6 September 1996

Mr Stan Wallis
Chairman
Financial System Inquiry
Treasury Building
Parkes Place
PARKES ACT 2600

Dear Sir,

As Chairman of the above Association, I wish to make a submission on behalf of our members to your inquiry.

We are a bunch of unfortunates who were induced by our banks in the 1980's to take up their offer of a Swiss loan. The borrowers, who are roughly half farmers and half small business people, did not need much encouragement as the Swiss loan was 6-7% interest and onshore loans at the time were 12-14%. We were encouraged to maximise our loans and place the excess on IBD with the bank at 9-10% to generate further income. We did not need to have our arms screwed to comply with that one either.

When inquiring about pit-falls, we were told that there was a potential for adverse parity, but the very most this would be was 5-10% and even with this we would be way in front with our interest saving. Besides, we could always delay termination of the loan until the parity was in our favour. If we "hedged" the loan, the additional cost would negate any benefit of the loan but we could, if we wished, change our currency at "roll-over" (when interest was due) if the bank was given some days notice.

It must be remembered that this was still in the era when bankers held high esteem in the community and farmers and small business people always trusted their advice. However, many borrowers sought and received reassurance from senior officers of their bank. My wife and I (and a business associate) achieved this from the Chief NSW Manager of the Commonwealth Bank.

At this time the two most senior banks CBA and Westpac were vying with each other and heavily promoted FCL's in newspapers, on TV, and at organised seminars, etc. As well, they gave very firm orders to their Field Officers, mainly the banks' Branch Managers, to promote them to any client seeking credit (even an overdraft), even to the extent of saying it would be an FCL or nothing. The lesser banks then also had to supply FCL's or lose their customers who had heard about these new cheap interest loans, (which were unavailable and unheard of before 1982) and in these instances the vital risks and loan administration were never explained.

You may wonder why banks would be clamouring to sell loans with 6-7% interest instead of onshore at 12-14%. At an earlier time I also wondered, but I have been subjected to a very harsh learning curve. The reasons are as follows:

(a) In the early 1980's the banks were subjected to the much despised "Item 8". This was the Treasurer limiting their lending to dampen an (allegedly) overheating economy. By lending from, for example, Singapore they came under the law of that country and the sky was the limit to their lending. "Item 8" was terminated in 1984 (I think) after deregulation.

(b) Lending from, for example, Singapore avoided the mandatary (at the time) 3-4% of the loan statutory deposits with the Reserve Bank (it earned little).

(c) At the time, the Australian company tax rate was 49%. In Singapore it was 10% but newly established companies got a tax holiday of five years. So tax was nil.

(d) Borrowers had a legal obligation to deduct 10% of interest on the FCL due the bank and remit it to the Tax Office. The banks offered to do all this for us and charged us extra so they would receive the full interest clear of tax. We have never found any evidence where they actually made this remittance, but we have plenty of evidence where they did not. We subsequently discovered that Taxation Law 261 forbade them to take money from us in this way and their lawful obligation is to return the money to the borrowers. (Their lawyers advised them at the outset they would be breaking the law by taking our money for their tax.)

The ANZ to date is the only bank to return the stolen withholding tax money to their borrowers. With other banks, borrowers must serve a writ (at great cost) on their bank and on the way to court the bank will pay back the tax. There is probably many millions of tax dollars the banks just did not pay, thus making the whole deal tax free.

(e) We subsequently learnt that the Field Officers of banks had little, if any more background knowledge of Swiss franc loans than their clients. They just knew their bank had this cheap loan available and felt they were doing their clients (often their friends) a favour in making it available.

The senior Treasury and International Department people who designed the loan (they called it a product) knew differently. It is reasonable to claim they fully expected to cream 10-20% of tax free capital off their "captive clients" (their term). This was based on the AUD$ performance against the Swiss franc in previous years. They knew that in a given number of the 15 x 5 year loans possible to achieve in the last 15 years (the last of them would be of only 4 years, 3 years, 2 years and one year) one loan would be of benefit, one would break even and the other 13 would be disasters for the client and bonanzas for the bank. This period had seen the AUD$ fall in value from 5 Swiss francs to AUD$1 to 2 Swiss francs to AUD$1.

These senior bank officers also knew when promoting FCL's in 1984, that although the AUD$ was holding well at that time, all the classic signs and situations that create a fall in a country's currency, were in place in Australia. They had publications from banking advisory agencies telling them of the inevitable crash of the AUD$ in early 1985. So they pressured staff to write those FCL's (we see all this so clearly, from discovered inter-bank memoranda from the time. They were jubilantly speaking of anticipated "super" profits - tax free).
What they did not anticipate was the magnitude of the fall when it did come. Apparently an unprecedented period of the AUD$ holding up will be inevitably followed by a fall sufficient to put the AUD$ back on the same decline it has always been on when looked at in 5 year terms.

Those bankers panicked. They were sure clients would be taking legal action and were surprised it was slow in coming. They planned their defence mode, no matter how devious (inter-bank memoranda show all this).

What they had planned for their clients as a "rough patch" had turned into a "super super" bonanza for the bank and utter disaster for the clients.

The loans had doubled and many borrowers were facing bankruptcy. Moteliers, developers, garage owners, solicitors, accountants, third generation farmers were walking away with just a suitcase. Over half the loans ended in divorce, there were suicides and one murder suicide as a direct result of the loans.

