



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

ECONOMICS REFERENCES COMMITTEE

Scrutiny of financial advice

(Public)

FRIDAY, 6 MARCH 2015

MELBOURNE

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SENATE
ECONOMICS REFERENCES COMMITTEE

Friday, 6 March 2015

Members in attendance: Senators Canavan, Dastyari, Ketter, Whish-Wilson, Williams.

Terms of Reference for the Inquiry:

To inquire into and report on:

Implications of financial advice reforms, with particular reference to:

- a. the current level of consumer protections;
- b. the role of, and oversight by, regulatory agencies in preventing the provision of unethical and misleading financial advice;
- c. whether existing mechanisms are appropriate in any compensation process relating to unethical or misleading financial advice and instances where these mechanisms may have failed;
- d. mechanisms, including a centralised register, that would ensure financial planners found to have breached any law or professional standards in their employment are transparent, for both the sector and consumers;
- e. how financial services providers and companies have responded to misconduct in the industry;
- f. other regulatory or legislative reforms that would prevent misconduct; and
- g. any related matters.

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**MORATH, Mr Richard, Chairman, Advice and Licences Board, MLC, GWM Adviser Services Board,
Godfrey Pembroke Advice and Licensee Board, and Apogee Board, National Australia Bank 15**

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COULSTON, Ms Veronica, Private capacity

MORRIS, Mr Jeff, Private capacity

Committee met at 12:04

CHAIR (Senator Dastyari): I declare open this hearing of the Senate Economics References Committee into the scrutiny of financial advice. The Senate referred this inquiry to the committee on 25 June 2014 for report by 1 July 2015. On 2 March 2015, the Senate granted an extension to the committee to report by 1 February 2016. The committee has received 124 submissions so far which are available on the committee's website. The closing date for submissions was 5 December 2014.

These are public proceedings, although the committee may determine or agree to a request to have evidence heard in camera. I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer may be given in camera. Such a request may also be made at any other time.

I now welcome Mr Jeff Morris and Ms Veronica Coulston. I thank you, so much, for appearing before the committee today. I know you both had to travel from Sydney to be here, and I know we put this together with some fairly short notice. I really do want to thank you for taking the extra effort. Ms Coulston, I want to particularly thank you for the bravery you have shown in coming forward with your story. We will have a few questions, but before we get to them I want to give you an opportunity, if you want, to make some opening remarks or an opening statement. I note, Mr Morris, that we have received your submission, which we will be accepting, and it will have to go through a bit of a process before it is publicly available.

Mr Morris: Senators, last year I appeared before you in relation to the CBA financial planning scandal, and here I am today in relation to the NAB financial planning scandal. This is either proof that *deja vu* is a real scientific phenomenon, or evidence of a systemic problem. It is noteworthy, however, that neither of these scandals would have come to light without two whistleblowers, myself and the NAB whistleblower, and without our stories been taken up by the media and by the Senate.

Missing from this equation is the corporate regulator, ASIC, whose job it actually is to catch and punish these crooks. This is the biggest scandal of all.

The NAB whistleblower obviously benefited from my experience and did not waste any time at all on ASIC; he just went straight to the media. The fact that the NAB and CBA disasters can occur at all is due to ineffective regulation. ASIC's specific multiple failures in relation to the NAB matter merely provide further on-the-ground evidence of their incapacity.

The big, vertically-integrated institutions have long found ASIC to be a pleasure to work with, and this sentiment seems to have been reciprocated by ASIC's appreciation of the fact that the big players seldom bothered ASIC with their problems. Indeed, we recently learned that the relationship is so cosy that ASIC actually submitted one of their press releases on NAB to NAB for vetting and amendment. Are they the regulator of these institutions or their general *fac totum*?

The big-six players, who between them control 80 per cent of the financial planning industry, have been largely left to their own devices, and these systemic problems are the result. In both the NAB and CBA scandals, ASIC has simply failed to act on information that should have set off warning bells. The cosy relationship with the big players may have contributed to this, but there is a deeper systemic problem within ASIC—the lethargy and complacency that pervades the organisation. This even allows ASIC to greet each unfolding disaster with seemingly serene detachment and the incredible attitude: 'It's nothing to do with us. It's the industry that is at fault. We're just the regulator'.

Whilst seemingly putting their hands up after the media exposure, NAB have nevertheless at every opportunity been trying to diminish the true scale of their malfeasance and, in particular, to push message that the problems are not systemic and are not as bad as the established basket case, CBA financial planning. By quirk of fate, however, I was uniquely positioned and qualified to closely observe both organisations during the years they both played hunger games with their financial planning victims, who they called clients, at CBA from 2008 and at NAB from 2009.

In my opinion NAB financial planning scandal is a carbon copy of the CBA financial planning scandal. The only difference is that NAB succeeded in sitting on the volcano for longer. The flawed business model which puts product sales above the client's best interests is all but identical. The corrupt and abusive management is identical. The weak and ineffectual compliance systems are identical. The fraud, forged signatures and appalling advice given to clients are identical. NAB would not even know whether it has a systemic problem because its compliance systems would not be capable of uncovering it. From the reports on internal documents it is clear that problems have only come to light due to external factors such as client complaints. If NAB's compliance was up to scratch, I suspect a lot more than 37 of their 1,700 planners would have got the push in the past two years. I believe the full extent of the problems at NAB has not yet come to light.

Most of all, however, I think the focus needs to be on management when star planners like Nguyen at CBA and Cowper at NAB cease to be the blue-eyed boys, lauded by management for smashing sales targets by cutting corners, and morph overnight into so-called 'rogue planners' to be thrown under the bus whenever expedient. Both NAB and CBA managers acted corruptly to pull the wool over ASIC's eyes, to cover up what occurred and to isolate and lie to their trusting clients and defraud them of compensation. It would have taken only one man of integrity in a position of authority at NAB to have stopped this five years ago. Thank you, senators.

CHAIR: Ms Coulston, is there anything you wanted to add about your story and the experience you went through as part of this as well?

Mr Morris: We will just answer questions.

Senator WILLIAMS: Welcome, Mr Morris and Ms Coulston. Mr Morris, I think you said 'NAB is the biggest scandal of all' in your opening statement.

Mr Morris: It is a carbon copy of CBA and it is probably as big as CBA. The issues and the scale—

Senator WILLIAMS: That is a pretty powerful comment. Can you expand on why you think that? In 2010 and 2011 you wrote to NAB. The response was terrible. I have read your submission this morning. It is a very powerful submission from a person who is very experienced in this industry. You said in your opening statement that this is the biggest scandal of all. That is a big statement because we have had some other financial planning and Macquarie Bank; explain to the committee why you think that.

Mr Morris: What I was actually saying was that ASIC was not involved in uncovering either scandal. It has taken whistleblowers, the media and the Senate to do their job for them. I think I said that ASIC being missing in action is the biggest scandal of all. They are responsible for regulating this industry. Everybody in the industry knows that they are a joke. The management of these organisations know that they can do as they please without let or hindrance and that is why they feel free to behave like this. Even when, as I detailed in my submission, ASIC was confronted with quite a body of evidence about NAB they still did nothing. They had a breach report on Cowper and 39 client complaints—

CHAIR: Some of us here are obviously more aware of this than others. When it we say Cowper we are referring to Graeme Cowper, the star planner for—

Mr Morris: He was the blue-eyed boy up until the moment he was caught; he is now the so-called rogue planner. ASIC had, at a minimum, a breach report from NAB and they knew that 39 of his clients had been compensated and yet they say they did not bother to investigate for lack of resources. It is pitiful, frankly.

In terms of the NAB scandal, I think the question you are actually asking is: is it as big as CBA? I think so, and the reason for that is the situation is virtually exactly the same. All the major banks have the same model. NAB and CBA—and I am very familiar with both—are pretty much identical, particularly since NAB brought in a new remuneration scheme which moves it even closer to CBA.

CHAIR: Do you want to talk about that remuneration scheme and your concerns about it?

Mr Morris: Sure. Obviously FoFA has been in the news a lot over the past couple of years. Probably what a lot of people do not realise is FoFA does not actually prevent the banks, with their product-flogging dealer groups, from paying bonuses—even paying bonuses monthly—to financial planners based on product sales.

Senator WILLIAMS: You are not referring to commissions—just bonuses.

Mr Morris: They are commissions by another name.

Senator WILLIAMS: All right.

Mr Morris: They muddy the waters with a balanced scorecard. There are some other criteria in there, but everybody knows the managers can fiddle with those criteria anyway, so it becomes fairly meaningless. But the bottom line is: they are paying bonuses based on product sales and FoFA does not prevent that. NAB, only as recently as last November, despite everything that has happened at CBA, are gaming the system and have put in

place a new remuneration model which actually places more emphasis on churning clients, dragging in up-front revenue, and less emphasis on servicing clients in return for the ongoing fees they attract. So they are almost trying to set up a situation for more product-flogging and more bad service and bad advice by their planning operation.

Senator WILLIAMS: But you said their compliance system could not cope with actually monitoring what their financial planners were doing. Is that correct? Have I got that right? Is that what you said?

Mr Morris: Yes. I think what has emerged from the reports on the internal documents, the internal documents at NAB that have been reported on in the media, is that it seems that these rogue planners were caught for external reasons—client complaints flooding in. It was not as if the NAB compliance function identified these people or caught them at an early stage. One of these planners apparently went on for 10 years and was noncompliant, and it was well known within the organisation. In fact, from what I have read from people who have sent me material, I would say that the compliance was even weaker than at CBA, and that is really saying something, believe me, because it was a farce there.

Senator WILLIAMS: Okay. You are probably a hero to many people, especially to Ms Coulston, I would say, for the work you have done. Ms Coulston inherited some money and had a house, and they geared it up to a ridiculous level. First, a brief question: did you ever try to get that original loan application form that Ms Coulston signed?

Mr Morris: We tried repeatedly. Probably on dozens of occasions, we requested that over a nine-month period.

Senator WILLIAMS: With any success?

Mr Morris: No. They told us that, when they went looking for it, there was just an envelope there in her file and it was empty.

Senator WHISH-WILSON: You're kidding.

Senator WILLIAMS: No doubt we will ask the NAB representatives today that we would like to see Ms Coulston's original application form. Would you like to add something, Ms Coulston?

Ms Coulston: Yes, I would.

Senator WILLIAMS: Please feel at ease and tell us the story.

Ms Coulston: I have kept a record of every time that I made a phone call to the NAB, and that was during my lunch break, while I was at work. Just on one particular day, I made the phone call probably five or six times; and, if I said my name, if I was honest about who I was, they would hang up on me. I sent numerous emails as well, and I have kept records of all of those as well. I was constantly sending information, all the time.

Senator WILLIAMS: How did you meet Mr Morris? How did you meet your lifesaver alongside you here?

Ms Coulston: We met many years ago. We used to be work colleagues over 20 years ago.

Senator WILLIAMS: Good. That answers the question. Great. So then you took up the cause for Ms Coulston, Mr Morris?

Mr Morris: Yes.

Senator WILLIAMS: You wrote to the board.

Mr Morris: Yes.

Senator WILLIAMS: I have read your letter.

Mr Morris: I wrote to the chairman—

Senator WILLIAMS: Did they respond?

Mr Morris: No. The board these days never seem to respond directly to any correspondence sent to them by any organisation. But we wrote to the chairman, the directors that seemed to have the most relevant experience and history in the wealth management area—two directors—and the CEO.

Senator WILLIAMS: Any response?

Mr Morris: No response from them. NAB sent a number of what you call holding responses for a couple of months, five months. Eventually, five months later, they came back, denied everything, and this was—

Senator WILLIAMS: Hang on. Just let me stop you there. I am just a broken-down shearer, remember! They 'denied everything'. Explain what you mean by they 'denied everything'. Was it about gearing up the loan? What did they deny?

Mr Morris: In response to that letter, they came back and basically tried to argue that black was white, that it was all in your mind that you were given bad advice, which would mean the bank had nothing to do with you losing all this money.

Senator WHISH-WILSON: Did they include the GFC and what was happening at the time?

Mr Morris: The GFC is the standard excuse that is trotted out in this situation; you are quite right. But strangely, at the end of that letter, they then turned around and said, 'However, we'll pay you full compensation.' So they denied everything for about 5½ pages and then finally, at the punchline, they said, without admitting anything, seemingly out of the goodness of their hearts, 'We'll pay you \$60,000.' We then wrote back—

Senator WILLIAMS: How much had Ms Coulston lost at that point?

Mr Morris: We then went back to them with another letter and pointed out that there were a few mistakes in their calculations. So ultimately it only took—

Senator WILLIAMS: Like the \$2,200 up-front fee and then the \$10,000 that was siphoned off later?

Mr Morris: Yes, they had omitted to include the \$2,200 fee in the calculation, and they tried to tax effect their calculation, but they only did it on one side of the calculation, and they did not pay interest. Ultimately, NAB's idea of full compensation was \$60,000. Two years after we began the quest for compensation, Veronica got \$80,000, which was a third more than the bank claimed was full compensation. Even if victims are told that they are getting full compensation, it is not the case.

Senator WHISH-WILSON: Can I ask you to clarify whether you had been to ASIC at all or was this—

Mr Morris: We copied ASIC in on both the letters that went to the chairman of NAB. We got a standard reply from ASIC after the first letter.

CHAIR: I think that we have a copy of the letter here, which we will obviously table at the appropriate time. That is the letter to Michael Chaney, carbon copying Cameron Clyne, Geoffrey Tomlinson, Jillian Segal, NAB's head of consumer relations, Mr Gary Dunshea, the Special Projects Manager at NAB Financial Planning, ASIC complaints, the investigations manager at the Financial Planning Association and the Financial Ombudsman Service. So is there anyone that you did not try and contact?

Mr Morris: No. In point of fact, it was a deliberate strategy.

CHAIR: I understand what you were doing.

Mr Morris: At virtually the same time that Veronica was writing to the Chairman of NAB, Jan Braun, who was my client at CBA, was writing to the Chairman of NAB.

Senator WILLIAMS: CBA? Jan Braun was writing to the—

Mr Morris: February 2010, because of course—

Senator WILLIAMS: Jan Braun was writing to which bank? CBA?

Mr Morris: The chairman of CBA.

Senator WILLIAMS: I think you said NAB.

Mr Morris: I get so confused because they are so similar. The point is that they always come out, as the chairman of CBA has done, and claim that they did not know anything about it. He is still claiming that despite the fact that this letter was sent to him. The idea was to copy the whole world in order to let them know that we were serious and to put some pressure on them. In terms of copying ASIC, I knew that they are basically not worth a cracker.

