

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

If the Senate Inquiry into Illegal Banking Practices reneges on its commitment to '**consider the state of the broader finance and banking sector**' the Commonwealth Bank will have successfully pulled off the largest corporate fraud in Australia's history

### **My Official Submission to the Banking Inquiry**

Dear Sir,

I discovered, by sheer good luck, that I am a victim of bank fraud. A few years back I decided to convert my superannuation to an allocated pension. I engaged a salesman employed by the Commonwealth Bank to give me advice about allocated pensions. He handed me a glossy brochure with the words 'Product Disclosure Statement' on its front cover. I quickly scanned the glossy brochure and perceived the allocated pension I wanted on page 4. I applied for the allocated pension by signing a document. A few months passed before I discovered the allocated pension I got was different to the one advertised in the glossy brochure. While re-reading the information in the glossy brochure I discovered it was flawed. I had actually relied on flawed information when purchasing the allocated pension. The Commonwealth Bank wasted no time reprinting the glossy brochure.

I immediately complained to the Financial Ombudsman Service (FOS). According to the FOS my complaint was a **pack of lies**. I provided the FOS with visible evidence that made it absolutely impossible for me to lie. I wrote to the Commonwealth Bank

explaining my predicament. The letter I received from the bank stated, verbatim: **'We believe it is appropriate for your complaint to be reviewed by the Financial Ombudsman Service'**. Numerous requests for a review to both the Commonwealth Bank and FOS have fallen on deaf ears. It's a little-known fact that the Financial Ombudsman Service Ltd is a company wholly owned and controlled by financial institutions. Therefore the Commonwealth Bank, being a part-owner, has full control over decisions made by the Financial Ombudsman Service Ltd. The Commonwealth Bank was intentionally deceitful when it pretended, **'We believe it is appropriate for your complaint to be reviewed by the Financial Ombudsman Service'**, because it (the Commonwealth Bank) knows that not even the Australian Government has the power to force the Financial Ombudsman Service Ltd to review a decision. The Financial Ombudsman Service Ltd cannot be truly independent when it is working under those conditions.

Literally millions of elderly Australians have bought allocated pensions from salesmen employed by the Commonwealth Bank. Every person who bought an allocated pension relied on information in a PDS. Until the Commonwealth Bank reprinted the glossy brochure those elderly Australians relied on flawed information. That means millions of elderly Australians are victims of fraud. The flaw I discovered was a **'warning'** (a disclaimer) in the glossy brochure's fine print. The warning, on page 2, advises that the **advice** on page 4 should not be considered **advice**. I complained to the FOS because the warning and the advice to which it referred were two pages apart and, because, based on a court's opinion (ACCC v Target), even an extremely vigilant person would have failed to notice the warning. A fault renders a document null and void. Every person who bought a Colonial First State allocated pension **before the reprint** signed a null and void document. An **'ongoing monthly licencee fee'** is associated with every allocated pension. Charging a monthly fee until death to people who signed a null and void document is **fraud**.

The warning was changed from **'Risk indicators should not be considered advice'** to

'Risk meters should not be considered personal advice' and now appears on the same page as the advice to which it refers. 'Risk indicators' are now 'risk meters' and 'advice' has become 'personal advice'. A warning, such as 'Risk indicators should not be considered advice', is a disclaimer. A disclaimer that's two pages away from the information it refers to is, according to the above-mentioned court ruling (ACCC v Target), an 'inaccessible' disclaimer. The Australian Government (ACCC) sued Target Australia Pty Ltd for using an 'inaccessible' disclaimer to sell clothing. The Australian Government is allowing the Commonwealth Bank to use an 'inaccessible' disclaimer to sell financial products. An Act of Parliament states: 'A PDS must comply with the *Corporations Act 2001*'. The *Corporations Act 2001* stipulates: 'Disclosure in a PDS must be clear, concise and effective to the person to whom the PDS is directed'.

Should the Commonwealth Bank deny the foregoing claims I request the committee insist the bank provide evidence to support its denial. Failure by the bank to provide the required evidence must be accepted by the committee as the bank's admission that the above-mentioned claims are legitimate.

**I provided you (the Senate inquiry) with irrefutable evidence that the Commonwealth Bank is defrauding millions of vulnerable elderly Australians. I want you (the Senate inquiry) to provide me with irrefutable evidence that the Commonwealth Bank is not defrauding millions of vulnerable elderly Australians.**

Yours Faithfully,

Greg Cadwallader

**Commonwealth** Financial Planning

Commonwealth Bank of Australia Limited ABN 65 003 900 189 AFSL 231139

4 August 2011

Mr Gregory Cadwallader

Dear Mr Cadwallader

**Your complaint concerning Commonwealth Financial Planning Limited (CFPL) representative,**

We confirm receipt of your complaint on 28 July 2011.

