Update on Royal Commission - Superannuation

Fees for No Service

The Australian Financial Review reported on 7 August 2018 that MLC, wholly owned by NAB, had been charging advice fees to customers in legacy superannuation products, and that they had kept these customers in accounts which would continue to pay commissions to financial planners (through "grandfathering" in the *FoFA* reforms). However, these customers would not receive services from a financial adviser. These accounts were not in the best interests of the member – and a breach of trustees' duties.

On the same day, AFR reported that MLC had made agreements with employers to charge up to 7.38% in "negotiable" fees. These fees were applied automatically but could be reduced by employees who actively contacted MLC.

It was further reported on 13 August 2018 that the Superannuation Complaints Tribunal made a ruling to refund over $8,000 to a member who had fees deducted from their account to pay an adviser a commission, despite that member never having spoken to the adviser or received financial advice. Commissioner Hayne indicated that this charging of fees for no service, "raised a question for criminal law."

As at 13 August 2018, the total of the fee for no service scandal has been estimated at $850 million, up from $216 million in April.

Underperformance

Another key area the Royal Commission has focussed on is the performance of super funds, and the lack of transparent data to aid decision-making by members. The AFR reported that retail funds have, on average, underperformed industry funds by 2% p.a. over the past twelve years.

It was reported that 25% of all superannuation funds persistently underperform.

Expense lines

It has been reported that up to 10% of expenses for retail superannuation funds', and 20% of expenses of industry funds are listed as, "other," which, as reported by AFR, not subject to further scrutiny.

Further, nearly 60% of retail fund expenditure relates to administration, which is closer to 25% for industry funds.

Governance

Another area of focus for the inquiry was fund governance, which Michael Hodge QC, labelled as hidden, with members only able to "peer dimly through the darkness" at their performance. On August 7, AFR reported that CBUS had paid over $7 million in donations to trade union shareholders and a report from KPMG in 2015 had found that, "there were no formal processes or requirements to track whether the agreed benefits had been delivered."