

4 May 2018

## AMP submission to Royal Commission

AMP today announces that it has lodged a submission addressing evidence received by the Royal Commission in its hearings into financial advice in relation to fees for no service.

A fact sheet on the Fees for No Service issue is provided for information. The full Fees for No Service submission is available from the [AMP Newsroom](#).



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## AMP Royal Commission Fees for No Service Submission

Fact Sheet – 4 May 2018

AMP reaffirms and reiterates our unreserved apology for the failings in respect of advice and service delivery to our customers.

We are determined to do everything we can to restore the trust of our customers and of all Australians. We have taken responsibility for the issues and continue to take extensive action to fix them.

The fees for no service issues raised in the Royal Commission were not new. Neither were they uncovered by the Royal Commission. They have been the subject of an ongoing ASIC investigation since 2015, were disclosed by AMP in detail to ASIC in October 2017 and in evidence provided to the Royal Commission in March 2018.

In the past two years, we have made wide-ranging changes to processes and systems within our advice business and implemented a comprehensive program to overhaul governance and controls, with the aim of ensuring that these issues never happen again.

### **The fees for no service issue**

Fees for no service relates to the inappropriate charging of fees to customers when no service is provided. The fee for no service issue is industry-wide and was the subject of ASIC Report 499. For AMP there are a number of aspects to the issue:

- fees charged by advisers without the provision of service
- fees charged by licensees without the provision of service. In AMP's submission this includes instances where fees were charged due to an administrative error and the practice of retaining fees during buy back arrangements known as "ringfencing" and "the 90-day exception".

### ***90 Day Exception***

During the second-round hearings concerning financial advice, the Royal Commission focused on a case study relating to AMP advice licensees failing to turn off fees in the context of a 'buy-back arrangement' which allows an adviser to sell their client register back to the advice licensee as the Buyer of Last Resort (**BOLR**) if it could not be sold to another adviser.

During these transactions, the policy was that fees should have been switched off immediately, but in some cases fees were left on, either because of process and systems failures or, in a relatively small percentage of cases, because of a practice known as the '90-day exception'.

Between 2010 and 2016, of the 2,417 register transactions that took place, 39 were BOLR transactions which involved application of the 90-day exception.

The 90-day exception was terminated in November 2016 and Deloitte subsequently provided us with assurance that this had occurred.

We have apologised to and refunded the fees to all customers impacted by the 90-day exception. The remediation totalled \$850,000. To date, for the broader licensee fees for no service issue, we have remediated 15,712 customers, a total of \$4.712 million.

AMP acknowledges the process has been too slow and is committing additional resources and exploring new ways to accelerate this process.

## The Clayton Utz investigation and report

The investigation by law firm Clayton Utz focused on the fee for no service issue and was commissioned by the Board on 5 June 2017. It entailed interviews with 27 current and former employees, and a review of documents.

The report is an uncompromisingly direct 87-page review of the conduct of the advice business in relation to fee for no service matters. It makes findings in respect to current and former AMP employees and the systems, governance, culture and process surrounding AMP's advice business.

Criticism has been levelled at AMP regarding the way in which the Clayton Utz report was produced.

In AMP's submission to the Royal Commission we assert that:

- there is no evidence to suggest that the Board, including the former Chairman and former CEO, acted inappropriately in relation to the preparation of the report;
- the Board were not aware of the nature and extent of the interaction during the preparation of the report;
- there is also no evidence that Clayton Utz made any changes to the report that they did not agree with or that they do not stand behind the report; and
- the extent of interaction between AMP and Clayton Utz has been overstated.

Irrespective of the criticism surrounding the production of the report, it was an important and powerful catalyst for the actions AMP has taken and is taking to address the challenges in the advice business.

## Communications with the regulator

Communications between AMP and ASIC regarding the circumstances in which the fees of certain customers were not switched off in connection with adviser buy-back arrangements and the 90-day exception have understandably attracted a high degree of public interest.

In our submissions to the Royal Commission, we openly acknowledged that our advice business' communications with the regulator on this issue had been misleading.

AMP accepts that any misrepresentation, even if inadvertent, to ASIC is unacceptable and must be corrected as soon as it becomes apparent. However, the number of separate misrepresentations referred to in the Royal Commission has been overstated. There were seven misrepresentations (in 12 communications). These were not new 'news'. We had reported them in detail to ASIC in October 2017 and then to the Royal Commission in evidence provided in March 2018.