Senator WILLIAMS: Do you want to expand on that? You went in there in October 2008 to report the wrongdoings of CFP, and I think it was 16 months before you knocked on the door and said, 'What are you going to do?'

Mr Morris: This letter was sent a few days after we had gone in and literally pounded the table with ASIC in relation to CBA. They had done nothing for 16 or 17 months. Copying ASIC on the letter was purely there to try and put a bit of—

Senator WILLIAMS: Bluff?

Mr Morris: It was a bluff. Unfortunately, I think NAB knows that it is a bluff, because they know that they have nothing to worry about from ASIC. Anyway, I think that it is always good to put these things on the record. Because I felt that I was on the point of being vindicated with ASIC over the CBA matter, my plan was—with that credibility, because it is not easy to get ASIC moving—to then say to ASIC, 'Hey, there's a carbon copy case of the CBA thing over here at NAB,' and try and get some action on that. But I had to wait until I felt that I had

been vindicated on the CBA thing. Then I felt surely they have to listen to me. I would say, 'You've got the quinella here. I'm telling you that there's another guy at NAB just the same'. But even that did not work.

Senator WHISH-WILSON: With your understanding of investment markets, do you think that inappropriate advice and possible or probable fraudulent behaviour would have been found if we had not had a market crash like the GFC? Do you think that that was a trigger that led to distress and concerns?

Mr Morris: Yes and no. As Warren Buffet says, and you have probably heard this one, it is only when the tide goes out that you get to see who has been swimming naked. That is the way that it works with investment markets. It takes a crash like this. All the spivs—the planners who give advice like this with gearing—have normally put people into bad products as well. Every cycle this will collapse and this will happen. There is more to it than that. There are other things which are so inherently bad that they can actually collapse and turn bad without even a market correction. I am talking about the fraudulent agribusiness products, like Timbercorp, Great Southern and the rest and a lot of that rubbish that was peddled to people. That stuff is going to fall over with or without a market crash.

Senator WHISH-WILSON: You said that it would have taken one man—and presumably one woman—of integrity for this not to have happened. I am interested in that comment. Do you think it was a deliberate cover up or do you think that it was the culture within the firm that perhaps did not raise this as being an issue?

Mr Morris: I think you are right. I think it is a little bit of the two in that the banks have been behaving like this for so long, and people see themselves as being company men, that they have got to the point where they cannot distinguish right from wrong any more. I think that in a lot of these places they look at victims who have been done over by planners as just a cost of doing business and that you get out of it as cheaply as you can.

They do not take home with them and live with the trail of human wreckage they leave behind. A lot of people who work in these institutions can convince themselves that what they are doing is not wrong, because their boss has told them to do it. Of course, a lot of people are getting paid very generous bonuses based on sales in these institutions—in planning and other areas. The moment you start paying out compensation to victims when things go wrong that comes straight off your profit—it comes straight out of your bonus. The greed is out of control—

Senator WILLIAMS: Just repeat that please: 'the moment you start paying compensation'? Is this each planner, do you mean?

Mr Morris: No, it is not just the planners; it goes up in tiers throughout the organisation, all the way to the CEO. What has happened, probably for about 30 years now—ever since Keating let the international banks into the country—is that the remuneration has gone off the charts in Australian banking, compared to what it was before the foreign banks came in. Up until that time, in fact, staff did not move between the four major banks—

Senator WILLIAMS: That is right.

Mr Morris: There was a policy that they did not recruit from the other banks. The good thing about that was that people who went to work for NAB or Westpac in those days had to stay there for their whole 40-year career. Anything like this that they did or covered up—or any dodgy thing—would stay with them for their whole career. If they did something moderately bad they would be put on relieving staff and probably never get off it. They were there until retirement age because they were locked in by the lifetime defined benefit pensions.

When the foreign banks came in the whole market opened up. Executives moved from one place to another each year. They are all looking at this year's bonus. In the nineties, where I met Veronica, I actually used to run remuneration for an investment bank. What I have observed happen over those 20 or so years is that those investment banking remuneration practices have gone into mainstream banking. So people in some of these executive roles in mainstream banks were earning easily 10 times what they would have earned 20 years ago. I think that has corrupted the judgement and the culture in those organisations. There has been this complete focus on sales for more profit, but it is driven by these remuneration schemes; it is the tiers of bonuses paid to each level of management.

For the financial-planning manager with a team of a dozen or 20 planners, his bonus depends on the sales of that team of 20 planners. So he is like a jockey with a whip, basically, trying to get more sales out of them. He is happy for the planners to go and do whatever they have to do to write the business, but when something like this blows up he does not want the cost of the compensation coming out of his team because that will be his bonus. Typically, what happens now is that if you have a big problem like this blow up you do what the bloke at CBA did and you change jobs very quickly. You go somewhere else and then you leave it behind; it is somebody else's problem.

CHAIR: Ms Coulston, going back to your situation and circumstances: you are saying that you tried repeatedly to contact them and it really took having someone like Mr Morris, who knew the system, to navigate it

through. If you did not have someone like Mr Morris who was aware of the system, who knew who to write to and how to write to them—how to put pressure on by using ASIC and this and that—do you think what happened with you would ever have been uncovered?

Ms Coulston: I do not think so, because I would not have had the capacity to do what Jeff did. I was devastated; I was destroyed to the fact that I could not even write anything. I am a single mum and at that time my daughter was in primary school. I was so fearful about losing my home and I was getting to the stage where I could not even feed myself, but I made sure that I fed her. I was getting ill.

CHAIR: And at the same time you were contacting NAB sometimes five or six times a day and they were just hanging up on you.

Ms Coulston: And I sent emails and I would not get replies. Eventually, if I got one small reply, it was an excuse of no substance.

CHAIR: Have they ever apologised to you?

Ms Coulston: No. They have never apologised—I do not think they know what an apology is.

CHAIR: The concern that we all have is that your situation came to light, but how many other situations are there like yours when they did not have a friend?

Ms Coulston: Other people did not have what I had: I had a friend whom I could trust who would help me. I was very grateful that he took this board. He told me it was going to be a very long fight and asked whether I was up to it. I fought for my father. He passed away, and it was an inheritance from him after we sold his home. It was to secure a home for my daughter and me.

CHAIR: If we go back a few steps: how did you first make the decision to go to NAB?

Ms Coulston: I was with a personal banker, and she—not mentioning any names—was very helpful in the sense that she knew what my salary was. She understood in relation to me being separated how very intermittently I received any child support. She always said not to put that into the equation. I had a mortgage, and she always stressed to me never to go over that amount. I did say that in the future I would like to upgrade from the unit that I was in to perhaps a townhouse. She knew that I had inherited money, because I told her that my father had passed away and what was happening. It took us a year and a half to sell my dad's home, and that is when I was introduced to Graeme Cowper. I believe that the personal banker spoke to—

Senator WILLIAMS: Can you explain why you were introduced to Mr Cowper?

Ms Coulston: I was introduced to Mr Cowper, because he was probably given the information from the personal banker that I was going to receive money in the future through an inheritance.

Senator WHISH-WILSON: It was an internal referral.

Senator WILLIAMS: So the bank officer knew that you were going to inherit some money?

Ms Coulston: That is correct.

Senator WILLIAMS: I just want to put that point on the record. Thank you.

CHAIR: Obviously, we have not had the chance to—

Senator CANAVAN: Can I just ask for a clarification: did the bank ask you first before they referred you? Were you contacted by Mr Cowper before you were asked whether you wanted this advice?

Ms Coulston: The bank suggested I see a financial planner. I did not know what that actually meant. They explained to me that this person would help me sort out what I was going to do with my inheritance. I was contacted in December 2005 by Graeme Cowper's coordinator assistant who looks after his calendar. She made the first available appointment, which was on 6 January 2006. That was the first time I met him.

CHAIR: What was he like?

Ms Coulston: He was extremely confident and well-dressed. He had quite a big ego from what I could—

CHAIR: And he left you feeling of confident. You do not hand over your money unless you feel a sense of security and you feel confident.

Ms Coulston: I was also very vulnerable at that stage. I did not have any support to help me make decisions. I was going on face value of what he was trying to explain to me.

Senator WHISH-WILSON: Ms Coulson, had you been with the National Australia Bank all your life?

Ms Coulston: I first started with National Australia Bank when I got married, so just prior to purchasing a home with my husband. That was the first time I had ever been with NAB.

Senator KETTER: Ms Coulson, from what you have said, it sounds as though Mr Cowper was presented to you as an experienced and trustworthy financial planner—is that correct?

Ms Coulston: Yes, and a very successful one too—'He's our best and he'll help you out.' Then I received the email confirming a date that I could go and visit him in George Street in the city. That was my first experience.

Senator WHISH-WILSON: Can I clarify. Were you aware that, when you sat down with him or when you were going to sit down with him, he would be selling you only National Australia Bank products?

Ms Coulston: No.

Senator WHISH-WILSON: Is that something that you were aware of?

Ms Coulston: No, I was not. I did not understand it. It was not specified. He was explaining things about MLC and that the organisation that I work with, as well, actually has some of those products within my superannuation. It felt like it was being doubled-up in a sense—offering me trauma insurance and other types of defined benefits and so forth. I am thinking, 'Why are you offering that to me?' But then I also just accepted it for some reason.

Senator WHISH-WILSON: You trusted him.

Ms Coulston: I trusted him, yes. I thought he was the more professional.

Senator CANAVAN: Did he or other people at the NAB ever ask you for your superannuation details or what other products you already had through superannuation?

Ms Coulston: No. I was happy to produce it, but I was not specifically asked, 'Can you show me what you are putting into right now.'

Senator CANAVAN: My question goes to what you were getting for those contributions in terms of insurance and other things. So, you did not provide them with any—

Ms Coulston: No. He was just basically trying to sell me all different things, and I was constantly getting things in the mail—join up this; do this; do that.

Mr Morris: Veronica's experience is similar to many clients in that Veronica basically just signed on the page, where he indicated for her to sign, on a trust basis.

Senator WHISH-WILSON: There was no plan done at all?

Mr Morrow: There was a statement of advice. He did not take Veronica through it. So, when I sat down and looked at the plan before we met with Mr Cowper, I went through it and I said to Veronica, 'What did he tell you about fees?' She said, 'There was a \$2,200 plan fee and nothing else.' Then I showed Veronica the page and I said, 'Here is the fee page in the SOA. There are \$10,000 of fees here.' Veronica actually burst into tears.

CHAIR: \$10,000 for?

Mr Morris: This is another \$10,000 in fees that he had not told her about.

CHAIR: How much was the package?

Mr Morris: It was a \$150,000 investment—four per cent up-front, which was \$6,000; plus the \$2,200 plan fee; and then the commission for the fees on the insurance. But, the point was, he had not told her about it. He specifically told her that there were no other fees other than the \$2,200 plan fee, and he had not taken her through the statement of advice. Veronica, I think, like a lot of victims, thought she was going to a professional. They get a page put in front of them and he says, 'Sign here and I will make it happen.' They do not explain the investments properly. Then the bank will turn around—or the dealer group; it is not necessarily a bank—and rely on that document and say, 'Well, you signed that; more fool you.'

Senator WHISH-WILSON: Just to back up there, for a second, Mr Morris. In terms of when I asked whether there had been a plan—Ms Coulston was asked to sign it, but would National Australia Bank have taken her personal details into account in that plan?

Mr Morris: Yes.

Senator WHISH-WILSON: Would they have had a record of her existing financial products?

Mr Morris: Yes. In fact, any planner captures the personal details in the fact-find. That is not normally given to the client. That was one of the documents we did succeed in extracting from NAB, and it was full of mistakes. In fact, I think it had been fudged.

Senator WHISH-WILSON: Putting that aside—about the mistakes and whether it had been fudged—the National Australia Bank and their processes in place at the time were aware of Ms Coulston's financial assets and her background, yet they were still able to give you these products that you have just mentioned?

Mr Morris: Yes, but when we asked for the original loan approval form, which supported this structure, that was lost. What we were actually chasing them for, for a long time—we said to them, 'Okay, if you can't give us the original loan documents, give us a letter to confirm that you can't find them.'

Ms Coulston: They would not give that.

Mr Morris: We never got that out of them.

CHAIR: They would never even confirm that they had lost the documents?

Mr Morris: No. That is when they just started hanging up—when you ask for things in writing.

CHAIR: Mr Morris, were you trying to call them as well?

Mr Morris: Yes. I was with Veronica on some of the calls.

CHAIR: I know we are obviously talking about the NAB now and I know that, Mr Morris, your experience in this goes a little bit further. This committee has been looking not just at the Commonwealth Bank and Macquarie but also at the victims of other financial products like Timbercorp. I know you gave evidence, Mr Morris, on the first day of our Timbercorp hearing, which is an ongoing part of this inquiry. But I would not mind you expanding on this idea that sometimes, when you are dealing with people who have been the victims of financial misconduct and financial crime, they are in a very vulnerable state. The approach of financial planners and banking institutions towards those people in that very vulnerable state really can sometimes do a lot of damage to them, emotionally and physically. Sometimes you cannot help but feel that that is part of the strategy: if you go hard enough and tough enough at people, and you break them, you are going to get a better deal for the bank.

Mr Morris: Absolutely. In terms of the banks, I guess there is a spectrum there. There are the people like Veronica's planner, Cowper, who was, I believe, the top planner at NAB for three years running. But top planner is defined purely in terms of sales, certainly not in terms of quality of advice.

I have personally said this for many years: most people cannot tell the difference between a good planner and a bad planner. They go to a planner because they do not know anything. I say to people, 'Look, if a guy has a nice suit and he has a command of the jargon, and he seems confident and impressive, you think he is a good planner.' He was in that category. I actually met him across Veronica's dining room table when he came out to see her, and when I listened to him, of course, the jargon he was talking was gibberish. The plan he prepared was absolute rubbish. So the quality of planning is appalling. But people like that are obviously very persuasive, because he was their top planner in terms of sales.

That is the problem when somebody sees a planner like that. I know that with the Timbercorp victims, a lot of the victims were taken in by somebody who basically gained their confidence and trust as their accountant over many years. So they are dealing with somebody who they think is a professional and they think they can trust. Quite often these people abuse that trust because they are trying to put people into products to get commission or bonus, and they get people to sign pages in blanks they cut. They know they are giving bad advice with too much gearing. He must have known that Veronica could never have supported that level of debt.

