst Australian financial services actors. This institutional investor and analyst ambivalence about prevailing cultures in Australian finance is evident in the comments of Justin Bratling, chief investment officer of Watermark Funds Management, following the release of the Senate Inquiry Final Report that was so critical of CBA:

There was not a single research note written during the week from any of the analysts...and for a company that has generated \$9 billion worth of profit this year, the advisory business is very small. It’s a rounding error really in the overall profitability of the bank.²⁸

29. This comment highlights how low the importance of values in financial organisations are ranked in comparison to valuations and changing this dynamic is crucial in improving market conduct in Australian finance. So, in addition to our earlier recommendation about a standing Regulatory Conference, we strongly support a more robust, proactive, accountable and transparent licensing regime as the most practical mechanism to improve market conduct in Australia.

Recommendation Two: The Inquiry should make detailed recommendations to Government to ensure that Australia’s financial licensing regime is more proactive, accountable and transparent. In particular: (i) not only end the current system whereby hundreds of individual financial actors can be legitimised and sheltered under the unitary license of a large institution; but also (ii) improve the mandatory education and training requirements for those who practice in the financial services sector; and (iii) raise substantially the transparency surrounding their activities and those of their employers. In short, professionalise the financial sector in a meaningful and sustainable manner. The research that would be conducted under the aegis of the proposed Standing Regulatory Conference would provide a critical resource for such a project.²⁹

²⁸ J. Whyte, J. Eyers and B. Hartge-Hazelman, *The Australian Financial Review*, 7 July 2014, http://www.afr.com/p/business/sunday/cba_boss_ian_narev_disputes_financial_XxzZhx9wmXMyhmRa1ABp2

²⁹ See submission provided to the Inquiry by J. O’Brien, G. Gilligan, S. Miller, D. Sanders and P. Hanrahan, 27 May 2014, See also P. Hanrahan, ‘Eight Ways to Improve Our Financial Services Rules,’ Centre for Law, Markets and

30. This Inquiry is of a short-term duration but potentially can have long-term influence on Australia's financial sector. The Inquiry's Interim Report has flagged areas of potential structural reform that not only can help Australia's financial sector become more competitive in international markets, but also help with the longer-term demographic challenges posed by an ageing population, given Australia's inevitable continuing dependence on inward foreign investment.
31. Unless the human system challenges posed by poor operational cultures in Australian financial services and markets are addressed however, reform efforts will falter and the legacy effects of the Inquiry substantially diminished. A Standing Regulatory Conference linked to the articulation of the purpose of the financial system and underpinned by a responsive research agenda, is an essential step in ensuring ongoing relevance and maintenance of warranted trust.

Conclusion

32. Funded by an industry levy, the proposed Regulatory Conference would have no negative impact on the federal budget. It would provide for sustained and meaningful dialogue. Representatives of industry as well as those who provide advisory functions would be included in, but not dominate, the setting and execution of the research priorities. The provision of such a resource ensures ongoing validation and/or calibration of regulatory philosophy, ensuring it remains fit for purpose. Such an approach has more legacy value than a report that details what we know in November 2014 and leaves itself hostage to the unknowns that will inevitably emerge.