Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

AMP Group Submission
Response to Interim Report

26 October 2018

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OVERVIEW

1. AMP welcomes the opportunity to make a written submission in response to certain issues that have emerged in the Interim Report.

2. This submission complements the three other submissions AMP has previously provided to the Commission in response to the policy and general questions for Round 2 (Advice), Round 5 (Superannuation) and Round 6 (Insurance) of hearings.

3. The Interim Report draws attention to failures of various participants in the financial services system and seeks to identify the underlying causes of acknowledged and possible misconduct and conduct that does not meet community expectations.

4. Having identified the issues put before it to date, the Commission contemplates how best to avoid recurrence of this conduct.

5. This submission is structured as follows:

    a. Part A addresses key issues grouped by theme, including:

        i. Conduct, culture and corporate governance;

        ii. Remuneration and conflicts of interest;

iii. The legislative and regulatory framework;

iv. The effectiveness of the regulators; and

v. Structure and vertical integration.

b. Part B addresses specific policy issues, including:

i. Grandfathering of commissions;

ii. Ongoing service fees and two-year fee agreements;

iii. Affordability of advice; and

iv. Remediation.

6. Where AMP has not responded to a particular issue identified in the Interim Report, no conclusions should be drawn as to AMP's position on that matter.

7. This submission does not address specific comments made, and conclusions expressed, in the Interim Report in respect of the financial advice case studies concerning AMP. AMP has previously made submissions in relation to the matters which were the subject of those case studies. By not addressing any particular comment or conclusion, AMP is not to be taken as accepting or agreeing with it.

Part A: Response to Key Issues

Conduct, culture and corporate governance

Question: How can we address the root causes of misconduct, which often lie with the systems, processes and culture cultivated by an entity? (p 87; p 316)

8. The Interim Report observes that 'good culture and proper governance cannot be implemented by passing a law'.[1] As the Final Report of the FSI noted, 'culture is a set of beliefs and values that should not be prescribed in legislation'.[2] AMP agrees.

9. We believe that culture can be most effectively governed internally, through ongoing consideration, investment and alignment of behaviours, systems and processes. These include:

a. a clear tone and expectation set by the leadership (including the Board) and regular monitoring that this is being reflected in practice throughout the organisation;

[1] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Interim Report, pg. 320
[2] Financial System Inquiry, Final Report, pg. 7

b. systems and processes that reinforce the tone from the leadership such as open two-way communication, clear accountabilities (including risk management) and consequences, systems to ensure employees have the capability and capacity to fulfil their accountabilities and timely risk management data and insights; and

c. an inclusive and open environment where all employees feel safe to speak up and challenge – knowing that these challenges are valued and form part of our decision-making processes.

10. AMP believes that the design and effective operation of risk management frameworks, policies and procedures are critical to guiding conduct and effective culture. It is important to address potential conflicts of interest that may arise through corporate structures to increase overall accountability.

11. As noted above, AMP agrees with the proposition that systems, processes and culture cannot be prescribed by legislation. No two organisations will have the same culture and so it is very difficult to prescribe what that should be.

12. People systems, such as the recruitment process, performance management, leadership development and remuneration arrangements, need to reinforce the cultural expectations.

Question: Prevention and detection - The large entities did not prevent fees being charged for no service. They had neither the systems nor the processes to know whether their authorised representatives were delivering what had been promised; what is being done to address this problem? (p 131)

13. AMP has acknowledged certain failings consistent with the evidence which is before the Commission in relation to the fee for no service issue. We have taken, and continue to take, action to ensure that these failings do not recur – including enhancements to advice systems, processes and governance, and the identification and remediation of affected customers.

14. In acknowledging our failures, AMP does not accept the Commission's view that large entities did not make efforts to prevent fees from being charged for no service and that systems and processes were not in place.

15. As a general point, AMP notes that many of the large entities have been investing heavily in compliance and supervision systems in recent years. They have also been:

a. resourcing advice compliance and related functions;

b. improving escalation of matters or issues raised during supervision;

c. recruiting executives with appropriate expertise and independence to have oversight and decision-making about the impact of adviser breaches; and

d. investing in automation of compliance systems with escalation frameworks included.

16. In relation to AMP, we have been proactive in dealing with these issues and took extensive action prior to the announcement of the Royal Commission to address the problems raised by the Commission.

17. AMP has done this in a number of ways, including:

- acting on matters of conduct;
- identifying and remediating customers for instances of fees being paid where services have not been provided;
- moving to centralise AMP's regulatory engagement;
- establishing the Advice Business Review Program; and
- strengthening the governance framework.

18. AMP also notes that the financial advice industry has been the subject of significant legislative change over recent years. In the few decades since life insurance agents began to offer advice, the industry has been transformed from a sales-based culture, with no barriers to entry, towards a fully developed profession. We believe that these are positive developments, particularly the introduction of FASEA, which will also serve to address some of the issues raised by the Commission.

