**Annexure A**

**Two Exceedingly Costly Interest Charging Practices that the RBA failed to rectify at least 15 years ago to the material detriment of Credit Cardholders with
poor Financial Literacy Capacity**

The *1st Practice* disregarded the patent findings in [Six Pivotal Credit Card Publications](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CABC%5CSix_Pivotal_Credit_Card_Publications.htm), in particular [Three '*Landmark*' RBA Published Papers in the last 26 years**,** that recognised the ever increasing spread between the overnight cost of funds and Highest Credit Card Interest Rates](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CThree_RBA_Published_Papers.htm) by the RBA not re-imposing a maximum interest rate on Credit Cards.

The *2nd* *Practice* ignored the [*User Pays Principle*](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CUser_Pays_Principle.htm) that the RBA professed to observe / implement in its "[**RBA's Reform of Credit Card Schemes in Aust: "I A Consultation Document**" – Dec 2001](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CRBA%5Cconsultation_document__dec_2001.htm) where -

\*    on page - vii -

"Reform of the credit card schemes
21. ............... **the Reserve Bank is of the opinion that the main regulations established by the credit card schemes in Australia do not meet the public interest test**."

\*    in Section 5:2

"**Reform of credit card schemes will also have a direct impact on credit cardholders** and is likely to result in some re-pricing of credit card payment services. However, this is the means by which the price mechanism is to be given greater rein in the credit card market. **A movement towards a “user pays” approach to credit card payment services would be consistent with the approach adopted by Australian financial institutions in pricing other payment instruments under their control**. As the ABA itself has confirmed: “Pricing services efficiently provides consumers with choice to use lower cost distribution channels and, therefore, facilitates a more efficient financial system. It is also fairer and efficient, because consumers only pay for what they use.”198

**The principles that consumers should face prices that take into account the relative costs of producing goods and services**, as well as demand conditions, and that resources should be free to enter a market in response to above-normal profit opportunities, **have been the guiding principles for tariff reform and market deregulation in Australia**"

**1st Costly Interest Charging Practice:
Failing to re-impose a Maximum Interest Rate *Cap* as far back as late 1992 when the spread between the Overnight Cash Rate and the average** [**Purchase**](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CPurchase.htm) **interest rate exceeded 16% - back in June 1992**

[Prior to the Campbell Report *circa* early 1980's, the RBA regulated all Australian bank interest rates with an *Iron Fist*](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CPrior_to_the_Campbell_Report%2C_RBA_rulled_with_Iron_Fist.htm).  Australia's banking history evidences that [**"... when de-regulation resulted in adverse consequences, re-regulation ensued..."**](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CPrior_to_the_Campbell_Report%2C_RBA_rulled_with_Iron_Fist.htm).  Due to bank collapses in the 19th century, Australian banks had been highly regulated.  [Particulars of deregulations and subsequent re-regulations are well chronicled](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CParticularsOfDeregulationAndSubsequentRe-regulationAreWellChronicled.htm)**.**

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[Until 1980 banks could not offer more than 3¾% on a passbook account.](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CParliament%5CWrittenQuestions%5CChapter_17.htm)  **"**[**From 1966, when personal loans were introduced, the maximum rate that banks could charge was set by the Reserve Bank. Once again, in April 1985, the controls were removed.**](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CParliament%5CWrittenQuestions%5CChapter_17.htm)**"**

[The RBA capped the maximum interest rate on Credit Cards in Australia at 18% until April 1985](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CRBA%5CPrice_stickness_in_credit_card_interest_rates.htm).  That cap was withdrawn in April 1985, following the Campbell Committee recommendations, when the [Overnight Cash Rate](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CCash_Rate.htm) was a smidgeon over 17% during an era of very high inflation.

Recommendation 30 (page 254) of the [**Financial System Inquiry - Final Report** - **Nov 2014**](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CTreasury%5Cp2014-FSI-01Final-Report.pdf) recommended "**Strengthening the focus on competition in the financial system**" by reviewing **"the state of 'competition' in the financial system every three years"**:

|  |
| --- |
| **Recommendation 30** **Review the state of competition in the sector every three years, improve reporting of how regulators balance competition against their core objectives, identify barriers to cross-border provision of financial services and include consideration of competition in the Australian Securities and Investments Commission’s mandate.**  |

Both ASIC and Australian Treasury are members of the **Council of Financial Regulators.** The abovementioned Financial System Inquiry [Final Report sits on the Australian Treasury website.](https://treasury.gov.au/publication/c2014-fsi-final-report) Notwithstanding the need to "**Review the state of competition in the sector every three years**", seemingly, neither ASIC, nor Australian Treasury, has nudged the RBA to re-impose a maximum interest rate on Credit Cards or indeed encourage Credit Card Issuers to reduce interest rates on their existing Credit Cards.  Apart from the ACCC, or regulators are adept at keeping a chair warm.