The rogues like that are at one end of the spectrum. At the other end of the spectrum, the vast majority of these bank planners are people who are being constantly bullied and threatened by their managers to reach a certain number of sales, not only each month but each week. There is pressure on the bank staff to produce referrals; there is pressure on the planners to convert them; and there is pressure on them to bring in the revenue in terms of insurance or investment products. What should be said is that these planners are not necessarily even bad people, some of them. They might not be particularly well trained or particularly good planners. But a lot of them are just trying to hang onto their job in a very nasty and awful environment. That is the spectrum of the bank planners.

Senator KETTER: Do we know how long Mr Cowper had been employed by NAB?

Mr Morris: I think he was there for many years—quite a few years.

Ms Coulston: I think when I was introduced to him he said that he had already been there for about five years or so—something like that. I was trying to find out what sort of experience he had. That was back in 2006. I did not know his background. I did not look into at where he had worked before.

Senator KETTER: Could I just go to the point at which Mr Cowper resigned or was terminated. We do not know exactly what happened there. That was in June 2009—is that correct?

Mr Morris: Yes, it would have been June or July. Veronica and I met him in May—

Ms Coulston: at my home.

Mr Morris: and he told us that he was under suspension from the bank. He was fighting with them and he had a lawyer representing him. On 7 July 2009 the NAB sent a letter to Veronica, and presumably to the other

clients—I imagine a lot of them had probably started to complain at this stage—saying that Graeme Cowper has resigned and basically now he is nothing to do with NAB. It seemed to be like, 'If you want to complain about him, find out where he is now.' That was the subliminal message: 'He is now nothing to do with the NAB group.' The same thing happened at CBA with Don Nguyen. They got Don Nguyen into a room and confronted him with his sins. They should have sacked him on the spot, but they let him go away and resign because they wanted to be able to tell the clients that he had resigned.

Senator KETTER: Did NAB file a breach report with ASIC on Mr Cowper in early 2010?

Mr Morris: That was the testimony of ASIC at Senate estimates last week. I do not know any more than that. But it is interesting because ASIC had that breach report, they were aware of 39 of his clients being compensated, they got a number of letters about him, including a very detailed letter from me, and then they said they did not have the resources to take any enforcement action. It makes me think that if ASIC cannot pull all that together they clearly do not have a proper database set up to track this information on planners and, when it gets to a critical mass, take some action about it. But not to have taken some investigative action in relation to a planner with a breach report and 39 clients being compensated—

Senator KETTER: Can I just stop you there and ask about the requirements in respect of breach reports. There seems to have been an identification of a problem in June-July 2009 and a breach report in early 2010. Can you explain to us the legal requirements in respect of breach reports?

Mr Morris: It is two weeks—10 business days. Interestingly, ASIC also said that NAB had sent them some sort of report in 2009. Now, I know that NAB had got complaints about Cowper as early as July 2009 from at least one client. NAB obviously sent something to ASIC in 2009 and it was Deputy Commissioner Kell who said, 'We went back to NAB and told them to file a breach report.' That is not the way the system is meant to work. The licensee is meant to be able to identify and file a breach report, and ASIC should not be going back to them saying, 'File a breach report.' They should actually be saying, 'Why the hell haven't you filed the breach?'

CHAIR: Failure to file a breach report is actually a breach.

Mr Morris: Exactly. Back in the middle of 2009 when, not to mince words, they clearly sacked him—but they negotiated an agreement whereby they solicited his resignation—I noticed it was reported he had signed a confidentiality agreement with the bank. People who resign are never asked to sign confidentiality agreements.

CHAIR: We know that 39 people were compensated. Following on from what Senator Ketter said before, you have been in this space for a long time. If you become the top planner for someone like NAB, how many customers would you be dealing with?

Mr Morris: I have heard 700, and I think it sounds far more plausible to me.

Senator WILLIAMS: That is one planner.

Mr Morris: Yes. Bear in mind they are not interested in servicing these clients in return for the fees that are ripped out of their accounts each year. The whole aim of the game with this bank planning is to build up that unearned income with these annual fees—thousands of dollars in many cases per client—give no service in return and focus all your energies on dragging in new business, on up-front revenue, on churning clients and on getting the maximum bonus. That is what the model is designed to produce.

Senator WHISH-WILSON: On a point of clarification, in terms of those fees, obviously we have talked about up-front commissions and trailing commission where you just move on to the next client because you have locked it in. Are you referring to an annual fee-for-service there?

Mr Morris: Yes.

Senator WHISH-WILSON: So, a financial planner offering a fee-for-service is just as bad in your opinion—

Mr Morris: Frankly, in most cases, I think it is bordering on theft. It is legalised theft of money from these clients' accounts where there is absolutely no intention of providing service in return and where, in fact, year-in year-out no service has been provided for most of these clients. It is probably descended from the old days in planning where the trail commissions are paid and the planners never thought there was any assumption that they would be providing services. They had earned that when they put the money in. The only time a lot of planners want to see an existing client is when they have got some more money to invest. It is that mentality and it is that fee charging and the bonuses that people are getting that is causing a lot of the problems.

Senator CANAVAN: When you are saying that it is legalised theft, are you saying that the bank does not have an agreement with the customer to take that money out?

Mr Morris: No. I am saying they do have an agreement to take money out. That is why it is legalised. But they are not providing any services in return in most of these cases.

Senator CANAVAN: It is not legalised from a statutory point of view, but from a contractual point of view.

Mr Morris: It kind of is, because it is provided for by the laws, and I think those laws need to change. FOFA has taken a step in that direction. But for the pre-FOFA clients, because they are all grandfathered, the party will keep rolling on with all those old clients.

Senator WILLIAMS: The commissions keep coming.

Senator CANAVAN: These are not commissions I am talking about.

Mr Morris: Yes, they are the ongoing ones. A lot of clients at CBA, for example, are not aware because they have never been told that they can cancel the ongoing fees. In fact, it was a sackable offence for a planner to volunteer that information to a client. I challenged somebody in a meeting about that one day. I said, 'Are you saying we cannot fully and properly advise our clients in relation to that fee?' and they got quite hot under the collar. But the basic fact was they did not want you telling clients they could turn those fees off—and, by the way, the fact that they could turn them off was not disclosed in the statement of advice; it just said that there is an ongoing fee; it did not make it clear that the client could opt out of it.

Senator KETTER: I think it has been estimated that Mr Cowper had approximately 700 clients. Is that your understanding?

Mr Morris: For somebody who was the top planner, that is a very reasonable estimate, yes.

Senator KETTER: Okay. Are we to assume that Mr Cowper behaved ethically with 660 of them and it was only in the case of 39 that there was some malfeasance?

Mr Morris: A financial plan is almost like a signature that a handwriting expert can recognise. I have seen a couple of Cowper's plans; I am now aware of nine clients and they are all in the same situation. Anybody can make a mistake, but to produce a really appalling piece of advice, as he did for Veronica and others, you have got to be an absolutely shocking adviser—and the odds are that that is the advice you are giving to all your clients.

Senator KETTER: We do not know about what is happening with those roughly 660 people. What does that say about the bank's attempts to address this issue?

Mr Morris: The only thing the NAB has attempted to do here is to cover it up, not address the issue. Clearly what they have done is pay off the clients who complained like Veronica. They paid them as little as they could get away with; the average compensation number is a joke. Some clients I know who have complained were turned away with nothing. They have complained about Cowper. NAB knew he was a rogue planner, they knew he had done the wrong thing, but because these clients were not forceful enough to push their argument they got nothing. I would say that the rest of his clients who did not complain were never contacted. The bank was not looking for problems—and that I think is the most appalling and unethical thing about the whole business.

Senator KETTER: I think you indicated earlier that there was a letter that went out to Mr Cowper's clients to indicate that he was no longer associated with the bank.

Mr Morris: That he had resigned, yes.

Senator KETTER: Would you assume that went to all of his clients?

Mr Morris: It would have done, yes. I think they would have wanted to get the message out that he had resigned—and then they introduce the clients to a new planner.

Ms Coulston: There was an occasion when I contacted the bank and they said Graeme Cowper was on a special project.

Mr Morris: That is right, that is what they were saying. When he came out and had the meeting—

Ms Coulston: But I already knew that he had been to my place, and I rang the bank the next day and said, 'Where's Mr Cowper?'

Mr Morris: Yes. They had been saying he was on a special project, but, when he came to the house, he said he was actually under suspension. There is no 'acceptable level' of ethics; it is an absolute test. The moment you are telling staff to lie to clients you are on a slippery slope and this is where you end up.

Senator WILLIAMS: Mr Morris, you said the compensation was slow and it was as low as possible. Do you think Ms Coulston was compensated properly?

Mr Morris: I think there is still some money due to her because of what the bank did with the loans; that is still an open matter. In fact—and this is the other part of covering it up—the people who were paid were made to sign confidentiality deeds to keep this buried. What they also tried to do was pay some money for the financial planning and try and dismiss the lending issues and wrap it all up in the same thing. That is what they do.

Senator WILLIAMS: Okay. Mr Hagger said this about the review into NAB financial planning: 'Large up-front commissions remain in place across the industry for insurance products, and while there is the opportunity to take the lead in this space, we would need a strong commercial case to do so which is not currently apparent.' What does that tell you?

Mr Morris: It tells me that, once again, ASIC has allowed a situation to develop and to get worse and worse.

Senator WILLIAMS: FoFA has allowed this commissioner to stay there. This is a report in to NAB.

Mr Morris: No.

Senator WILLIAMS: The commissioner has remained in play. I want to tell you the insurance products.

Mr Morris: Yes, I see where you are going. The point is that the area is basically as unregulated as the wild west and every financial planner is writing a risk. In some cases the commission on, for example, an income protection policy can be 115 per cent of the first year's premium. This is how massive these commissions are.

Senator WILLIAMS: So they remain there, and are a big windfall for the planners and the institution. Right?

Mr Morris: Yes.

Senator WILLIAMS: Okay. Can you tell us about any of the insurance bonuses, commissions or changes in NAB today. Are they still in place like that? Do you know of anything?

Mr Morris: They are changing their written scheme in a way that means there will be more focus on up-front revenue; more focus on that 115 per cent up-front. But the point that Mr Hagger was making in that memo is that if everybody else in the industry is paying 115 per cent of the first year's premium on an income protection policy and you try to do something else, the planners are all going to write the business with the companies that are still offering that commission. Until something is put in place to change the industry, the first mover is likely to get hammered in the marketplace. The planners are like water flowing downhill to the lowest point. They will typically write the insurance that benefits them more than the client.

Senator WILLIAMS: Are those commissions on insurance products worth a lot of money to the financial institution as well?

Mr Morris: Absolutely enormous. It is funny that only ASIC would need to do a survey to have found that, even on their fairly rubbery figures in that survey, 37 per cent of the advice in that sector was non-compliant. Anybody else in the industry would be surprised and would say that the figure is probably a lot higher than that. I think ASIC were doing that with their new-found zeal for being seen to do their job. Interestingly, that report was pretty vague as to what the follow-up was going to be. I would like to know why those clients are not being compensated but, once again, there is no fire in the belly to do their job.

CHAIR: Mr Morris, being as outspoken about these issues as you are, people seek you out; they see you do what you do here and come to you. How widespread do you think the problem has been at NAB?

Mr Morris: I think the problem at NAB is bigger than we know it is. There are problems in other dealer groups—AMP announced that they had set up a remediation program, and I think that is because they are getting people writing in. When they saw what happened at CBA and they know that their advice was no good, they have probably written to AMP. I suspect all the big institutions are quietly dealing with this because they all employ large, poorly trained sales forces that are focused on sales. They are all vulnerable to the quality of the advice being challenged, if anybody really looks at it.

Beyond that, it is not just the big six players, either. Last night I got an email from somebody—a father and son financial planning business. They put these people into about a dozen different investments—some forestry, some Macquarie fortress stuff—five-year fixed investments, which are a terrible thing to put people into, and they lost money on every investment. These are people who are trying to pay their home off, who were encouraged to borrow half a million dollars and lost money on every investment. They had a loss of \$320,000. I looked through the investments and it really is like: are these people actually trying to destroy their clients? I think it is widespread. I think it is everywhere. It is not just the big players. Some of these so-called boutique planners put people into Timbercorp and Great Southern—similar rubbish to this case last night. There is a systemic problem, and I think it is far bigger than anybody is prepared to acknowledge.

Senator WHISH-WILSON: On that point, Mr Morris, could you make a recommendation to the committee specifically in relation to National Australia Bank. For example, should they adopt a similar process to what Commonwealth Bank are doing, and write to all—

Mr Morris: Oh, God no!

Senator WHISH-WILSON: —write to all their clients? Or what would your suggestion be?

Mr Morris: I think writing to clients is all very well, but CBA has avoided having an independent body review them, for a start. They are in control of this open advice review process. They are having a lend of that, just as they had a lend of ASIC for years. Even writing to clients is not enough. The bank itself would know where there are a lot of problems buried. But they are not being compelled to offer that up, they are not being compelled to go and look for problems. It sounds like about 5,000 people have registered for that scheme. I believe many more people are entitled to compensation. A lot of these people, strange as it may seem, probably did not take much notice of the letter that came out. They have been told, 'It's just the GFC; you've got no claim.' They have been told that by the managers for so long they believe it. That is a terrible scheme.

The matter has to be taken out of the hands of NAB, CBA, Macquarie and AMP. These are the people that let this happen to these clients. In several cases we know they have tried to cover it up—and not just for a few years. In the case of CBA, for at least 15 years I have seen victims that have been covered up by CBA. It is absolutely preposterous to suggest that they can be trusted to be the ones to clean it up. We need an independent body set up to compensate all these victims. FOS was never set up to deal with massive systemic problems like this. I have found that the FOS process does not work for the victims unless they have an expert representing them. But it does not pay for experts to represent people; it only pays \$3,000, which really is not enough for people to get proper representation.

Senator CANAVAN: I want to go back to the threshold issue here about the balance between the responsibilities of the people purchasing these products and the financial institutions' duty of care. Where do you draw the line on requiring people who are buying financial planning products to make sure they get across the details of their product? It seems to me that there is a spectrum of cases here. There are cases where people have clearly done the wrong thing in terms of forgery, not providing documents et cetera. There are cases where financial institutions have perhaps left things out—have not provided full disclosure—and of course there are going to be cases where the consumers themselves have made mistakes. How do we, as regulators and legislators, draw that line, keeping in mind that, at some point, the buyer has to be wary as well?