Remuneration and conflicts of interest

Question: What can or should be done about remuneration practices and policies? (p 317)

19. The Commission has raised a series of matters in the Interim Report regarding remuneration in the finance sector, including (but not limited to):

a. the role of remuneration practices and policies;

b. the role of remuneration disclosures; and

c. the impact of Banking Executive Accountability Regime (BEAR) and other reviews.

20. To assess what can or should be done in respect of remuneration practices and policies, it is important to consider the present arrangements. These are discussed below.

The role of remuneration practices and policies

21. AMP considers that remuneration arrangements are one component of the framework that drives behaviours and attitudes within an organisation and that these arrangements should be continually reviewed. We believe that it is important remuneration structures support the desired risk management, behaviours and conduct and do not focus entirely on short term financial performance.

22. There is no one 'right' remuneration model for all businesses and all situations. It is important to remember that there are a significant number of stakeholders who have an interest in remuneration practices including customers, employees, shareholders, proxy advisers, regulators and the community. These interests may not always be aligned, and businesses need flexibility to respond.

23. AMP also notes that remuneration arrangements must be market competitive to attract and retain the people needed to deliver an organisation's strategy and provide strong leadership. More particularly, AMP considers there is a role for incentives to play as part of an appropriate remuneration structure. Incentives operate as a signal to employees, shareholders and customers as to what is important in the organisation. Not using incentives to signal the right behaviours and discourage the wrong behaviours would be missing a key opportunity.

24. In offering incentives, organisations must ensure that the alignment with customer interests is genuine and that the right signals are reinforced to the workforce.

Role of remuneration disclosures

25. AMP considers that there are already significant disclosure requirements around remuneration. Companies have scope through the existing disclosure regimes to describe the different metrics, including customer-related matters, that factor into remuneration. The existing disclosure requirements are already complex and comprehensive.

The impact of BEAR and other reviews

26. AMP Group supported the introduction of BEAR and AMP Bank is in the process of implementing systems and processes to comply with the requirements and obligations of the BEAR reforms. In addition, AMP has applied the remuneration

requirements of BEAR to a broader pool of senior executive employees within the business. AMP notes that financial entities are also responding to the recommendations of the Sedgwick Review and are doing so well ahead of the 2020 implementation date. Financial entities have invested a significant amount of time and resources in implementing these reforms. Against this background, AMP believes it is important that these recently introduced reforms be given time for their full benefits to be achieved.

The legislative and regulatory framework

Question: Is the law governing financial services entities and their conduct too complicated? (p 339); if so how should financial services law be simplified? (p 346)

27. AMP supports renewed government efforts to review and remove unnecessary and inefficient regulation in the financial system. We strongly believe that the clarification and simplification of existing laws should be prioritised over the introduction of new legislation or regulation.

28. AMP also believes legislative reform must take into consideration the global framework, have a greater focus on competition and be subject to extensive consultation.

29. As a starting point, we note the Commission's proposition as outlined in the Interim Report:

> *There is every chance that adding a new layer of law and regulation would serve only to distract attention from the very simple ideas that must inform the conduct of financial services entities:*
>
> - *Obey the law*
> - *Do not mislead or deceive*
> - *Be fair*
> - *Provide services that are fit for purpose*
> - *Deliver services with reasonable care and skill*
> - *When acting for another, act in the best interests of that other*
>
> *The ideas are very simple. Their simplicity points firmly towards a need to simplify the existing law rather than add some new layer of regulation. But the more complicated the law, the easier it is to lose sight of them.*[3]

[3] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Interim Report, pg. 290

30. AMP supports the Commission's proposition that additional laws and regulation may be counterproductive.

31. While the stated objectives of financial services legislation are simple, AMP recognises that this is a complex and technical area and laws are undergoing constant review. Any radical simplification of the legislative and regulatory regime would need to maintain the balance between simplification and clarifying technical matters.

32. AMP believes that any proposals for legislative reform must consider the global framework and global trends to ensure that reduced compliance burdens are consistent with international standards.

33. Competition should also remain the foundation of the financial system as opposed to government intervention. As the Final Report of the FSI acknowledges, 'competition drives efficient outcomes for price, quality and innovation'.[4]

34. Finally, should the Commission recommend changes to the current legislative and regulatory framework, it is appropriate that these changes be the subject of extensive consultation with all government, regulators, industry associations and customer stakeholders to ensure that any reforms achieve the appropriate balance.

Effectiveness of the regulators

Question: Is ASIC's remit too big?

