ASIC Moves - But Too Little & Too Late. Reform Is Needed

Summary:
The bank's compensation system encouraged criminal behaviour. CBA Whistleblower Jeff Morris exposes the corrupt financial planning division of the bank.

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Potshots At The Vertically Integrated

A Commonwealth Bank whistleblower has put the spotlight on the ''ludicrous'' compensation model the bank used to pay out victims of rogue planners and warned of the perils of vertical integration.

In the latest hearings at a Senate inquiry into the corporate regulator, Jeff Morris, a former insider at

CBA, warned that banned planner Don Nguyen was not a rogue planner but a ''symptom of a system that is fundamentally broken''.

Morris, who informed the corporate regulator in late 2008 of a scandal inside the bank's financial planning division, told the inquiry that the system was ''destined to get far worse if current trends are allowed to play out''.

He called on the inquiry to reopen the bank's compensation scheme to ensure all clients were properly compensated. He said it was ''ludicrous'' that only 7000 client files were investigated by the bank, and of those only 1100 clients received compensation.

''Even ASIC said there were widespread problems with the advice,'' he said. He said tens of thousands of clients could be entitled to compensation. Many files went missing or had been tampered with, the Senate inquiry heard.

It heard that the bank's financial planning division was operating in a ''boiler room'' culture and that compliance was weak. Instances of forgery and switching clients into high-risk investment products without their permission were swept under the carpet.

A series of articles by Chris Vedelago and myself highlighted a regulator that was slow to act on a tip-off by a group of whistleblowers. It took 16 months before the regulator launched an official investigation into CBA, despite knowing there were issues inside that division years earlier.

The articles also illustrated that the culture inside the financial planning division was one where managers covered up forgery and fraud and encouraged planners to put clients into high-risk products to meet their bonuses and the bonuses of the planners.

In one case, managers encouraged the planners to switch clients out of term deposits and into mortgage funds to meet the bonuses of managers. A few months later the global financial crisis hit and the bank froze the funds.

During this period clients did not receive interest and could not withdraw their money, but the planners continued to receive a monthly commission.

Nguyen was one of eight planners inside CBA who was banned by the corporate regulator ASIC for inappropriate advice. He was banned for seven years in 2011 from working as a financial planner. He is receiving income protection insurance from CBA's insurance division after being allowed to resign in mid 2009. Nguyen was suspended and investigated by the bank in July 2008 and instead of being sacked he was promoted to senior planner in October 2008.

The bank entered into an enforceable undertaking with ASIC in October 2011 to improve its systems. The enforceable undertaking concluded in October 2013, but ASIC deputy chairman Peter Kell made the startling admission to the Senate inquiry that the regulator had seen a lot of progress inside the bank's financial planning division but its ''breach reporting still has work to do''.

He said there were still areas of ''ongoing concern''.

John Berrill at Maurice Blackburn, who represented 30 clients of Don Nguyen, said the bank's review process of compensation was ''flawed''. He said there should have been an ongoing dialogue with clients, given many client files were either incomplete or ''tainted''. He said in some cases the original compensation offered by CBA was one-10th of what Maurice Blackburn negotiated for them.

One of the more chilling comments from the inquiry was that Nguyen and Commonwealth Financial Planning were not outlying events but symptoms ''of the broken system overseen by ASIC''.

If this is taken further it means the proposed wind-back of the future of financial advice (FOFA) by the Coalition would further entrench vertical integration and conflicted remuneration structures.

Vertically integrated institutions such as banks' own wealth management arms that manufacture the

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products that are then sold by the planners, which the banks either own or have a relationship with. Up to 80 per cent of the financial planning industry is owned or tied to the banks.

Morris fronted the inquiry and warned that despite FOFA banning some forms of conflicted remuneration, the ghost of conflicted remunerations through bonus schemes based on product sales had not been laid to rest.

He said the financial advice industry was a quagmire of conflicts of interest of which adviser remuneration was just one.

''An even greater problem is the trend of vertical integration, ownership of advice businesses by product manufacturers. This is a clear and deliberate strategy to use people posing as independent and professional advisers as a sales channel to push in-house product.''

Morris asked: ''Where is the client's best interest in this process?''

Indeed.

Websites For More Information: Potshots At The Vertically Integrated
http://www.smh.com.au/business/potshots-at-the-vertically-integrated-20140410-36g0c.html
CBA Exposed - Tip Of The Iceberg - Bank Fraud Widespread
http://www.smh.com.au/business/planners-go-rogue

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