Mr Morris: Yes, that is right. And the banks are very quick to point to that and say that people signed these documents. What you say is quite true. The way the process works is that the planner is under enormous pressure to do things quickly. They might have a one-hour meeting to fill out a fact finder that is 45 pages long; it is not enough time. Typically what a lot of planners do is get the client to sign it and then fill it in later. That is actually an invalid document—

Senator CANAVAN: That is illegal, presumably?

Mr Morris: Well, no.

Senator CANAVAN: No?

Mr Morris: Personally I think it is unethical, but it is an accepted corner that planners cut—and then of course the banks will point to it as if it is gospel and was complete when you signed it. A normal legal document requires you to initial every page. If the banks want to rely on those documents people should be given a copy, signed and initialled on every page, at the time they walk away from that meeting; it should not be subject to any more alterations. It is the same with the statement of advice: people should have to initial every page. I take your point about 'buyer beware' but a lot of people do not understand that, at law, if you have signed a document, you are deemed to have agreed to it. In good faith, people have a document put in front of them by an accountant or a planner—there is an X or a little tab that says 'sign here'—and they just sign it; they do not read it. That is a message that has to get through—that you should not do that.

Senator CANAVAN: You mentioned that it is the incentives that are somewhat forcing the planners to cut corners. To what extent are those incentives driven by the vertical integration and conflicted interests within large firms? Would they exist in smaller firms anyway just because you need volume in sales?

Mr Morris: There is a similar pressure there because traditionally the small firms have been getting kickbacks from whatever platforms they use. Independent planners are quite often aligned with certain platforms anyway, and they are getting similar benefits back from the platforms. But with the aligned practices, such as the banks, it is very much to do with the upstream product because that is actually where the banks make the real money. You are charging a funds management fee of half a per cent or one per cent on all that money every year. Win, lose or draw, whether it goes up or down, you are getting your funds management fee. And there is a lot of it. It is what we used to call annuity incomes. They are there every year; it just keeps rolling on.

That is why what the planners do in terms of sales is very important for the whole model. They are there to feed it up into those platforms. The banks will often make great play of the fact, 'Not all the products on the platforms are ours.' What they do not say is that a lot of those people, to get products on the platforms, have to

pay—what do they call it?—sponsorship money. I call it blackmail, because if they do not pay that sponsorship money they do not get on the platforms. That is yet another conflict of interest.

Senator CANAVAN: It is similar to shelf-space fees and things like that.

Mr Morris: Exactly. And that is wrong. The way they go about it—

Senator WHISH-WILSON: Is that what they mean by 'approved products'?

Mr Morris: Yes. That is what they do to get on the approved product list. It is the way the industry works. It has been doing things like this for so long that nobody sees anything wrong with it.

Senator CANAVAN: You mentioned earlier that ASIC needs to do more to clamp down. Exactly what do they need to do?

Mr Morris: Everything.

Senator CANAVAN: We need you to be a bit more specific than that.

Mr Morris: They are starting from doing virtually nothing at the moment. They got a breach report on a planner. It is a matter of what was in that breach report, but he was apparently terminated for file reconstruction, which is fabricating documents and probably forging signatures. When somebody has been fired for that, and you get a breach report—assuming the breach report reported that—it is inconceivable to me that that organisation would not have followed up.

Senator CANAVAN: Followed up?

Mr Morris: They should have taken some investigative action and seen whether they should have been taking some action against him—like a banning order. To have just ignored it because of a lack of resources is a joke, frankly. Also, ASIC have admitted that they knew that there were 39 clients compensated. They did not know how many clients Cowper had so they did not know—they have admitted this as well—whether all of them had been compensated.

CHAIR: They did not ask?

Mr Morris: They did not ask. They are only now saying, 'We're going to look at the adequacy of the compensation.' They did not care about it five years ago because it was not in the public domain. They do not care—I have seen it—about the victims.

Senator CANAVAN: We have been very critical here and in the previous committee on financial planning. But in the town where I live—and just down the road from where I used to live—I know financial planners, and I do not think they are criminals. I think they do a good job.

Mr Morris: There are some.

Senator CANAVAN: Their businesses have been very severely impacted by the controversy. You have experience across the field. I just wonder if you could talk about whether there are good guys out there, because people clearly do need financial planning advice at times. I worry that we just focus on the negative. There are very good people.

Mr Morris: I think it is a very good point. It is fair to acknowledge that there are good planners out there. The unfortunate thing is that everybody gets tarred with the same brush. I have had some sharp comments directed at me but I say, 'Unless planners as a whole resolve that they are going to change things and get rid of the bad planners you are always going to be tarred.' The industry really needs to move on. The good planners really need to stand up and take control of the industry, and the bad planners need to be driven out of it—not put on a register but driven out of the industry.

Senator WILLIAMS: Mr Morris I have a question but while you are working out the answer I will ask Ms Coulston one last question. Would it be advantageous—

CHAIR: Is that how one last question works, Senator Williams?

Senator WILLIAMS: Yes, it is. It is a supplementary.

Senator CANAVAN: It is a two-part question.

Senator WILLIAMS: Would it be advantageous to have someone from ASIC or APRA on the board of NAB-MLC, CFP et cetera? Would that help? While you are answering that question I have a very important question for you, Ms Coulston. Have you still got a house?

Ms Coulston: I do.

Senator WILLIAMS: Great.

Ms Coulston: With a very large mortgage.

Senator WILLIAMS: You are still in there. That is very good; I am very pleased to hear that.

Ms Coulston: I am, and thanks to Jeff for his advice.

Senator WILLIAMS: What do you think? Would someone from one of those oversight bodies on the board help, or wouldn't it?

Ms Coulston: I think what you are suggesting is that maybe they should be in there having a look at the place. And I agree with that. The problem is, as I understand it, ASIC operated on the assumption that the six big players were all fine, and they only looked at the smaller practices. And there were enough problems coming up there. I think ASIC has said, 'Our trust and confidence was misplaced in CBA.' Even they have now had their eyes opened to what is going on in the big shops. The point is: they needed to be in there. They needed to know what was going. They need to actually be a regulator. I would not be talking about putting anybody on the board, but they should know what is going on inside these places. You are absolutely right.

Senator KETTER: Mr Morris, I just want to follow on from the request for your advice as to what we should be doing as regulators in this area and, in particular, my concern about the level of trust that we tend to have in the large institutions and their subsidiaries. What do you say about what we should be doing to, perhaps, strengthen the duty of care or the sense of duty that those institutions have to their clients under those circumstances?

Mr Morris: I think the institutions do need to be held accountable, as well as the planners. The planners are the whipping boys in all of this. A lot of them are probably not, as I said, bad people but just people trying to hang onto their jobs. It is the institutions that should be held accountable. Coming out of the NAB scandal, ASIC said, 'We would like to do something about the managers but we don't have the power.' How long has that been the case? Why didn't they come up to you guys and ask for the power years ago? The managers really need to be named and shamed, just as the rogue planners. They need to be driven out of the industry, as well. And the institutions need to be held accountable. Even now, it is almost inconceivable to me that trusted brands like NAB and CBA that I grew up with could do this sort of thing to people and cover it up. I think their needs to be some fairly severe penalties. In America, if a corporation did this there would be a class action going on now for \$1 billion or something. We need something along those lines. Corporations and executives need to be held accountable.

CHAIR: Mr Morris, Ms Coulston, thank you so much for coming here today. Thank you so much for your evidence. Ms Coulston, in particular, I know this is not an easy thing to do. It is not easy to come in this kind of environment publicly and present the evidence that you have given. I think it takes an incredible amount of bravery. Thank you so much for sharing your story. Mr Morris, again, you are a friend of the Senate economics committee. You are an honorary member almost! Thank you so much. Most people do not see the work that Mr Morris does. Privately, he contacts us very often on his behalf. I know there might be a few people out there who have heard similar stories that some people, for their own reasons, are not prepared to come public. But Mr Morris is constantly bringing cases to us, and we do what we can with the powers that we have to make sure they are resolved. He is an incredibly powerful advocate.

Ms Coulston: The main reason I am here is, most importantly, I do not want this to happen to anybody else. It is so unfair. I would like to bring up my daughter knowing that she can trust rather than her seeing me go through what I had to go through, in which both of us were thinking we were going to lose our home. I would like to be a good role model to her. I do not think anyone should be treated that way, especially when you do trust bigger organisations because you think that they know what they are doing. But the problem is, like Jeff said, it is the high people, as well, who are not even taking notice. It is really unfair.

HAGGER, Mr Andrew, Chief Executive Officer, MLC, and Group Executive, NAB Wealth, National Australia Bank

MILLER, Mr Gregory, Executive General Manager, Wealth Advice, National Australia Bank.

MORATH, Mr Richard, Chairman, Advice and Licences Board, MLC, GWM Adviser Services Board, Godfrey Pembroke Advice and Licensee Board, and Apogee Board, National Australia Bank

[13:16]

CHAIR: I want to begin by acknowledging and thanking the participation from the National Australia Bank and your very efficient team, Mr Hagger, who have been very forthcoming with the work of this committee. I want to note that on several occasions they have been in contact with us before and after this recent requirement. They have been talking to us about issues, and they have been very helpful. I want to put on the record that we really appreciate the offer that was made by the National Australia Bank to the Senate Economics References Committee that you would be available at any time that we were available. This tended to work best for everyone, but I want to state that we really appreciate that you went out of your way to make sure that any time that we were available was a time that you would be available for this inquiry. So I thank you for that.

There are obviously going to be a fair few questions, but I want to give you the opportunity to make an opening statement. You obviously heard the evidence from Ms Coulston, a lot of which you would be aware of by now. Perhaps we will begin with you making an opening statement, and then I am sure there will be plenty of questions.

Mr Hagger: I would like to start by thanking the committee for the opportunity to appear this afternoon. I am joined by two senior officers of the bank: Mr Greg Miller, the acting executive general manager for advice, and Mr Dick Morath, the non-executive director and chair of the MLC advice board. Together we are available to take your questions and address any concerns you might have arising from the recent reports.

I would like to begin today's committee hearing by acknowledging that the *NAB Wealth advice review* report, which we will be discussing today, was actually commissioned by me as a result of the work of this committee. The Senate Economics References Committee delivered a report in June 2014, and we listened to you, we heard you and we acted. We have done so in a way that is transparent. We shared our report with our principal board, the NAB Management Committee and the Wealth Leadership Team. We have not cloaked the document in professional privilege, and to an extent this is the reason why these documents have found their way into the media.

I think it is important to recognise that this report found that we do not have systemic issues. We have a proud track record. We broke ranks with industry views and publicly called for a move away from commission based remuneration models and for improved governance and oversight frameworks for advisory groups. Much of this advocacy formed the basis for the previous government's original FoFA reforms, pioneered by Minister Chris Bowen. In 2006, our advisory group, Godfrey Pembroke Limited, was the first major dealer group in Australia to move to a fee-for-service remuneration model, and this was followed by our other businesses—Advice Solutions, Apogee, Garvan and MLC Financial Planning—in 2010. Today, all of NAB Wealth's investment business is written on a fee-for-service basis.

But we know that there are areas that we need to fix. I would like to take the opportunity to acknowledge this today, particularly to Ms Coulston, who addressed the committee a short time ago. Chair, I did not hear all of Ms Coulston's testimony but I did hear her summary at the end while I was waiting to come in. She said to the committee that no-one should be treated this way, and that this was not fair. I agree with her. Her treatment by NAB was not fair and she should not have been treated that way. I apologise to her on behalf of NAB. I apologised to her personally a moment ago. Clearly, we should have done more.

We take seriously our responsibility to provide our customers with the best advice. We know our customers hold us to a high standard, as they should. We have worked to strengthen our business and, while we do not always get it right, we believe that our business is stronger today than it was two years ago and that it will be stronger again in two years time. We are focused on improving the customer experience, which is why, where there is professional misconduct, we will move to write to all customers where misconduct has occurred in the last five years.

We are improving our complaints process, providing our customers with support to resolve complaints within 45 days. We believe that we need more independence. We are going to add 'independence' into our whistleblower process and our complaints process. And we will advise ASIC of all advisers who leave with the categorisation of our reasons for their departure.

We are proud but not perfect. We stand behind the advice that we give. We have around 4,000 NAB Wealth staff, 1,162 advisers, 1.7 million customers, 8.5 million operational processes per annum and total funds under management of \$150 billion, and we have a complaints rate of less than one per cent.

When we have needed to pay compensation we have. From 1 January 2010 to 30 September 2014 we have paid compensation to more than 750 customers, which has equated to \$14.5 million, and that covers advice issues and service issues relating to the advice. Now, clearly, we would prefer to be in a position where we are not paying compensation, because we would rather our customers get the right advice and good advice every time. But where we have problems we will face up to them and fix them.

Now, to some specifics. While there has been a media focus on 37 advisers in our report, I can inform the committee that 43 advisers are covered in our report. Two of that number are from more than 10 years ago, which means there are 41. We make no apologies for the fact that these advisers have departed or were dismissed from their roles, as the health of our advice network is paramount for our customers. Of the 41, there are a range of factors which form the basis for dismissal, including not meeting our compliance standards to serious offences like fraud. Of the 41 we reported eight to ASIC, as required by the law of the day.

The eight advisers are all situations where we have been working under ASIC supervision, and they represent over 90 per cent of the compensation payments we have made in relation to the 41 advisers. I will just repeat that: those eight advisers represent over 90 per cent of the compensation in relation to the 41. Recently, we have given all 41 names to ASIC.

So, I want to reiterate my opening statement that, together, we are available to take your questions and to address any concerns you might have from the recent reports. We look forward to answering your questions. Senators, I have made a commitment that our customers, advisers and employees will be given access through the NAB website to a transcript of today's discussions.

CHAIR: Thank you. I might make a start—I know there are going to be a fair few questions from other senators. Mr Hagger, what confidence should we have—or should NAB customers have—that the extent of the problem has been dealt with? You are saying at the moment that you believe there were simply 41 planners, who have left in the past two years. I understand some of them would be for a range of many reasons. But you felt that only eight of them conducted serious breaches that warranted a breach report—is that correct?

Mr Hagger: That is correct. Breach reporting, as you know, Senator, is set down in section 912D, and there are technical aspects as to what should be reported and what should not be reported, and we have complied with the law.

CHAIR: Poor financial advice is a technical breach—correct? It is actually within the guidelines document that they themselves provide. I can read it to you right now.

Mr Hagger: What I was going on to explain is that we are actually going further than that now, whereby we are actually reporting to ASIC all advisers who depart our network and the categorisation of the reasons for that departure.