We are aware of your ongoing dispute with the Commonwealth Bank Group and its subsidiary, Colonial First State Investments Limited. We believe it is appropriate for your complaint to be reviewed by the Financial Ombudsman Service and we decline the opportunity to respond at this stage.

The Financial Ombudsman Service is an independent dispute resolution service which is available to you at no charge. You can contact the Financial Ombudsman Service on 1300 780 808.

Yours sincerely

**Manager Customer Experience  
CBA Group Customer Relations  
Advice & Investments  
GPO Box 41  
Sydney NSW 2001**



The common law in other nations may also place legal limits on the validity of disclaimers; for instance, the [Australian Competition and Consumer Commission](#) has previously successfully sued Target Australia Pty Ltd for the usage of inaccessible disclaimers in advertisements (the televised advertisements in question contained disclaimers that were only shown on screen for 1.5 seconds).

**This is a risk indicator.  
It is on page 4.**



**This is a disclaimer.  
It is on page 2.**

**Risk**

The risk indicators used under each investment category are illustrative only and should not be considered advice. Please refer to the understanding investment risk section in Part 1 of this PDS for details on the risks associated with investing in the options.

**Minimum suggested investment timeframes**

Investment professionals will have differing views about the minimum period you should hold various investments, and your own personal investment objectives. The minimum suggested investment period of 33 months is a suggested minimum, not an investment period.

**The disclaimer advises: 'The risk indicators .. . . should not be considered advice'.**

## Important information about the investment options

### Meaning of Allocation

Each option invests in an underlying pool managed according to the investment option's objectives. Allocation refers to how each option is ultimately invested in other options, sectors and/or managers. The day to day allocations may vary slightly from those shown.

Each FirstChoice Wholesale manager will have slightly different views around the classification of securities into asset classes.

A reference to Australian shares or companies for an option may include, for example, units in trusts listed on the Australian Stock Exchange (ASX) and/or investments in companies listed on an overseas stock exchange if they are also listed on the ASX.

Property securities can include infrastructure investments and trusts or companies involved in property-related activities.

Within their allocations to listed securities, some of the options may purchase unlisted securities on the basis that the securities will list in the future.

For the Colonial First State Wholesale Future Leaders option, Australian shares may include companies listed solely on the New Zealand Stock Exchange. Other options in this PDS may have exposure to these options as part of their Australian share allocation.

Colonial First State may, without prior notice to investors, add, remove or change the managers and their allocations in the multi-manager portfolios; and add, close or terminate an investment option, or change an investment manager in the single manager options. Any change would be considered in light of the potential negative or positive impact on investors. We will notify existing investors in affected options of any material change as soon as practicable. Updated information that is not materially adverse can be obtained by calling Investor Services on 13 13 36 or by visiting our website, colonialfirststate.com.au. A paper copy of the updated information will be provided free of charge on request.

Further details on the securities each option can hold are outlined on pages 4 to 31.

### Risk

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### Minimum suggested investment timeframes

Investment professionals will have differing views about the minimum period you should hold various investments, and your own personal circumstances will also affect your decision. Under each investment category on pages 4 to 31 we have suggested minimum investment period ranges, however, you should regularly review your investment decision with your financial adviser because your investment needs or market conditions may change over time. Our minimum suggested investment timeframes should not be considered personal advice.

### Management costs

Please refer to the fees and other costs section in Part 1 of this PDS for full details on the management costs for each option.

### Further information on investment options

More detailed information on each investment option is available at colonialfirststate.com.au or by calling your financial adviser.

AFTER TWO READINGS NO PER SE

DISCLAIMER HAS BEEN SEEN.

THIS RELATES TO THIS DOCUMENT ONLY



**This is a copy of page 2 of a PDS that was supplied to me by The Commonwealth Bank. Concealed in this potpourri of fine print there are two (2) disclaimers. A justice of the peace failed to notice even one. The Commonwealth Bank expects the average Hicksville hayseed to notice two. The JP states 'After two readings no per se disclaimer has been seen'. According to ASIC's policy statement issued 28/11/2001: 'A disclaimer should generally be able to be seen and understood by those who otherwise might be misled'.**