Over 25 years ago when the spread between the [Overnight Cash Rate](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CCash_Rate.htm) and the average [Purchase](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CPurchase.htm) interest rate [exceeded 16% - back in June 1992](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CParliament%5CWrittenQuestions%5CChapter_5.htm),  [Australia's Principal Regulator of the Payments System](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CParliamentary_Bestowed_Mandate.htm), the RBA, should have recommended to the Commonwealth Govt. (pursuant to [Section 11(1) of the Reserve Bank Act 1959](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CRBA%5CSect_11_Reserve_Bank_Act_1959.htm)) that the RBA needed to re-impose a maximum interest rate on [Credit Cards](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CDebit_Cards.htm).

In not doing so, the RBA breached its [Statutory Duty](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CStatutory_Duty.htm) and its [Fiduciary Duty](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CFiduciary_Duty.htm)**.**

[Six Pivotal Credit Card Publications](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CABC%5CSix_Pivotal_Credit_Card_Publications.htm)**,** duringthe last 26 years, three of which were written by the RBA, identified that interest rates on Credit Cards against reductions in the cost of funds, were most sticky, **"...The rate on credit cards is found to be the most *sticky*, followed by personal loan rates, the housing loan rate and the small business overdraft rate".** Interest rates remained ‘stuck’ on the existing interest rate and did not fall in concern with reduced funding costs**.**

Notwithstanding that the RBA openly professed in "[**RBA's Reform of Credit Card Schemes in Aust: "I A Consultation Document**" – Dec 2001](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CRBA%5Cconsultation_document__dec_2001.htm) that the [*User Pays Principle*](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CUser_Pays_Principle.htm)should apply to [Credit Card Products](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CCredit_Card_Products.htm), it resiled that pursuit by not, *inter alia*, re-setting a maximum interest rate *cap* on [Credit Cards](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CDebit_Cards.htm) that-

A)      cost 400,000 *circa* [Eligible *Persistent Revolver* Plaintiffs](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CClass_Actions%5CEligible_Persistent_Revolver_Plaintiffs.htm) in excess of $20,000 each in [Interest and Penalty Fees](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CInterest_And_Penalty_Fees_Revenue.htm) that suffered [Extreme Financial And  Emotional Distress](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CExtreme_Financial_And_Emotional_Distress.htm); and

B)       enabled 67% of [Credit Cardholders](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CCredit_Cardholders.htm), identified by the RBA as [*Transactors,*](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CClass_Actions%5CTransactors_and_Revolvers.htm) to enjoy their [Lines of Credit](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CLine_Of_Credit.htm) from using Credit Cards at virtually no cost, some receiving tax free Rewards Points.

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**2nd Costly Interest Charging Practice:**

**Failing to outlaw the Unconscionable practice that –**

* **many Credit Card Issuers progressively adopted from the late 1990s of charging Interest on the amount of Purchases that were repaid on or before the Payment Due Date, unless the entire Closing Balance was paid *in toto* by the Payment Due Date; and**
* **the ABA banned as the Royal Commission into Misconduct in Banking** **approached**

In 1976 there were 1,054,000 Bankcard Cardholders, and 49,000 merchants accepting Bankcard.  By 1984 there were more than 5 million Bankcard Cardholders in Australia and New Zealand.  Bankcard was withdrawn in February 2006, after foreign Credit Cards, ostensibly Visa and MasterCard, gained popularity.