CHAIR: I accept that you are doing that into the future. My concern is that, of the 41 who had been removed, you reported eight to ASIC.

Mr Hagger: Yes, that is true. I want to get to the core of your question, because I think at the core of your question is the confidence in the system that we have at NAB. We have a high level of confidence in the system that we have at NAB. I explained in the opening statement that we have 1.7 million customers and we have a complaint rate of less than one per cent. It is actually a healthy sign of our governance and risk frameworks that we terminate advisers. We will go on doing that when we find that there has been inappropriate conduct and so forth and, where appropriate, we then work to compensate customers, review files and so forth.

CHAIR: To what extent have you gone out of your way to write to clients of advisers like those who have appeared in the media—for example, Graeme Cowper, the planner who dealt with Ms Coulston, and I am sure there are others that you yourself have identified—and give those clients the opportunity to have any kind of an independent review of their files?

Mr Hagger: I mentioned earlier that our systems get stronger and stronger every year. The situation that you have heard today is in relation to Mr Cowper. Mr Cowper had approximately 430 active clients. In that case, we wrote to all customers but what we did not do is explain the reasons for Mr Cowper's departure. We explained that Mr Cowper had departed—

CHAIR: With a confidentiality agreement?

Mr Hagger: Yes, in relation to Mr Cowper.

CHAIR: Why?

Mr Hagger: Can I just finish that line and then, naturally, come back?

CHAIR: Okay.

Mr Hagger: The point I want to make is that we wrote to customers and we encouraged them to meet with other planners. Those other planners encouraged them in turn to make complaints. Whenever we receive complaints we act on them. We worked with ASIC in relation to Mr Cowper and we have been working on compensation regarding Mr Cowper's former clients. To that end, we have already paid approximately \$2.4 million of compensation for 53 clients.

CHAIR: So you have compensated 53 of the 430 or so clients of Mr Cowper?

Mr Hagger: That is correct.

CHAIR: And you are telling me that you have contacted the other 380 and offered them a process or a program to have them be reviewed recently?

Mr Hagger: No, that is not what I said. I said that we wrote to them all at the beginning—this is where the processes from back then are different to the processes today—and we also proactively reviewed the files. Through that review, we identified customers where we believed that there had been inappropriate advice and there was compensation payable and we went on to contact those customers over time—as I say, in dealing with ASIC along the way.

Today our processes are stronger. For example, with an adviser who departed six months ago, we proactively identified the loss for each and every customer and we have contacted each and every customer with regard to an offer for compensation. That process is alive right now.

Mr Miller:

I would like to make a comment in addition to what Andrew said. Andrew made the comment that Mr Cowper had 431 active clients, and our definition of 'active' was those who received advice in the last three years and those in an ongoing service. We reviewed all 431 of those files to see if we could see issues, and through that time we also received complaints. So we did actually go to a large number of his clients to investigate issues or concerns that customers may have had.

CHAIR: Mr Hagger, are you prepared to undertake something similar to what the Commonwealth Bank has undertaken—and there are different views on how perfect the system is or is not? Will the National Australia Bank undertake an independent review of its internal conduct and how it has dealt with these files?

Mr Hagger: Firstly, our situation is every distinctive from CBA's situation, and I think that was clear in the document which we prepared in response to the—

CHAIR: I am not sure that is a view that is widely held, Mr Hagger.

Mr Hagger: But it is our view.

CHAIR: It is your view because you did your own review, and your own review has told you that there are no problems except for the ones that you have already identified.

Mr Hagger: And we also worked with international expert, Deloitte, in relation to that.

CHAIR: Then having an independent review process would not be a problem, as there would be nothing to worry about then. If it has all been found and it has all been fixed, why wouldn't you just agree to have an independent review process?

Mr Hagger: What we have made clear—and Group CEO Andrew Thorburn made this clear in his speech on the Monday following the Fairfax reports—is that we will do some form of look-back process that we agree with ASIC. I have written to Greg Medcraft in that regard. We have begun discussions with ASIC and we will work our way through a process which is appropriate to our circumstances.

CHAIR: So your point is that you are not prepared to commit to an independent review process at this point in time?

Mr Hagger: We have explained that we are bring more independents into our process. We have explained that we are bringing in—

CHAIR: But that is a word—'We are going to bring in independents'—but we are asking a very specific question. Mr Hagger, what is slightly extraordinary is that part of what you have said this morning is, 'We've done everything right. We've dealt with everything. We've had an internal look and we've found everything that was there and there is nothing to worry about and nothing to see.'

Mr Hagger: That is not what I said.

CHAIR: The concern that we have, Mr Hagger—and we have been through this before with the Commonwealth Bank, it is not the first time we have been through this—is that in one month, two months or three months later we are all going to be back here again and there will be another admission saying, 'The problem was actually bigger than we thought it was and now we are going to have to do X, Y and Z.' What I am asking is: wouldn't it be easier and simpler to just establish an independent review process now? If what you have said is true, that the matters have been identified, they have been dealt with and there is nothing else to worry about, the bank should not be concerned about that at all.

Mr Hagger: The bank is very concerned for our customers. I have explained that in over 99 per cent of cases I have said that we are proud but not perfect. On the 'not perfect' side of the spectrum, we have paid compensation. We are prepared to pay more compensation where we need to do that. We stand behind our advice and we stand for our customers.

CHAIR: But that is not an independent process. The payment of advice process is not an independent one. You determine whether you should be paying compensation.

Mr Hagger: As I have explained, we are going to work with ASIC on the next steps. We have also said tangible in relation to independence. We have said that we are appointing an independent customer advocate in the next 30 days. That independent customer advocate would have been very helpful in Ms Coulston's case, because in her situation justice did not come quickly for Ms Coulston, as you have heard today. We see the value of independence. We are tangible about it and we are strengthening our business. We are prepared to look back in relation to customers. We performed very thorough reviews in relation to these eight advisers—which, as I say, make up 90-plus per cent of the total compensation figure. But, if we need to pay more compensation, we are very happy to do so, because we stand behind our advice and we stand for our customers.

Senator WILLIAMS: Thank you, Mr Hagger and gentlemen, for your time today. Mr Hagger, how long have you worked at NAB/MLC?

Mr Hagger: I began in the NAB Group in February 2008—so approximately seven years—and I worked within the MLC Group between March 2009 and September 2010 before coming back into a role in the executive committee of the bank, running the people marketing and communications function. I then became the CEO of MLC, in the group executive of NAB Wealth, in April 2013.

Senator WILLIAMS: Where did you work prior to 2008?

Mr Hagger: I was at PricewaterhouseCoopers for approximately 20 years.

Senator WILLIAMS: As an accountant?

Mr Hagger: I am a chartered accountant and, in addition to that, I worked in various parts of PwC, including as the managing partner of the Melbourne office.

Senator WILLIAMS: Were you on the Macquarie Bank board?

Mr Hagger: No, I was never on the Macquarie Bank board.

Senator WILLIAMS: You are saying that 41 planners have gone from the organisation?

Mr Hagger: Yes.

Senator WILLIAMS: They all got the spear?

Mr Hagger: Yes, one way or another.

Senator WILLIAMS: Same death, different spear. All have the same result. You gave breach reports on eight advisers to ASIC.

Mr Hagger: Yes.

Senator WILLIAMS: Was a Mr Tom Dawe one of those?

Mr Hagger: I know that we have come voluntarily today, but I am not sure that it would be right for us to go into individual names. I named Mr Cowper earlier because he has been the subject of a lot of media reports and I know he has been discussed in the previous session. But I am not sure that it is the right thing to go into individual names today.

Senator WILLIAMS: I will write to ASIC and ask them whether Mr Dawe was breach reported and dismissed from your organisation, if you are not going to tell the committee today.

Mr Hagger: That is fine.

Senator WILLIAMS: We heard earlier today from a witness, Mr Morris. He said that your compliance system could not uncover problems. I have got to agree, because aren't a lot of the problems you now face related to complaints that customers brought to your organisation?

Mr Hagger: We have a range of detection measures in relation to our system. We have compliance audits, which are carried out by compliance staff. We have theme reviews, which are carried out by our risk staff, often in conjunction with an internal audit and so forth. Customer complaints are helpful as a way of us determining things. We sometimes find that initially there are one or two complaints and then, once we have looked into those and we follow through the themes, we find a much bigger story.

In relation to Mr Cowper, who is an adviser I will name, we parted ways with him when there were five complaints. I have mentioned that we have already compensated 53 clients. So, by the time there were five complaints, that was enough for us to part ways with him. That is what we do with the health of our network; we move fast.

CHAIR: Just to touch on it—Graeme Cowper, because we are talking about him. You did lodge a breach report, in 2010?

Mr Hagger: Yes, we did.

CHAIR: But you did not offer a breach report. You lodged a breach report at the request of ASIC?

Mr Hagger: I was not involved firsthand, but I have looked through the files and I do understand that we had discussions with ASIC about whether a breach report should be lodged. They made it clear to us—

CHAIR: That is not the evidence from ASIC. That is quite different. ASIC's view was that a breach report needed to have been lodged and was not lodged and they asked you to lodge a breach report. That is very different than: 'We sat down with them and we agreed together to do a breach report.' It is one or the other.

Mr Hagger: I am happy to follow ASIC's version of events. They hold us to a high standard.

Senator WHISH-WILSON: If I may, on this exact issue, Senator Williams, if you do not mind.

Senator WILLIAMS: Go for it.

Senator WHISH-WILSON: What is your understanding as to what a 'substantial breach' means?

Mr Hagger: I think, in some ways, it is evident in the data. I know that there is a public perception that whenever an adviser departs there should be a breach notice because that is the way it has been portrayed. As I mentioned, eight of 41 advisers represents over 90 per cent of the compensation that we have paid. So I think it is self-evident that these are the most significant cases. There are sometimes cases where it is not just about the money but about other aspects. There is a seriousness there that requires reporting and we do do that.

Senator WHISH-WILSON: Can you be frank with the committee, though. Do you find it a grey area or is it defined enough? Is it focused enough? It looks to me as though it isn't.

Mr Hagger: It can be a grey area; that is true. But that is why we have actually upped our reporting in recent times. We now do more breach reporting than we have previously. PwC, the international firm I mentioned earlier, did a review approximately a year ago and they said that our breach-reporting processes were sound but they were not timely enough. So we have been working on that. We want to report to ASIC as much as we can and that is why we have just announced that whenever an adviser departs we will be advising ASIC of all advisers and our categorisation of the reasons for their departure.

Senator WILLIAMS: You have said that Mr Cowper was moved on. You wrote to his clients—some 407 is the figure I heard, or 430. How many?

Mr Hagger: We wrote to all the clients to let them know that he had resigned. We went to 431 clients and did file reviews on 431 of his active clients.

Senator WILLIAMS: You wrote to them and said that he had resigned?

Mr Hagger: Right.

Senator WILLIAMS: Was that a push to resignation, as Mr Hagger's summary says? Forced resignation. I can quote you—

Mr Hagger: Yes, it was.

Senator WILLIAMS: So you wrote to his clients saying, 'He has resigned and left the institution.' In actual fact, you threw him out of the door.

Mr Hagger: This is my point. We are saying that our processes today are different to our processes back then and, with the benefit of hindsight, that letter should have been worded differently.

Senator WILLIAMS: Mr Cowper went on to remain in the industry; is that correct?

Mr Hagger: I understand he did.

Senator WILLIAMS: This is the problem. We are trying to set up, by this month, a national register of financial planners so the Australian people can check their history. You throw him over the cliff without a parachute because he has deserved it, but it does not get marked up on the history. Would you think ASIC would be too hard on you if they said: 'Whenever you sack someone for wrongdoing, you must tell us so it can go on the national register.' Would that be fair enough?

Mr Hagger: We would be comfortable with that because we are already saying that we are going to do that in any case. That is a higher bar than what is being set in place for the register. The register is very important and the work that the committee has been doing in relation to references is very important. I do understand the concern of the committee. From a NAB perspective, we pride ourselves on the health of our network and we move fast. We are confident that our network is healthy but when people depart—I would say that our adviser group has been the gold standard for the industry—and they are bad apples, or whatever the term may be, if they go down the road and go somewhere else then that is not healthy for the industry. We understand that. We supported the introduction of the register, which we will comply with, and we have gone even further than that to say that we will report in relation to all advisers.

Senator CANAVAN: I want to ask about Mr Cowper. Your understanding is that he moved on within the industry. Did NAB provide a reference or any referee reports to a subsequent employer?

Mr Hagger: Not to my knowledge. I believe he is at AMP today and we have had no correspondence with them. Before AMP, I think he was with Aon. I am not aware of any correspondence in relation to—

Mr Miller: We are not aware of any correspondence in relation to a reference. But we are always available to supply factual information to any other licensee who asks for information. We are available to do that if required by any licensee in the industry.

Senator WILLIAMS: Did Mr Cowper know that you had lodged a breach report against him?

Mr Hagger: That I do not know. He clearly knew the circumstances of his own departure. He knows how the industry works.

Senator WILLIAMS: Which was: 'You resign or we'll sack you.' Correct?

Mr Hagger: We suspended Mr Cowper and then he resigned once we issued the suspension. We suspended Mr Cowper as we went to investigate. He resigned during that suspension.

Senator WILLIAMS: Forty-one had moved on from your organisation. If you are going to put off 41 people, there are wrongful dismissal laws these days. You have to have sound information and knowledge to sack someone. Correct?

Mr Hagger: That is correct. We are alert to the rights of individuals.

Senator WILLIAMS: To get the spear you have to do something wrong in any organisation. If you are a dedicated employee and you do the right thing, you will never get the bullet or get kicked out.

Mr Hagger: The practical effect is the same whether the individual resigns or we terminate them. We get them out of our network and we have done that consistently.

Senator WILLIAMS: But what I am saying is that 41 bad eggs left your network but there were only eight breach reports to ASIC.

Mr Hagger: I think I mentioned in my opening statement that there are a range of circumstances in relation to those 41. That is a reason why I am reluctant to put their names out here, because there are a range. At the top end of the range there has been very bad advice and very serious offences. At the bottom end of the range it could be simply that in relation to that adviser there were philosophical differences with us, or we did not like the way they were interacting with compliance officers.

Senator WILLIAMS: Did your company have a culture that was simply wrong and one that was about putting in the products, churning the commissions et cetera? That is what other banks have told us. Their culture was wrong. Mr Narev apologised for it and so did the chair.

