NAB Once Again Looked After By Our Illegitimate Regulator

Summary:
Yet another example of ASIC performing in a biased fashion - favouring corporate players that are abusing their position of power. NAB given the opportunity to modify an ASIC press release critical of the bank and a system error which cost clients millions of dollars.

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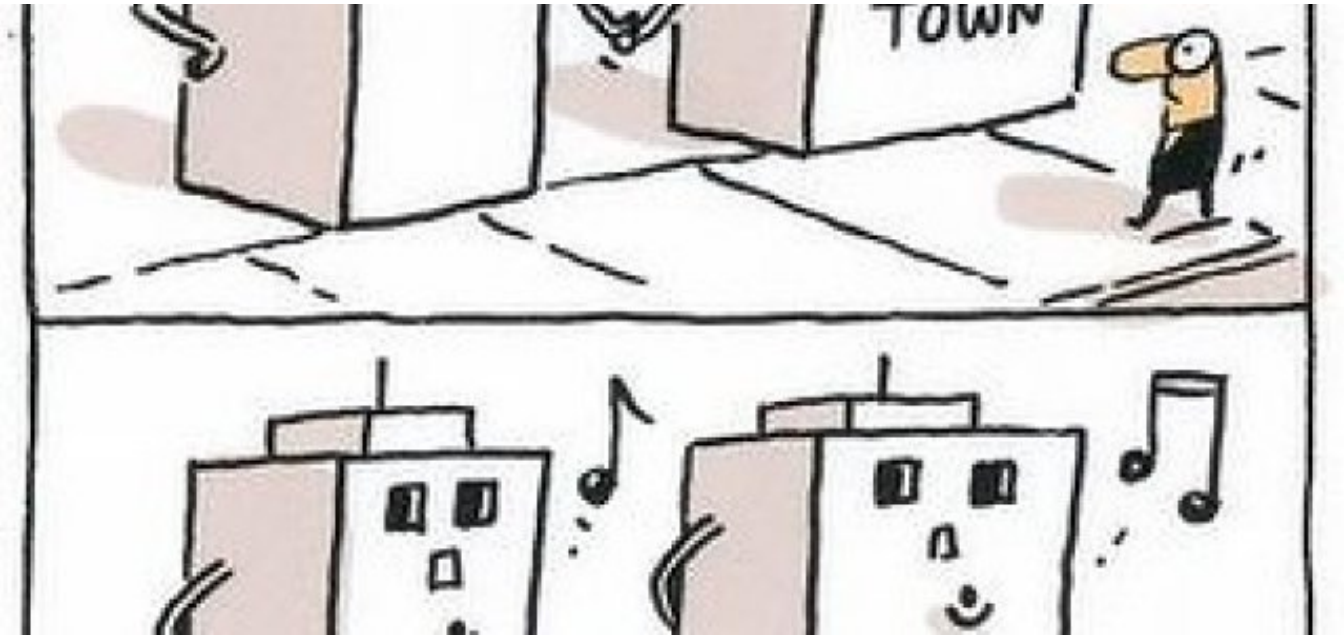

ASIC Allowed NAB To Check And Alter Media Release Into Bank's Wealth's Navigator Errors

The corporate regulator agreed to alter a media release about a significant system error

at National Australia Bank after it gave the bank the chance to "review" and suggest changes to the document before it was made public.

Internal documents from NAB's Wealth division, passed to Fairfax Media by a bank whistleblower, show that the Australian Securities and Investments Commission gave the bank the "opportunity" to review an ASIC media release the day before it was made public in May last year – and changed content in the release based on NAB's "feedback".

The ASIC media release, issued on May 2, related to a significant, four-year-long "system error" in NAB Wealth's Navigator platform that had affected tens of thousands of customers. The release said that, after paying customers $1.9 million, a review had found that NAB would need to pay an addition amount of compensation.

In the media release, ASIC acknowledged the "co-operative approach taken by NAB Wealth in this matter."

NAB Wealth was pleased with the results of the release. An internal risk and compliance document, prepared in August, stated that "feedback provided was incorporated into the final release", contributing to a "well executed" strategy that resulted in "minimal" media coverage and public reaction.

It is not known what changes were made to the release. However, the revelation that the regulator allowed its media release to be "reviewed" by a bank – and then agreed to alter it – raises questions about how commonplace the practice is in ASIC, and is likely to underscore concerns that ASIC is too close to and trusting of the big companies it is supposed to be policing.

An ASIC spokesman said that showing releases and making changes was done at ASIC's discretion, and the regulator often had "brawls" with entities about its media releases.

"Where a media release relates to a named entity, ASIC may show the entity a draft of the release an hour beforehand, as a matter of courtesy and for the sake of accuracy," the spokesman said, adding that there were no "hard and fast rules".

"But these are ASIC's releases - we issue what we want and we are under no obligation to make changes suggested by entities. If they do not like our tone or rhetoric, that is too bad."

The revelation follows Fairfax Media's reports that NAB Wealth's advice division has internal documents that say a review of its advice business found instances of forgery, client file manipulation, compliance breaches and inappropriate advice – and that the bank has sacked, suspended or "ensured the resignation" of 31 planners in two years.

Last year's landmark Senate inquiry into ASIC's performance warned of a perception that ASIC treated the "big end of town" differently and less transparently than other regulated entities – a perception that was "inherently dangerous to ASIC's legitimacy as a regulator."

The Senate inquiry was launched in the wake of the Commonwealth Bank financial planning scandal, in which ASIC was seen to have been too slow to act on evidence of fraud, forgery and a cover-up in the bank, and too soft on CBA when it did act.

The inquiry found that ASIC allowed itself to be "lulled into complacency" by CBA and that it placed "too much trust" in the bank. ASIC chairman Greg Medcraft has also admitted that ASIC was "too trusting" of CBA.

In the internal documents leaked to Fairfax Media, **NAB Wealth described its relationship with ASIC as "open and trusting."** Another document prepared by NAB Wealth's risk division in August 2013 contrasted the approach of regulators overseas – where there had been a "consistent increase in the use of enforcement actions" – with those of Australian regulators, which had "exhibited more 'trust' in corporate Australia and we have observed the development of 'regulatory relationships'".

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However, the same document noted that ASIC had displayed a more "enforcement orientated approach" following the CBA scandal.

A February 2014 document refers to ASIC's acceptance of NAB's plan to appoint PricewaterhouseCoopers to independently review the Navigator problem. "This approach avoided a formal enforceable undertaking."

A second February document states: "This is a less severe regulatory outcome than was originally anticipated."

Websites For More Information: ASIC Allowed NAB To Check And Alter Media Release Into Bank's Wealth's Navigator Errors
http://www.smh.com.au/business/banking-and-finance/asic-allowed-nab-to-check-and-alter-media-release-into-banks-wealths-navigator-errors-20150220-13kfnn.html

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