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Mar 7 2016 at 10:03 AM | Updated Mar 7 2016 at 10:27 AM

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# Banking culture wars shouldn't hide code questions

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ANZ CEO Shayne Elliott on restructuring and culture



by James Thomson

The corporate watchdog's [action against ANZ for allegedly manipulating the bank bill swap rate](#) appears to have helped reignite the finance sector's version of the culture wars.

In the court documents lodged on Friday as part of the case, the Australian Securities and Investment Commission (ASIC) very pointedly includes a copy of ANZ's code of conduct, and more specifically the "business instruction manual" issued to ANZ's global markets team.

Under chairman Greg Medcraft, ASIC has long pushed for greater powers and more oversight to regulate culture within financial institutions. This is a view sharply opposed by many within banking and finance and the law, who argue that culture is too difficult to define.

Writing in [The Australian Financial Review on Monday](#), the former chief executive of the Australian Institute of Company Directors, John Colvin, argues that culture is a "nebulous concept and has evaded a comprehensive definition. Culture is often described as including attitudes, behaviours, beliefs and values. These are not objectively certain criteria upon which liability should be imposed."

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ASIC chairman Greg Medcraft. Michele Mossop

He says compliance with ASIC's proposed amendments to the Criminal Code around corporate culture "would be very difficult. Companies, boards and managers would face significant uncertainty knowing when – and if – they have complied with any statutory prescription of culture (assuming that is possible)."

Colvin makes good points. And in reality the BBSW action will be decided on the Corporations Act.

But by also including ANZ's code of conduct and business rules as part of its BBSW action, ASIC still raises a good question: Do these things count for anything?

Most large companies, including Fairfax Media, have some sort of code of conduct for its employees. Typically the code is handed over when a worker joins as part of their induction process, whereby it's studied for a good minute and a half and then promptly forgotten, perhaps only to be remembered at a performance review or at Christmas time, when the boss sends a warning about behaviour at the office party.

But arguably bank codes of conduct should mean more than that, because the incentives for poor behaviour are greater. The impacts of poor behaviour can be greater too; alleged manipulation of something like the BBSW, which can flow through to the prices of loans throughout the financial system, is a good example of this.

Perhaps it is for this reason that there has been a push to supplement corporate codes of conduct with a specific oath for bankers.

Reserve Bank of Australia governor Glenn Stevens has been one of the biggest supporters of the [Banking and Finance Oath](#), which asks individuals to make a personal pledge on ethics.

*Trust is the foundation of my profession*

*I will serve all interests in good faith*

*I will compete with honour*

*I will pursue my ends with ethical restraint*

*I will help create a sustainable future*

*I will help create a more just society*

*I will speak out against wrongdoing and support others who do the same*

*I will accept responsibility for my actions*

*In these and all other matters; My word is my bond.*

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Now, you could argue that this is a pretty vague set of motherhood statements. But the signatories to the pledge do make their positions public, and the act of specifically committing to something – unlike being handed your corporate code on a bit of paper – does carry extra weight.

So far just over 500 people have taken the pledge. But while there are employees of the Big Four banks on the [list posted on the Banking and Finance Oath website](#), only one of their chief executives – Nab's Andrew Thorburn – has signed up at this stage.

Following a few days in which the cultures of ANZ and Commonwealth Bank have been called into question, perhaps it's time to ask why.

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