Mr Hagger: We have had and still have a very positive culture and an improving culture at NAB. We have been in business for a long period of time. We are there for our customers. What we are saying today is we have a culture where we are proud but not perfect. We clearly let Ms Coulston down—more than let down. We just did the wrong thing.

CHAIR: Our concern is there are more than Ms Coulston. There are other Ms Coulstons out there. She happened to have come across someone like Jeff Morris who understands the system and understands the game. I cannot help but sit here, Mr Hagger, and feel that you are trying to downplay what has actually happened here at NAB—

Mr Hagger: I am not trying to downplay it at all.

CHAIR: and the 41 people who you have dismissed. You say there are eight people who had breach reports. You will not tell us who they are. You will not put an independent system in place to allow the people who may have been burnt by these people—the eight that you yourself admit are a problem—and you tell us that we can trust your system and we can have confidence. Yet your own internal reports are highlighting your own internal problems.

Mr Hagger: There are a number of reasons why you can trust our system. Firstly, as I mentioned, we have 1.7 million customers. We have a complaint rate of less than one per cent. We have paid compensation to more than 750 customers over the last five years. ASIC is aware of the situation in relation to more than 90 per cent of the compensation payments related to those 41 individuals. We have a very open culture. We have been open with our employees. We have been open with our customers—and we have been open with the regulators.

CHAIR: But you are not prepared to commit to being independent.

Senator WILLIAMS: You are saying you have been open with your customers, open with your information et cetera. But it was like pulling teeth when Mr Morris wrote to your board and wrote to ASIC and wrote to everyone as far as our previous witness goes. How can I believe that?

Mr Hagger: I think I have said clearly that we did the wrong thing in Ms Coulston's case. We are sorry for that—and not just in Ms Coulston's case, but in relation to more than 750 customers who we have compensated since 2009.

CHAIR: We are not worried about the ones who have been compensated. We are worried about the ones who are out there and are not aware of what has gone on, who do not know what is happening and who do not have an independent process they can apply through. What worries me is there are eight people here—you will not give us their names—who have customers out there at the moment who do not know to contact the National Australia Bank and go through your processes. That is our concern. We are not worried about the fourteen and a half million dollars you have paid, or the 750 people who have been identified. Let us park them to the side for the moment. The question is: how much more is out there that has not been uncovered? Mr Hagger, we have been through this before with the Commonwealth Bank. This is not new for us either.

Mr Hagger: I understand that. Our situation is distinctive from the Commonwealth Bank's. We actually listened to this committee last June. We went through all eight themes of your report in June 2014. We got Deloitte to come in and look at our monitoring and compliance systems. We have worked through that with them. Also, in relation to ASIC, we have worked on 96 recommendations from last May in relation to our Navigator system. We have already implemented 83 of them. Now we are working with ASIC in relation to a look back to ensure that we stand by any compensation which is required to be paid in relation to those customers, and we will pay it.

CHAIR: Not independently.

Senator CANAVAN: Following on from Senator Williams's questioning earlier, I thought you said, in terms of the 41 advisers, it might have been for a range of reasons.

Mr Hagger: That is correct.

Senator CANAVAN: I just want to go to the report, the memorandum, you wrote. On page 28, I think—we have two different page numbers—you say: 'We have suspended, terminated or ensured resignations of 31 NAB, FP and aligned advisers over the past two years due to conflicts of interest, inappropriate advice, inappropriate practices or serious or repeat compliance breaches.'

Mr Hagger: Yes.

Senator CANAVAN: All of those reasons seem serious to me. There is not an issue of culture or philosophy there; there is a serious breach in practice.

Mr Hagger: Inappropriate practices can be a cultural difference.

Senator CANAVAN: So some of those things may not include serious breaches?

Mr Hagger: I need to say that in all cases we terminated the adviser. We are talking, though, about issues that would strike at customer confidence and the need to report to ASIC, and they can be two different things.

Senator CANAVAN: So when you say 'inappropriate practices', that may—

Mr Hagger: I will give you an example. If we have an adviser and we are not happy with the way they are interacting with a compliance officer, we will sack them. We then look back at the files, and we might find that the advice to customers has been spot on. But it is against our culture to have behaviour that is not acceptable between an adviser and a compliance officer, and we will act on that.

Senator CANAVAN: Given that this was a report in response to the Senate inquiry, which went to poor culture and a noncompliance with the requirements put on financial advisers, how many of those 31 were sacked or forced to resign because of a lack of regulatory compliance or serious breaches?

Mr Hagger: As I say, there is a whole range in relation to those 31. Some of those 31 form part of the eight that we have referred to ASIC, and others did not meet that criteria, and we are going through on a case-by-case basis with ASIC. ASIC served us with notices just recently, and we have been responding to those notices. ASIC, which is an independent regulator, will be going through the details of all of those aspects with us, and we will agree what is required as the next step.

Senator CANAVAN: So you do not know how many of those 31 were for serious breaches? You have four or five different categories—

Mr Hagger: I do, but we would end up talking through each and every—

Senator CANAVAN: I am not asking for their names. I am not asking for individual issues. I am asking for the number, of the 31.

Mr Hagger: I can tell you the number of the 31 which are within the eight, if that is helpful to you. Is that what you are driving at?

Senator CANAVAN: No, I do not think so. What do you mean by that?

Mr Hagger: I think you were saying, 'What are the ones that are the most serious?'

Senator CANAVAN: I want to know: you have here people being sacked for conflicts of interest, inappropriate advice, inappropriate practices or serious or repeated compliance breaches. Take out the ones that were sacked or were forced to resign for inappropriate practices and how many have we got left?

Mr Hagger: I am happy to provide to the committee a categorisation of the 31. I am happy to take that question on notice.

Senator CANAVAN: Thank you.

Senator WHISH-WILSON: In relation to the 17,000 complaints you mentioned you have had across the division, what would they relate to?

Mr Hagger: Sorry—which number are you referring to?

Senator WHISH-WILSON: One per cent of 1.7 million customers—so, 17,000 complaints.

Mr Hagger: I see what you are saying.

Senator WHISH-WILSON: Could you give us an idea of what they would relate to?

Mr Hagger: Sure. And it is actually quite a bit less. I say 'one per cent', but it still is less than that figure. Greg, would you like to talk more to the complaints data?

Mr Miller: Sure. Those complaints can range from anything where a strategy was not carried out properly or not implemented properly or there was some error that was done in the calculation—for example, excess contributions or something like that; it could be that—to a service component where some sort of addition or change to a contract was not done; there are things at that level. Unfortunately, we have had a few examples—a small few, and we talked about those eight—where somebody has done something serious and we have had to go through and obviously settle complaints of that nature. So there is a range of different complaints that we get from clients around each of those things.

Mr Hagger: As to the number—sorry, Greg—we have approximately 200 advice complaints per year. We currently have approximately 60 outstanding.

Senator WHISH-WILSON: Two hundred advice complaints? So the other 16,800, roughly, if we go on the one per cent, would relate to non-advice complaints?

Mr Hagger: As I say, it is actually much less. When I say to the committee that we get it right 99 per cent of the time, it is actually 99 point whatever.

Senator WHISH-WILSON: So you cannot give us an exact number?

Mr Hagger: We can give you an exact number in relation to complaints but we have 8.5 million operational processes per annum. The number of errors in relation to those 8.5 million processes is something like five for every million. There are three or four per month in relation to process errors that come through.

Senator WHISH-WILSON: Could you give us an idea of what MLC—the whole wealth division—contributes to the net profit of National Australia Bank?

Mr Hagger: Sure. We contribute somewhere between five and 10 per cent—nearer to five than 10 per cent—of the NAB Group profit.

Senator WHISH-WILSON: The total profit. What about the non-interest income component of that?

Mr Hagger: I am not sure exactly what those numbers are but I can give them to you. We report by division in our full-year results.

Senator WHISH-WILSON: You would be a reasonable contributor to the non-interest income component.

Mr Hagger: Yes, we would but still of a relatively small proportion as a proportion of the total group. As I mentioned, last year the profits of the wealth division, which include the asset management side, the insurance business and so forth, totalled \$365 million. The NAB Group profit is around \$5 billion, so the maths would flow from that. But those figures are all available and any calculations you require, Senator, I would be happy, naturally, to provide.

Senator WHISH-WILSON: It may be commercial-in-confidence, but how many of NAB's total customers would use your wealth division?

Mr Hagger: I think the figure is around 10 to 15 per cent. It differs by different products and so forth.

Senator WHISH-WILSON: So 85 to 90 per cent would not be using NAB for financial planning products?

Mr Hagger: That is correct.

Mr Miller: The rest would only have banking relationship products. The other 85 to 90 per cent would have banking products only. Is that the question you are asking?

Senator WHISH-WILSON: Yes.

Senator CANAVAN: I was just wanting to clarify, and this follows on from Senator Whish-Wilson's questioning: are the 1.7 million customers of MLC or NAB wealth?

Mr Hagger: NAB wealth, which includes MLC.

Senator CANAVAN: How many of those 1.7 million would get direct advice in a year from NAB wealth advisers?

Mr Miller: It is a smaller proportion because, in that 1.7 million, we have got a large number of superannuation members who may not be getting direct advice and so on.

Senator CANAVAN: Just buying a product.

Mr Miller: That is right, so they have come on through our superannuation funds and so on.

Senator CANAVAN: How many complaints did you say you had again?

Mr Hagger: Approximately, 200 advice complaints per year.

Senator CANAVAN: What is your denominator when you say 99.9 per cent?

Mr Hagger: That is in relation to our total number of customers.

Senator CANAVAN: The 1.7 million.

Mr Hagger: Yes.

Senator CANAVAN: But not all of them are getting advice, so therefore—

Mr Hagger: That is why I said in relation to the one per cent, the actual figure is quite a bit smaller—I think you are following the maths.

Senator CANAVAN: So the ratio is a lot larger—the one per cent is a lot larger.

Mr Miller: We would also give you the view that we give in excess of 30,000 pieces of advice per annum through statements of advice, and there is a range of other things on top of that. We give a large volume of advice to Australians, because Australians really need it.

Senator CANAVAN: But do statements of advice just provide products?

Mr Miller: No, the statement of advice is the document that reflects the advice.

Mr Hagger: I understand, Senator, that what you want to know is what the—

Senator CANAVAN: The percentage who are actually getting advice.

Mr Hagger: In terms of the complaint rate, I believe the figure is 0.6 per cent, if you take as the numerator and denominator, advice complaints and advice customers. If that figure is any different, I will come back to the committee and tell you that but that is the number that I believe it to be.

Senator WHISH-WILSON: So 200 a month—a year. Would they be about the performance or other issues to do with advice: 'don't like the adviser' or 'haven't heard from the adviser'.

Mr Miller: It will be a range of things. It could be performance, if they did not feel that the performance was up to scratch. It could be about the fact that they did not believe that the product coverage, if it was insurance coverage, was for the amount that they thought it was. It could be a range of things in relation to that that we may get from the customer, and we listen to and register every single complaint we get and investigate every single one.

Senator WHISH-WILSON: I was just a bit distracted by that. Could I get back to the contribution of NAB Wealth to National Australia Bank, are you given benchmarks that you have to meet every year, and what kind of return on capital do you have to meet?

Mr Hagger: In my scorecard, my scorecard is about the overall bank result. I am a member of the bank's executive committee. There is a plan each year in relation to each of the divisions at the start of the year. That can be changed over time, depending on circumstances—for example, if markets move significantly and so forth.

Senator WHISH-WILSON: Does the wealth management division have a benchmark that you have got to meet each year—as a separate component of National Australia Bank?

Mr Hagger: Yes, each division has a plan allocated to it which is updated during the year according to the circumstances at play. There are things that we learn during the year because there are things outside control and in relation to wealth obviously the key thing outside control is where the markets will go—up or down.

Senator WHISH-WILSON: Would most of that growth in earnings come from bundling products with new clients—the ones that have not quite gone beyond banking products? Or would it come from other sources?

Mr Hagger: Last year we had an increase in earnings of about 13 or 14 per cent. Included in that were two key components. One was in relation to improved operational processes. We have been simplifying and modernising our processes, so we had some cost savings through productivity and so forth. Then there was a second area, which is: about five years ago we began an asset management strategy where we acquired some fund managers, and those fund managers are profitable and have assisted our performance.

Senator WHISH-WILSON: Right down to the individual adviser level, do you have benchmarks for advisers on the amount of business they have got to generate—be it fee for service or—

Mr Hagger: Not that I am aware of.

Mr Miller: No, we do not.

Senator WHISH-WILSON: You mentioned that you saw the outcomes of the last Senate inquiry around Commonwealth Bank—around ASIC but the Commonwealth Bank was involved—and then you decided to implement a process. Have you had discussions with ASIC at all or has ASIC come to a bank such as yourselves—or a section of a bank—and said, 'Make sure your house is in order.' Have there been any discussions with regulators?

Mr Hagger: That report that I referred to was entirely proactively driven by me, having heard the committee. In relation to ASIC, ASIC are a regulator on key areas of consumer interest, and also APRA is our prudential regulator and we are in discussions with them all the time on how we can meet higher standards. And we respond to that. To your key question of whether the wealth advice review was responsive to other voices, the key voice we heard was the voice of the Senate committee, and we responded to that.

Senator WHISH-WILSON: One last question: how do you monitor the performance of your financial advisers with a view to detecting poor advice now? How do you do that? If you could do a layman's run-through.

Mr Hagger: I will make a couple of comments and then I will perhaps pass to Mr Miller. I think it would be good if Mr Morath also spoke to the governance in relation to that. We perform a number of detective measures in relation to our system. As I mentioned, the health of our network is incredibly important. So we perform compliance audits. Every adviser is audited every year. Secondly, we perform theme reviews, whereby if we see an issue over here and we think it might be applicable over there, we go there as well. We respond to customer complaints, and that often opens up situations that do not just apply to that single customer. So we go to the other customers who are in similar products or similar situations. We respond to ASIC. Occasionally ASIC will find something across the industry and bring it to us, or they will hear about an adviser and they will approach us and

require things of us, and we will look into that. And finally, we are in the process of shadow shopping as a further detective measure in relation to our systems. So, Greg, perhaps you can speak more to that.

Mr Miller: Sure. Some detail of what we do is we have two roles in our self-employed businesses. We have practice develop managers. Part of their role is to go and examine files when they visit adviser offices. They look at the files to see if they can pick up any trends or issues. We have regional wealth executives, who are managers in the bank. Their job is to go to our bank planners and look through files, end to end, to see if they can find any issues. In addition to that, we have a dedicated team, the business review group, who go out and do annual file audits and do those files end to end. We audit every adviser every year.