Interest was charged on any portion of the Outstanding Indebtedness that was not repaid by the Payment Due Date.  Progressively (from the late 90’s) most Credit Card Issuers *jumped on the unconscionable bandwagon* of charging interest on the full [Closing Balance](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CClosing_Balance.htm) from the [Payment Due Date](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CPayment_Due_Date.htm), if the total [Closing Balance](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CClosing_Balance.htm) had not been paid by the [Payment Due Date](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CPayment_Due_Date.htm).  If a [Credit Cardholder](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CCredit_Cardholders.htm) was one day late in making its monthly Credit Card repayment, or its repayment was one dollar short of the [Closing Balance](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CClosing_Balance.htm) in the amount it repaid, the[Cardholder](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CCredit_Cardholders.htm) was charged interest, often around 20%, on the full amount of its previous month's Purchases. These [Unconscionable](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CUnconscionable_Conduct.htm) [Credit Card Issuers](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CCredit_Card_Issuer.htm)*,* that had progressively *jumped aboard the scam,* and discretely amended the fine print in its *T&C*, then also withdrew the [Interest Free Period](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CInterest_Free_Period.htm) for up to two months, which meant that the interest *calc* *metre was running* from the date of each [Purchase](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CPurchase.htm) in the subsequent one or two months which was a reprehensible '*penalty*' - Explained in [Unconscionable Credit Card Interest Charging](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CUnconscionableCreditCardInterestCharging.htm), in particular [**Example 1**](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CUncon_Cond%5CStGeorge%5CExample_1_St_George_Visa.htm) and [**Example 2**](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CUncon_Cond%5CColes%5CExample_2_Coles_MasterCard.htm).

At least 15 years ago, the RBA should have regulated the changes pronounced in the ABA's '[Banking Code of Practice](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CABA%5CBanking_Code_of_Practice_2019.htm) (actionable by 1 July 2019), in particular that [Credit Card Issuers](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CCredit_Card_Issuer.htm) charge interest after the [Payment Due Date](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CPayment_Due_Date.htm) on only the unpaid portion of the [Closing Balance](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CClosing_Balance.htm), and not on the full [Closing Balance](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CClosing_Balance.htm).  Because the above '*penalty'* of charging interest on all that month's Purchases, and thereafter denying the ‘interest free period’ for up to two months, if the Cardholder's monthly repayment *was one dollar short, or one day late*, -

a)       did not observe the RBA's professed need to adopt [*User Pays Principle*](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CUser_Pays_Principle.htm)"... to be consistent with the approach adopted by Australian financial institutions in pricing other payment instruments under their control"; and

b)       overtly[Targeted Credit Cardholders With Low Financial Literacy Capacity.](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CNumeracyAndLiteracyTargeting.htm)  The range from Level 1 to Level 5 of [Financial Literacy Capacity](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CFinancial_Literacy.htm) is explained at [Numeracy and Literacy Range of the Australian Population](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CNumeracyAndLiteracyRangeOfAustralians.htm) relying on extensive reports by the Productivity Commission and the ABS.

In not outlawing fifteen or so years ago, the afore-mentioned '*Penalties Targeting the Literacy Poor*' that the ABA eventually banned as a Royal Commission into Misconduct in Banking approached, because it could have materially damaged its members' [*Brand Names*](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CBrand_Name.htm)*,* the -

\*         RBA breached its [Statutory Duty](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CStatutory_Duty.htm) and also its [Fiduciary Dut](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CFiduciary_Duty.htm)[y](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CStatutory_Duty.htm) to *"*[best contribute to.......... the economic prosperity and welfare of ALL the people of Australia](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CParliamentary_Bestowed_Mandate.htm)" and

*\** [Payments Systems Board](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CRBA%5CPaymentsSystemBoard%E2%80%99sMandate%26Objectives.htm) (*post* July 1998) abrogated its responsibility to always
[*Act in the Public Interest*](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CTo_Act_In_The_Public_Interest.htm)*,*

to the material detriment of 400,000 *circa* [Eligible *Persistent Revolver* Plaintiffs](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CClass_Actions%5CEligible_Persistent_Revolver_Plaintiffs.htm) that –

1. possess poor Numeracy and Literacy capacity (as quantified in both Productivity Commission and ABS reports and an ASIC report – Dec 2010);
2. paid in excess of $20,000 each in [Interest and Penalty Fees](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CInterest_And_Penalty_Fees_Revenue.htm); and
3. suffered [Extreme Financial And Emotional Distress](file:///F%3A%5CDocuments%5CMy%20Web%20Sites%5CMuggaccinos%5CCreditCards%5CDefinedTerms%5CExtreme_Financial_And_Emotional_Distress.htm)*.*