On discovering that managers in the advice business may have authorised the 90-day exception against legal advice, the Board took immediate action as follows:

| Date           | Action   |
|----------------|--|
| 17-19 May 2017 | Identification of documents which showed that the 90-day exception may have been authorised, notwithstanding legal advice, which triggered escalation to the CEO and Chairman. |
| 20-21 May 2017 | Chairman briefed the AMP Limited Board.  |
| 25 May 2017    | Chairman and CEO led decision to commission an investigation.<br>AMP's Chairman and CEO called ASIC's Chair and Deputy Chair to advise of the issue and the investigation.     |
| 5 June 2017    | The Board, the Chairman and the CEO commissioned Clayton Utz to undertake an investigation into the matter.  |

| Date            | Action   |
|-----------------|--|
| 16 October 2017 | Clayton Utz presented the report to the AMP Limited Board.   |
|                 | Board committee constituted to oversee and implement a program of work to address the issues arising from the report.  |
|                 | Meeting between AMP's Chairman, Chief Executive Officer, Group General Counsel and Group Executive, Advice with the Chair and Deputy Chair of ASIC at which AMP provided the Clayton Utz report. |
| 18 October 2017 | Group General Counsel and Chief Risk Officer briefed APRA.   |
| 3 November 2017 | Workplace Investigation commissioned to determine any disciplinary consequences.   |
| December 2017   | Group wide Governance and Controls Environment Review commissioned (PWC).  |
| January 2018    | Enterprise wide risk culture assessment commissioned (Deloitte).   |

### Accepting accountability

On Friday 20 April, the Board and the Chief Executive Officer, Craig Meller, agreed that, having previously announced his intention to retire at the end of this year, he would step down from his role with immediate effect, taking accountability as the issues in the advice business had occurred during his tenure as CEO.

On Sunday 29 April, Catherine Brenner resigned from the Board, accepting accountability, as Chairman, for governance.

The full Board has acknowledged accountability for the failings in governance and elected to take a cut in directors' fees of 25 per cent for the remainder of the 2018 calendar year.

AMP accepts further board renewal is necessary and is committed to a measured program of change. This includes fastracking the selection of a Chairman and appointment of a new non-executive director to help accelerate cultural change and to further strengthen governance.

The Workplace Investigation commissioned by the Board remains ongoing and will be used to determine any disciplinary consequences for individuals involved.

### Actions taken to strengthen governance and controls in AMP's advice business

In addition to the action taken by the Board, AMP has already implemented an extensive program of work to address the issues in its advice business. This work commenced prior to the announcement of the Royal Commission, is on-going and includes:

| Date           | Action  |
|----------------|---|
| Q1 2016        | Remediation of customers for any instances of fees for no service from 1 Jan 2008.  |
|                | To date 15,712 customers have been remediated with compensation of \$4.712 million paid in respect of licensee fees for no service issues.  |
| November 2016  | Advice Risk and Compliance Committee established to oversee risk and compliance matters.  |
| 1 January 2017 | New Group Executive, Advice appointed.  |
| 31 March 2017  | <ul style="list-style-type: none"> <li>Appointment of new Managing Directors to AMP's four principal Advice Licensees.</li> <li>AMP Chief Risk Officer assumed responsibility for remediation and compliance functions to enhance oversight.</li> </ul> |

| Date                   | Action  |
|------------------------|---|
|                        | <ul style="list-style-type: none"> <li>• Realigned the Channel Services function to focus on delivering operational support to the Licensees.</li> </ul>  |
| March 2017 – July 2017 | Strengthened the Advice Governance framework, including: <ul style="list-style-type: none"> <li>• The establishment of an Advice Financial Risk and Capital Committee to oversee and monitor material financial risk and capital exposures, including with respect to licensee remuneration and management of buy-back arrangements.</li> <li>• Forming a Buyback Oversight Committee to monitor, review and manage buy-back transactions.</li> <li>• Issuing updated whistleblowing policy and procedures.</li> <li>• Centralising AMP’s regulatory reporting team.</li> </ul> |
| Q3 2017                | Enhancements to governance oversight for buy-back transactions.   |
| January 2018           | The Advice Business Review Program was formed to consolidate a series of externally-led reviews within the advice business.   |
| February 2018          | Moved from concurrent to separate board meetings for the four principal Advice Licensees.   |

In addition, the investments AMP has made in Goals 360 and Salesforce are designed to fundamentally change the way advice is delivered. These technology-driven systems improve the customer experience and importantly digitise record-keeping in the advice business and ensure compliance is built in by design.

**AMP’s response to Counsel Assisting’s open findings**

AMP takes responsibility for its past failings and has taken steps to ensure that these failings do not recur.

However, AMP does not accept all of Counsel Assisting’s open findings.

AMP strenuously denies the allegation by Counsel Assisting that it is open to find that AMP has committed a criminal offence in providing the Clayton Utz report to ASIC.

The issues raised in the fee for no service case study concerned matters that are almost entirely the subject of an ongoing ASIC investigation. The investigation commenced in 2015 and has involved compulsory examination of numerous AMP current and former employees and the production of hundreds of thousands of documents to ASIC.

As AMP understands, ASIC was nearing completion of that investigation at the time the Royal Commission hearings commenced. AMP fully expects ASIC will deal with the serious matters being investigated in an appropriate manner consistent with ASIC’s enforcement priorities and under a proper process with any affected parties having had the opportunity to be heard.