We have a team that sits behind that, whereby if we find issues of a major nature we clearly make our decision—and you have seen some decisions we have made about 41, and we will make that. It could be some—

Senator WHISH-WILSON: As a matter of interest, have you found any without customers having to complain?

Mr Miller: We have found some where we have found them doing the wrong thing.

Mr Hagger: Let me give you an example of that in relation to one of the advisers. We had an adviser who was switching all his customers from one platform to another simply in order to scoop the exit fees and lock them in on a new system, and it was not in the customers' interest to do that. It was not through a customer complaint; we saw that. The compliance officer noticed a spike in the revenue related to that adviser. We followed it through. We have written to all the customers and we are making good with all those customers. That is a very proactive measure and it is a sign of the strength of our system.

Senator WILLIAMS: Is this Cowper?

Mr Hagger: No, it is not.

Senator KETTER: With all due respect, it sounds to me as though you have waited until the last possible moment with the coming down of the Senate Economics Committee report in June 2014, having known over the last four years that there have been ongoing issues. The NAB Wealth advice review indicates that you took the opportunity in 2014 to then do a review of the level of confidence in your current processes and controls using Deloitte's? Why is it that you did not do that before? Why did you wait until June 2014 to instigate that?

Mr Hagger: We take every opportunity to improve our systems. I do not want to leave the senators with the impression that our work started in July 2014. The reason we have been around for 125 years is that we keep strengthening ourselves. When I came into my role in April 2013, from the first moment there were positive changes made—positive for customers. That is why we have improved our remuneration arrangements, which were done through that time. We established a management assurance function, which has been very helpful in relation to the strengthening of our controls. We addressed internal audit and risk issues, and we have improved our resourcing. We have also invested millions of dollars in technology. All those things happened prior to the Senate report in June 2014, in effectively my first year as CEO of the business. I want to give you this correct impression, that this is ongoing, continuous improvement for us.

Even with the measures that we have undertaken since last August, we have improved our education standards for planners to be market leading. As I say, we continue to invest millions of dollars in technology. Even with all those additional changes, we have now referred to the next series of initiatives just in the last couple of weeks. These will not be the last initiatives that we apply to improve our systems for our customer; we will keep on doing that. We will be stronger in two years time, in four years time and in 10 years time because we want to get better and we want to be there for all our customers.

Senator KETTER: I understand you have been busy, but whether it is as open and transparent as people would like it to be is another question. I want to go back to some of these figures that we have talked about that you have been good enough to put on the table. With Mr Cowper's clients, there were 430. You did a review of all of the 430 clients and, of those 430, 53 received compensation and that amounted to \$2.4 million—is that right?

Mr Hagger: That is correct.

Senator KETTER: Who conducted that review of the 430?

Mr Hagger: We worked with ASIC on our methodology—

Senator WILLIAMS: Who conducted the review? That is the question.

Mr Hagger: Yes, the review was conducted by us.

Senator WILLIAMS: By you? You did the review?

Mr Hagger: Yes.

Senator WILLIAMS: Right.

Mr Hagger: And I would add, because I think this just adds further weight to our approach, that there are nine cases in relation to Cowper which went to FOS and we then settled those matters through the FOS process. That adds a further level of assurance to the approach that we have taken in that regard. I would go on to say that, if there is any additional compensation that is required in relation to clients of Cowper, then we will pay it and we will pay it willingly.

CHAIR: How do the clients know that they can apply for this?

Mr Hagger: We are going through that process now.

CHAIR: There are 380 people. You have done a private review that they do not know you have done, and you have decided that they do not deserve compensation. But the 380 Cowper clients—and, by the way, you have only gone back three years; this guy was working for you for 10 years, but that is a separate issue. You are saying that, with the 380 clients that have been identified that have not got compensation, you did not contact them; you did your own review and decided they did not deserve to be compensated.

Mr Hagger: That is factually correct.

Senator KETTER: So, over the last five years, you have had 750 customers you have paid compensation to?

Mr Hagger: More than 750, yes.

Senator KETTER: More than 750. And you said that that was \$14½ million. So there are approximately 700 customers to whom you have paid about \$12 million. Is that correct?

Mr Hagger: There are more than 750 customers—sorry; you are doing some maths here.

Senator KETTER: Yes, I am trying to do some maths!

Mr Hagger: Yes. I said more than 750 customers, so it is between 750 and 1,000. If you subtract 53 from that, you have the residual, as you say.

Senator KETTER: What is the figure between 750 and 1,000? Do you have a figure?

Mr Hagger: Earlier on, I quoted a figure of \$14.5 million and I said that was in relation to more than 750.

Senator KETTER: Yes, you did.

Mr Hagger: You are asking for the precise number?

Senator KETTER: Yes.

Mr Hagger: I think I have it here. Just while I find that: earlier on, I pointed out that I would like Mr Morath to speak to the governance. Do you mind, Senator, if we get his answer in relation to that? And I think he wanted to make one clarification in relation to Cowper that might be helpful. Meanwhile, I will find that number for you.

Mr Morath: Senator, on the question you were asking: there was a file review of all 430 clients. Subsequent to that file review, all of the clients met with their new financial planner or planners, and those planners had been instructed to look for any further cases that could lead to complaints. So there was a two-step process there.

Senator KETTER: But those planners are employees of your company?

Mr Morath: They were National Australia Bank financial planners; that is correct. If I could just add one other thing: the board, which I chair, is responsible for compliance. It is not responsible for sales or profits at all. All we are focused on is compliance. We have experienced, non-executive directors who are on that board so they can ask good questions on all matters in regard to compliance. One of things that they oversighted was this review process in regard to Cowper. That was a very extensive piece of work, with a lot of reporting and a lot of questioning, which led to us determining, first of all, as the first step in that process, that all files would be reviewed and, as the last step in that process, that all files had been reviewed and this was the result. The second phase of that process was that all clients then met with their new financial planner or planners, and those planners had to look to see if there was a need for any other complaint to be raised and to be then dealt with.

Senator KETTER: Mr Morath, how can we have any confidence that those customers received advice at that point in time which was transparent and enabled them to make a proper decision?

Mr Morath: We have a governance framework that is all about ensuring that our planners deliver good advice to their clients in a transparent and open process. You have seen the records in terms of where we have a lot of checks in our system. Where we see that does not happen, we take action, and that is what the 41 is all about. That is what gives me confidence. The culture, the way that we interrogate our own management people who deal with advisers and the way that we interrogate the compliance people give me the confidence that those clients would have received good and transparent advice.

Senator WHISH-WILSON: Could I just ask a quick question on this? Has there been any time in the last 10 years when your division has alerted senior management to risks inherent in the business?

Mr Morath: I am a non-executive Director. We had a board meeting earlier this week. We see the people who look after the panels of advisers—these are employees; they work in Greg's area. Before we meet them, we talk to the compliance people. We want to know from the compliance people: are there any people here who are dealing with advisers who are not exhibiting the right behaviours and so on?

Senator WHISH-WILSON: Sorry, Mr Morath. Could you just clarify: are the other compliance people the same people who do the internal audits?

Mr Morath: The compliance people are the people who go out and look at the files of the advisers.

Senator WHISH-WILSON: Sorry, I just wanted to clear that up.

Mr Morath: These are not internal auditors, these are specialised compliance people who know when they look at a file: is this good advice for the client? So we interrogate. We get information from them and then, in an open session, no papers, we ask questions of the people who are responsible for the panel of advisers. So we have got non-executive directors doing that, which brings the independence to it. We have also got the people who are the dealer heads—the heads of the different advisory licensees—and they are part of that as well.

Senator WHISH-WILSON: Bundling these together—no, I did not get an answer to my question, Chair—in the past decade, have you had advice through that process that you described up or across the chain that you have got any issues in financial advice such as we have seen today with our—

Mr Morath: Absolutely, and that is why we have taken action. That is what the 41 is about—

Senator WHISH-WILSON: You have now, but going back over—

Mr Morath: The 41 wasn't just now; the 41 is over that period, and that is a continual process that has happened right through that time.

Senator WHISH-WILSON: so 41 over 10 years?

Mr Morath: No. It is 41 over two years, Senator.

Senator WHISH-WILSON: Okay. So what about if we go back to 2007, 2008, 2009?

Ms Miller: We have been dismissing planners for years and years and years, and we will keep on doing that.

CHAIR: We will come back to you, Senator—

Mr Hagger: Could I just come back? The senator asked me a direct question, and the figure is just under 900.

Senator WHISH-WILSON: So that is 900 customers over the past five years?

CHAIR: Do you have an exact number or just an estimate?

Mr Hagger: I have a figure of 938 for a period that is three months longer than what you are looking at, so that is why it is just under 900. We have come here today, obviously, voluntarily and give you information the best we can. I know there has been some confusion; I apologise for that. But, hopefully you have been able to follow the numbers as we have finally got to them.

Senator KETTER: Just so I have this clear, the 900 relates to the \$12.5 million figure roughly—am I working that out correctly?

Mr Hagger: Yes, I think you are. I think what we are saying is: 900 is the number of customers between 1 January 2010 and 30 September 2014; it is of that range. It might be 883 or something like that, but it is of that range. I can see that you are subtracting 53 customers from that side and \$2.4 million from that side and saying that is the residual—

Senator KETTER: I am trying to be consistent, if that is the—

Mr Hagger: Yes, thank you, and that is entirely the right way to look at it.

Senator KETTER: Let's just break that down a bit further. So we have had eight of the 41 advisers that you have reported to ASIC?

Mr Hagger: Yes.

Senator KETTER: Now, of those 900 complaints, how many are attributable to those eight advisers that have been reported to ASIC

Mr Hagger: Perhaps the best way to describe it is in relation to the compensation—this may be helpful to you, Senator. The 41 advisers amount to approximately \$5.2 million in compensation. In addition, there are five individual areas—for example, one related to insurance—where advice was given. There were questions about

that advice and, very tragically, the customer died during the intervening period and we decided to pay out the claim in relation to that client. So that is included in the compensation figure. So you get these individual cases, particularly as they relate to insurance, which then spike up.

Because we are giving you a figure of nearly five years of data in relation to compensation but are talking about advisers for a two-year period, naturally, there are advisers who we dismissed in those earlier years who contribute to the compensation as well. Apart from the \$5.2 million that we are talking about, relating to the 41 advisers and five individual cases that add up to about \$5 million, it is that residual that relates to the total that I have given you of \$14.5 million. So we are trying to give you lots of data today. Again, I know that that is confusing. Hopefully, this dimensionalises the issue and, hopefully, it also gives a sense of perspective on the size of our system.

Senator KETTER: Just looking at that perspective, Mr Cowper was responsible for 53 claims of compensation?

Mr Hagger: Correct.

Senator KETTER: Resulting in \$2.4 million of compensation?

Mr Hagger: Correct.

Senator KETTER: Is Mr Cowper one of the 41?

Mr Hagger: Mr Cowper is one of the 41 and, as you know, he is also one of the eight.

Senator KETTER: So he is almost half of that pool of—

Mr Hagger: Yes, he is not far off that. That is correct.

Senator KETTER: We have eight planners who were reported to ASIC, is that correct?

Mr Hagger: Correct: eight breach reports and advice to ASIC, yes.

Senator KETTER: You have indicated that ASIC has recently served notices on you?

Mr Hagger: Yes.

Senator KETTER: Can you go to that and tell us a bit more about that?

Mr Hagger: Sure. There were reports in the media of a set of leaked documents. We do not know how those documents were given, and we do not know the circumstances involved, but those documents found their way into the media. As a result of that, the media began to report in relation to the document that I had commissioned. As a result, in the press there was discussion around—as I think I mentioned in my opening statement—37 advisers. I mentioned that there are actually more than that, and that is how you get to the 41. I know that you met with ASIC last week. From ASIC's viewpoint, they saw a bigger number in the press than what we had lodged with them. They know that there are reasons for that; they do not expect us to be reporting every adviser. So they naturally wanted to know the circumstances involved. They hold us to a higher standard, and so they should. They have served notices on us.

Senator WILLIAMS: Come on, you have stepped too far there saying that ASIC hold you to a higher standard. It has been a bloody mess for the last five years through CBA and through Macquarie. Get off the cat's tail, Mr Hagger. That is a bit too far.

CHAIR: Let's take a step back here; I want to get my head around this. You are saying that the processes of the past are not necessarily the processes of today. Part of your evidence is that things have been getting cleaned up and things are continuously getting better at NAB, and that is a good thing. That is something that we should all—

Mr Hagger: I would suggest that we are proud but not perfect, and we are getting better every day.

CHAIR: How do you reconcile that with the risk profile that was leaked? We only found out about that risk profile because it was in the media, and it indicated a sea of red everywhere in operational, compliance and regulatory risks. The extracts of risk reporting revealed through the media tell a very, very different story than the confidence that you have talked about today. You sit here and you keep talking about the confidence that you have, and Mr Morath very eloquently went through the internal processes and the confidence that you have. But your internal reports are raising the fact that there are red flags everywhere, and you are acknowledging that there are red flags everywhere internally, yet when you come out it is kind of a put a face on and say that everything is great.

Mr Hagger: My response to that would be that at any point in time a risk and internal audit, as part of a strong governance and risk management system that we have, will identify areas for elevation to be addressed. We all

know in relation to the financial system as it relates to wealth that there has been very large regulatory change. So there are a number of issues—

CHAIR: I am going to hold you there, because I want to unpack that. Has the group operational risk team at NAB expressed any concerns with your risk profile?

Mr Hagger: Yes, they do. That, of itself, does not affect the overall confidence in the system. For example, the internal auditors do their work—

CHAIR: Explain this to me. You are saying that the group operational risk team at NAB expressed concerns with the risk profile of your team at MLC?

Mr Hagger: For example, in relation to Stronger Super, which is part of the regulatory risk rating that you are referring to, there are 230 areas with which we need to comply, and we are complying with all 230, but it has been very hard work to get there. It has cost millions of dollars to do that, and it is a very complicated and sophisticated program.

CHAIR: Why are you expressing concerns when you are meeting it all?

Mr Hagger: Because it is an area of absolute concern. This is what happens if there is a leaked document that does not have the context of what is understood internally. For internal audit and risk there will be ratings, and we talk about those ratings at our group risk management committee.

CHAIR: You talked about the Deloitte report. Will you release that report?

Mr Hagger: I do not know what has been—

CHAIR: No, there was a Deloitte report and a PWC report which said that you were too slow in dealing with your own breaches.

Mr Hagger: I did say that.