Unfortunately the economic lust of these bankers was still not slated. They told the more "astute" (their term) of their borrowers that the banks was now giving them the facility to deal in forward currency contracts and that the borrowers, at only the cost of $10.00 to $15.00 per contract, would be able to "recoup previous losses and mitigate against future losses".
"What does all this mean," wailed the borrowers "we have never heard of such procedures." They were informed not to worry that the bank's Dealing Room experts would tell them what to do. How and when to buy forward etc.

After many months of losing heaps on deals, the bank's "experts" advised them to take, probably 9 out of 10 were duds, the borrower gave up in despair. This was probably the worst period of the loan, as we watched our life's work slip away. We were forced into a procedure like backing race horses (a thing we would never do) but unlike the punter we never had the occasional win. Anyone who has never suffered the experience could not imagine the sick despair we felt.

Borrowers were eventually forced to come onshore, to the highest interest rates in Australian history. The CBA calmly asked us to pay 25% interest on a loan that had more than doubled. More than half the borrowers were sold up, others continued to stumble along under great stress. Many are still under the same stress as the burden of debt has just been too great.

Many years ago now, I promoted the formation of our group and have been Chairman almost continuously. In that time, I have come to know hundreds of our members and the constant feature is that they are always decent people prepared to work hard to build a better way of life for their families. **Their only failure was to trust their bank**, as they trusted their doctor or minister.

The promotion of borrowers dealing in forward currency contracts was the ultimate confirmation of borrowers' suspicions that their bank had a total lack of integrity. We came to realise (no one told us so how could we know) that it was the "bookie" telling us which horse to back. Every dollar we lost in dealing went as tax free capital to the bank.
A very decent man named Ian McKay, told us he was a 21 year old university graduate who obtained a job in the dealing room for ANZ. He was paid a fabulous wage (many of his work mates were drunk or stoned in the afternoon and could not work) and given a profit quota. He was assured of pay rises and advancement if he exceeded the quota, but was left in no doubt that his job was under threat if the quota was not met on a regular basis. He was instructed how to lie to the unsophisticated farmers and small business people, so they would lose and the bank would gain. His other customers were skilled foreign currency managers and there was only a small margin to be made out of them. I have his sworn statement.

As "captive client" we could not get quotes outside the bank, and we were ultimately to learn that we were not charged the $10 - $15 as promised but secretly up to $12000 per deal, which was just lumped in with our "losses" (bank gain). The CBA stole $120000 from my family in secret commissions alone in just a few months and from another borrower with a similar size loan, $400000 over the same period. God only knows how many millions of dollars were looted from the total of their borrowers in secret commissions alone.

Borrowers were to become very familiar with what banks refer to as the golden rule: "We have the gold so we make the rules". This rule dominates Australian life today.

Borrowers in litigation were especially vulnerable. They often found that the lawyer to whom they were paying fabulous sums of money was actually working in the bank's best interests. 50% of cases in the Civil Courts now involve banks and banks never quibble about the size of the account (as we might) because banks are awash with money. They are geese laying golden eggs for lawyers and little bankers are never loathe to spend shareholder's money putting "recalcitrant" clients in their place.

This was one aspect that people from the land could never come to terms with and were totally bewildered by. They tell me they were taken to lunch and given red carpet treatment, but with the fall of the AUD$ and blow-out of their loan they instantly became the enemy and were treated accordingly.

Various borrowers in litigation with obviously good cases, found themselves abandoned by their legal team on the steps of the court house and had to accept a settlement very much in the bank's favour (impossible to acquire and brief another team at short order) or face certain annihilation in the court and most likely bankruptcy. No money changed hands here, it was done by the bank saying to the borrower's legal team: "settle this now or you get no more bank work".
Judges are also vulnerable. They are notorious gamblers and often have a huge overdraft or a son or daughter seeking a loan. There have been various judgements that defied logic in efforts to exonerate the bank. In our own judgement which favoured the bank, the three Appeal Judges were quick to brand it "illogical and irrational".

In the recent Drambo judgement handed down in Brisbane, Judge Sundberg decreed that Westpac was legally entitled to take $3M in secret commissions. This practice has been condemned in previous cases and international banking circles regard it as blatant theft.

I have been very saddened by my various forays into Canberra, along with various members of my Committee, seeking some form of justice from elected politicians. Whilst Juniors may have supported us, most Senior Ministers claimed we were "bank-bashers". Ministers Hawk, Keating and Howard point blank refused to accept or discuss the "Westpac letters". (No one seriously considering banking practices can avoid reading those letters.)

The National Crime Authority, Victorian and NSW Fraud Squads, the Trade Practices Commission, all refused to handle those letters, because they were irrefutable evidence of Westpac's theft on the grand scale. All were terrified to move lest they be individually marked for life by the banks.
In Canberra we were soon to learn that the Liberal Party owes $12M to the NAB, the Labor Party $8M to the CBA and at election time, banks hand out very large sums in equal amounts to each political party. This is so it does not matter who goes into power the banks can at a later date say: "if you do not toe the line we will consider withdrawing our support at election time". The party, of course, knows they are totally dependent on those donations to run the kind of campaign required to get into power.

Our borrowers have been very much disadvantaged by the Martin and Elliott Parliamentary Banking Inquiries. Despite the despair felt by some Committee members, the Inquiry was very much in the bank camp. We assert the banks lied extensively to the Inquiry and we will submit a document which we have compiled pointing out these lies. There are some kilos of documents which are required to support our claims and we are in the process of having a well known firm audit all the material and give us a document which verifies our claims. So, if required, we can also submit that when it arrives.

I will also enclose another document entitled "How they defrauded their Clients".

Yours faithfully

Ian Fisher
Chairman, Foreign Currency Borrowers Association

.../2.

.../5.