



Senate Economics References Committee

26 June 2014

MEDIA RELEASE

ASIC Inquiry final report says Royal Commission is warranted

The Senate Economics References Committee today tabled its final report on the performance of the Australian Securities and Investments Commission (ASIC).

The report examines in detail the serious misconduct engaged in between 2006 and 2010 by financial advisers at Commonwealth Financial Planning Limited (CFPL), part of the Commonwealth Bank of Australia Group (CBA).

Thousands of clients were adversely affected by the actions of these advisers—actions facilitated by the reckless sales-based culture at CFPL and the failure of CFPL's compliance regime. Serious dishonest conduct including forgery as well as a cover-up within CFPL has been alleged.

Committee Chair Senator Mark Bishop today described the past practices at CFPL as "appalling".

"The conduct of a number of CFPL advisers was unethical, dishonest, well below professional standards and a grievous breach of their duties.

"The way in which vulnerable trusting people were targeted shows that the CFPL planners involved had a callous disregard for their clients' interests. That a major financial institution could have tolerated for so long conduct that included apparent criminal activity is not easy to accept" said Senator Mark Bishop.

ASIC's slow response to the CFPL case and lack of scepticism is also hard to explain. ASIC allowed itself to be lulled into complacency and placed too much trust in an institution that sought to patch over its problems. Moreover, until as recently as May 2014 ASIC clearly did not fully understand how the CBA was compensating clients affected by the serious misconduct at CFPL and another CBA financial advice business.

Despite indications that positive changes are now taking place for current clients, the committee is not convinced by the assurances it has been given about the compensation process for clients affected by past practices. Further, all rogue advisers need to be identified and any conduct that may amount to a breach of any law or professional standard pursued.

Given the seriousness of the misconduct involved the committee believes that a Royal Commission should be established to examine this matter.

"This is not a recommendation that the committee has made lightly, but the evidence the committee has received is so shocking and the credibility of both ASIC and the CBA is so compromised that a Royal Commission really is warranted" said Senator Bishop.

"The CBA's focus is on downplaying the extent of wrongdoing and minimising the amount of compensation it has to pay. Meanwhile, ASIC has shown that it is not sufficiently sceptical of the CBA's actions and cannot hold it to account.

"The CFPL scandal needs to stand as a lesson for 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" said Senator Bishop.

The committee's report also examines many other areas of ASIC's performance. The good work that ASIC has done in a challenging environment has been recognised. Even so, there is a need for ASIC to become a far more proactive regulator ready to act promptly but fairly. ASIC also needs to be a harsh critic of its own performance with the drive to identify and implement improvements.

The 61 recommendations are generally aimed at enabling ASIC to fulfil its responsibilities and obligations more effectively and to promote greater confidence in the regulator. Among other things, the committee recommended that ASIC be funded by industry levies designed to encourage better self-regulation. Australian's corporate whistleblower regime also needs to be enhanced so that informed people can more confidently come forward with valuable information about misconduct.

This inquiry has been a wake-up call for ASIC. The committee looks forward to seeing how ASIC changes as a result.

The full report is available on the Committee's website: www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/ASIC.

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