CHAIR: Will you release the PWC report?

Mr Hagger: PWC did their report on the Navigator system. I do not know that is appropriate for the committee.

CHAIR: Is that a public document?

Mr Hagger: No, it is not.

CHAIR: Others have asked for it, but you have not released it. My problem is, Mr Hagger, that you have this attitude that—

Mr Hagger: Who has been asking for it?

Senator KETTER: Chair, let him answer the question.

Mr Hagger: Nobody has been asking for that.

CHAIR: I think we will write to you and ask you for it. Mr Hagger, there seems to be an approach that says there are internal systems and processes that work. NAB seems to focus on identifying a system that works rather than highlighting or red-flagging problems that exist in the system. We hear from whistleblowers and a few others who have come forward—and the NAB has been prepared to apologise to them. The concern is that until there is an independent review process, everything you are saying to us is effectively, 'Trust me; trust me.' We would have confidence in NAB's internals if there was an independent review and an independent system where the clients themselves have the opportunity to challenge what NAB has said. I am not saying that the Commonwealth Bank's system is perfect. You keep talking about the difference between NAB and Commbank, but you need to understand that, from where we are sitting, they look incredibly similar right now. If you are confident that they are not, then why would you not go down an independent process? If there is nothing to hide and nothing to worry about, an independent process would allow those issues to be properly aired.

Mr Hagger: The strength of our culture and systems has helped us to be leading in this industry, and we are very proud of that. We have said today that we are not perfect and that we have heard the Senate and the work you have done. We have looked into it. I proactively commissioned that and I, working with Deloitte, delivered that report to the principal board and the management committees. It was openly discussed in our company. We are proud, but not perfect. We are not resting on the laurels of our industry position, because we know that community expectations are lifting, as is technological capability, and we want to be there for our customers.

CHAIR: Do you believe that the best way of being there is to have an independent system?

Mr Hagger: The best thing we can be doing is exactly what we are doing—which is dismissing planners when they do the wrong thing, and quickly so, and following through. We are now strengthening our systems again for the way we review files, compensate customers and so forth.

CHAIR: Let's be clear: the compensation is less than about \$13,000 per person on average. Is that right?

Mr Hagger: It is a matter of record that since 2009 we have paid \$14.5 million in compensation. This should actually be a sign to you of the strong risk management and governance that we have. We do act on planners. We have a healthy network and we have had that for a long time.

CHAIR: Why not subject it to an independent system then, Mr Hagger? You are doing your own reviews with your own people without notifying the customers. Considering the allegations that are out there, I do not understand why you are not prepared to put together an independent system like Commbank.

Mr Hagger: There is considerable independence in our system. We have independent auditors; we have independent internal auditors; we have the FOS—and you look at the Ombudsman's work in relation to complaints; we have ASIC as an independent regulator; we have APRA as an independent regulator. So we have a great deal of independence—

Senator WHISH-WILSON: With the management that team that you have in place, including a couple of the witnesses here today, how do you remunerate that team? What benchmarks do you have in place for things such as compliance?

Mr Hagger: Sorry, I missed the start of your question.

Senator WHISH-WILSON: In relation to your senior management team, such as yourself—and I am sure there are a lot of middle managers—how do you remunerate them in terms of bonus systems and what weighting is put on things such as compliance?

Mr Hagger: We have compliance gates in relation to all staff and so—

Senator WHISH-WILSON: I thought you said mostly in management?

Mr Hagger: In terms of my remuneration, I have compliance gates, which if I do not meet then no incentives are paid to me. There are three types of incentives at NAB. The first one is base pay. The second one is short-term incentives and they are subject to a balanced score card. This is all set out in our remuneration report. The balance scorecard includes risk and compliance measures and it includes deferral of incentives. By the way, we upgraded the NAB financial planning remuneration systems in June 2014 before the Senate report came out.

Senator WHISH-WILSON: As a matter of interest, do you work with ASIC? Do you look at your competitors? How do you come up with your balance scorecard?

Mr Hagger: The remuneration committee of the bank oversees that process, and it is subject to shareholder vote, and so forth, in terms of the remuneration report. And there are proxy advisers that give their opinions in relation to the strength of the remuneration systems. A little like the compliance systems that we are talking about today, the remuneration systems have been strengthened at NAB considerably in the last five, six, seven years.

Senator WHISH-WILSON: What the committee has discovered from our recent inquiries is that there are things that are tangible and then there are things that are intangible, such as culture and that inner sales was driven by culture. We tend to have an issue where management perhaps are less concerned about potential breaches and, shall we say, bad behaviour

Mr Hagger: About sales driven cultures, it is a—

Senator WHISH-WILSON: It is a sales driven culture though.

Mr Hagger: If you look at MLC's track record, if there is any criticism of MLC it is that there has not been enough sales being driven, because we do the right thing by the customer and we have a very proud track record in relation to that.

Senator WILLIAMS: Mr Hagger, you mentioned ASIC a few times. You obviously work closely with ASIC?

Mr Hagger: I do not particularly work closely with them—

Senator WILLIAMS: Right.

Mr Hagger: but both ASIC and APRA have meetings with us on various topics from time to time.

Senator WILLIAMS: I was quite amazed when ASIC was doing a media release on you and actually sent a draft release for your approval.

Mr Hagger: Yes, I have been asked about that. There are five occasions in relation to ASIC media releases where we have been sent a draft media release and given a short period of time to comment on the factual accuracy of the media release.

Senator WILLIAMS: It is just about accuracy is it? When they send you a draft media release for you to check, it is only on figures and accuracy—

Mr Hagger: We look at accuracy. Where the question came up was in relation to the navigator issue, which we talked about—

Senator WILLIAMS: Okay, we have run out of time. I will drop that issue.

Mr Hagger: I do want to say that we did find the factual—

Senator WILLIAMS: Mr Hagger, you are a very good speaker. You ought to go into politics one day. We are running out of time fast. Mr Hagger, convince this committee that what you are doing today has cleaned up your act, briefly please, with your financial planning?

Mr Hagger: We are saying we have got a proud track record. It has got stronger and stronger by the day. We have a strong system. We have been there for our customers, but we are not perfect. And we were demonstrably not there for Ms Coulston, and we need to get better and when we see issues we fix them. We are getting stronger by the day and we are implementing new measures by the day.

Senator WILLIAMS: Okay, stronger by the day is your favourite line. Let me say this: what have you done to identify rogue planners these days?

Mr Hagger: A number of things: I talked earlier about compliance a; I talked about theme audits; I talked about customer complaints; I talked about ASIC's work; and now we are bringing through shadow shopping. We have managers who review files, so we have strong detective measures through our systems to identify planners.

Senator CANAVAN: I want to ask about a Mr Alfie Chong who, I understand, last year left NAB and has been reported now to be working for NEO financial services. Did NAB respond to NEO in any way or provide advice to NEO on Mr Chong's performance at NAB Wealth?

Mr Hagger: Not my knowledge.

Senator CANAVAN: It was reported in *The Sydney Morning Herald* that NEO financial services asked comprehensive questions but received nothing about any concerns or hints that there were problems. You dispute the fact that they had asked you comprehensive—

Mr Hagger: I am saying: not to my knowledge. I was asked that question by the Fairfax reporter and I said, 'Can you show me—'

Senator CANAVAN: Not to your knowledge. Have you checked with Meritum?

Mr Hagger: I have checked. I have talked with the head of compliance in relation to Meritum. I have also talked with the general manager of Meritum. Both of them say that they have not done that. I am saying 'to the best of my knowledge' because I do not know whether there is a document there. The whole theme of references has been a thing well discussed amongst us—

Senator CANAVAN: It has been, that is why I asked.

Mr Hagger: so I fully understand that. On that particular instance, the answer is: not to my knowledge.

Senator KETTER: You have asked us to take on trust the processes that you have put in place to rectify this. It is hard to grant that trust to you when your own documents talk about the fact you have:

suspended, terminated or ensured resignations of 31 NAB financial planners and aligned advisers over the past two years—

This is going back from the middle of last year—

due to conflicts of interest, inappropriate advice, inappropriate practices or serious repeat compliance breaches,

How can we do anything other than form the view that there is a systemic problem within the company and that there needs to be an independent review to clear the air?

Mr Hagger: What I would say is that it is a demonstration of the health of our system.

Senator KETTER: This report was leaked. It is not something you have volunteered.

Mr Hagger: This report was commissioned by me, wanting to make a—I am the leader of the business. I want it to be strong, and it is a healthy—

Senator WILLIAMS: You did not want this to be public though.

Mr Hagger: This is an internal document. It was not written for public consumption. The point that I am making to you is that it is part of a healthy system. I mentioned earlier, when Senator Williams asked me the question of where I was before, I was at PwC. In any profession—the accounting profession; the medical profession—as soon as you get, in our case, 1,700 advisers, at some point, there will be an adviser who does the wrong thing. The mark of a good organisation is what you do at that time. We act on those advisers, and that is for the benefit of our customers.

Senator WHISH-WILSON: In relation to those critics, and I know the Murray financial service inquiry looked at this issue and raised commentary around it, vertically integrated business models—that you are a part of—have a cultural problem. Are you totally dismissive of that? Are you saying it is a situation with a couple of bad eggs?

Mr Hagger: I can best describe—if we are at an end, I would like to finish in camera with a story, if you are prepared for that; otherwise—

CHAIR: I have one or two things I was going to ask.

Mr Hagger: I would like to mention a situation, which I think goes squarely to the answer of your question. It seems we are at the end. I know in cameras can be quite frustrating, but if it is—

CHAIR: We will go in camera briefly, right at the end. We are happy to do that. It seems like this is where there seems to be a gulf—I do not speak on behalf of other senators—from where we are and from where you are. I want to be very honest and have a frank few-minutes conversation with you about this.

We look at it from the perspective of having gone through the saga of the Commonwealth Bank, having heard from so many victims and having seen so many issues that have gone on there. You come at it from the perspective that says, 'Hang on, this is a bank that has been doing the right thing and trying to address the issues and we're trying to front-foot these issues by having these reports.' That is the gulf we have—from where we come at it and from where you are coming from.

I am talking about the solution to this. Your evidence is that we should have faith, we should have trust, in the systems that you have created, in the compensation schemes you have created, and the fact that it is a demonstration of an institution that has been doing the right thing. From where we are sitting, having gone through all of this with the Commonwealth Bank before, to us it looks like *déjà vu*. It looks like we are going to be, in three months time, going through this again, when more stuff comes out, when more whistleblowers come out and we find the problem is deeper and deeper.

The point I want to stress is that that gulf is easily resolved if the National Australia Bank front-foots this and says: 'We're going to establish an independent process. We're going to write to the customers of the eight.' Two things are obviously happening. ASIC is working out whether more than just the eight of the 41 breaches deserve to have it. We know this. This is evidence we have. They may come back to you and say, 'Out of the 41, six more of them should have had report breaches.' But let us say we have eight at this point in time. This would be solved very quickly if you were prepared to write to the customers of the eight planners that you yourself have identified as having committed serious breaches and give them the opportunity of a review of their file, in which they are involved, and an option, if they are unhappy with that review, for an independent process to then re-review that file. If you were prepared to go down that path, Mr Hagger, I think you would find the gulf of where you believe you are at and where we are concerned that you are at would actually be bridged very quickly.

Mr Hagger: There are two things I would like to say in response to that, because I think that gets at the heart of your discussions. Firstly, in my opening statement, I mentioned that, where there has been professional misconduct over the past five years, we will write to all customers. I have said that.

CHAIR: So you are committing now that you will rewrite to all the eight?

Mr Hagger: I am not just committing that now. Group CEO Andrew Thorburn committed that—

CHAIR: It was not clear with Mr Thorburn. Perhaps I misunderstood his comments. He said, 'We write to people.' That was my understanding. You are saying that, since the media reports in recent weeks, you are going to rewrite to all the customers of the eight for whom we know there are breaches? And there may be others where ASIC comes to you and says that you should have done a breach report for them.

Mr Hagger: Perhaps I can give you the words of my letter to Mr Greg Medcraft of 24 February, where I said: 'Where an adviser departs and we believe that the adviser has provided inappropriate advice, we will undertake a review of files on a basis agreed with you. Where you consider it to be appropriate, we will write to all customers of that adviser. In addition—'

Senator WILLIAMS: What condition are your files in? We had a witness earlier on that could not even get the original documents, the signing of the loans. Are your files in good order or have they been tampered with?

Mr Hagger: We believe our files are in good order. I am aware of the situation in relation to Ms Coulston in relation to loan documents.

Senator WILLIAMS: An empty envelope.

Mr Hagger: I understand that.

CHAIR: We are going to quickly go into camera. Mr Hagger has asked—

Mr Hagger: The other point, if I could just finish with this, is that I hope it actually gives the committee confidence that I had commissioned that report, listening to the Senate. When you talk about this gulf, I commissioned this report as the leader of the business. I want our business to be strong and I want it to be there for our customers, and that is why I commissioned this report. The fact that we did not intend for this internal document to be leaked should actually give you confidence about the contents of this document, and the contents of this document concluded that we do not have the systemic issues of the nature that you discussed in relation to CBA and Macquarie. But we are not perfect, and that is why we are improving our systems.

Senator WILLIAMS: Time will show that, depending on the emails that come to us and what develops in the future. Now it has been out in the media, time will say if what you have just said is true and correct.

Mr Hagger: To the extent that emails not only come to you but come to us, if we find more customers that deserve compensation, we will pay it.

Senator WILLIAMS: If you have got evidence of criminal activity—forging signatures et cetera—do you forward that to the DPP or the police?

Mr Hagger: I met this week with New South Wales police to clarify that. In relation to misappropriation of client funds, we absolutely do, and we have a very good relationship with the police. That is ongoing. Where there is something of the nature of a file reconstruction, which can occur in various ways—

Senator WILLIAMS: Forging signatures to be compliant et cetera.

Mr Hagger: Yes. In those situations, our policy is to report those to ASIC. I met with New South Wales police on Monday. I met with Detective Superintendent Arthur Katsogiannis from the Fraud and Cyber Crime Squad, and I asked him for his clarification as to whether our processes are appropriate in the way that we are handling this, and he said, 'Yes, they are.'

CHAIR: Mr Hagger, we are about to go in camera, but before we do I want to put on the record again our appreciation, and I want to acknowledge that others from your team—and they know who they are—have been in contact with us and you have been making yourself very available, and we do appreciate that. We know how valuable your time is, and you have been more than accommodating with our committee and our inquiry. Thank you very much.

Committee adjourned at 14:50