35. The Final Report of the FSI acknowledges that while ASIC has a very wide remit, it has limited powers and resources.[5]

36. AMP notes that since the FSI, the Commonwealth Government has further expanded ASIC's remit – such as including competition as part of its mandate – while making several changes and enhancements to its powers and capabilities.[6]

37. AMP acknowledges the important role of the regulators in ensuring the efficient operation of the financial services system. In this regard, the quality of oversight that a regulator can provide is contingent on the regulator having the necessary powers and adequate resources.

38. AMP believes that any expansion in a regulator's remit should be coupled with appropriate powers and resourcing to support those additional functions.

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[4] Financial System Inquiry, Final Report, pg. 9
[5] Financial System Inquiry, Final Report, pg. 236
[6] See, eg, Treasury Laws Amendment (Enhancing ASIC's Capabilities) Bill 2018 and ASIC Capability Review.

39. Additional resourcing may go some way to enabling the regulators to act more promptly, but care needs to be taken, given that some of the regulators are industry funded – to ensure that due process and due accountability is embedded in any new regulatory structures or procedures.

Question: Is the regulatory framework operating effectively? (p 267 onwards)

40. As noted above, AMP recognises that the regulators have been subject to several and significant changes to their remits and responsibilities over several years. We also acknowledge that, at times, these changes have not been supported with a corresponding increase in a regulator's powers and/or resources.

41. Against this background, while AMP does not believe there is need for wholesale changes to the regulatory framework, we do think improvements can be made to make it operate more effectively (see below).

42. The current twin peaks regulatory structure (ASIC and APRA) is a product of the Wallis Inquiry, which handed down its Final Report in 1997. Since the Wallis Inquiry, there has been competing public policy principles when developing a regulatory framework for the Australian financial services industry.

43. The Final Report of the Wallis Inquiry recommended clearly defining the regulatory responsibilities for each regulator, namely:

    a. APRA for prudential regulation;

    b. ASIC for market conduct and consumer protection; and

    c. the ATO for tax and specific issues such as SMSFs.

44. At the time of their establishment, there were well defined roles for each of the regulators, however, over time their roles and responsibilities have blurred.

45. We note that, as part of its Terms of Reference, the FSI assessed 'the effectiveness and need for financial regulation, including its impact on costs, flexibility, innovation, industry and among users'.[7] In considering the areas for improvement, the FSI was guided by a number of principles, which included that:

    a. the regulatory system must have highly skilled, effective regulators that are both independent and accountable for discharging their mandates;

    b. regulators and regulation must be forward looking, with the flexibility and capability to cope with a changing environment; and

[7] See Financial Services Inquiry, Terms of Reference: http://fsi.gov.au/terms-of-reference/

c. regulation and regulators should be cost effective, and the benefits of regulation should outweigh the costs.

46. AMP agrees with these principles. We are of the view that they remain valid and should guide any policy discussion about reform in this area in the future.

47. It is critical to the effectiveness of any regulatory system that the principles which it is seeking to regulate and enforce are properly understood. In the absence of this clarity, it is difficult to see how a framework for effective regulation can be developed and implemented in a manner that consistently achieves better outcomes for customers.

48. As noted above, AMP believes improvements can be made to the current regulatory framework to ensure it operates more efficiently. We support measures that will provide greater clarity around the roles of ASIC and APRA.

49. In this respect, several changes could be considered, such as:

a. the establishment of a mechanism for the government to hold the regulators accountable for their overall performance. The FSI proposed the establishment of the Financial Regulator Assessment Board (FRAB) to assess the performance of the regulators against their mandates. This reform was not adopted but should now be reconsidered;

b. the FRAB could provide advice to government, based on the FRAB's assessment of the regulators performance, on how best to nuance or rebalance the regulators' portfolio responsibilities;

c. the Government currently sends a 'Letter of Expectations' to each of the regulators at the commencement of each term of government. The letter provides a clear set of expectations to each regulator. The letters should be updated annually, and the regulator held accountable to the contents contained in the 'Letters of Expectation'. An annual review should be undertaken by an expert panel reporting to the Government to ensure that the regulator is meeting its commitments to the Government and that they operate in a cost-effective way. One objective is to ensure that the regulatory benefits exceed the regulatory costs;

d. that there is a need for greater clarity in regulatory guidance and the definition of terms; this would assist the industry with more consistent interpretation of the terminology. A good example would be a definition of 'community expectations';

e. that there is an inherent conflict of interest in relation to ASIC receiving the fines directly or indirectly that they impose on the financial services sector;

f. that consideration should also be given to the approach adopted by the Financial Conduct Authority (FCA) in the UK towards penalties and fines which adopts a proportionality approach which ensures that fines reflect the extent of the damage and act as a deterrent; and

g. that the ATO should continue to supervise SMSFs.

Structure and vertical integration

50. The Interim Report raises certain concerns in connection with vertically integrated models for financial services entities.[8]

51. Vertical integration exists throughout the industry, with integrated business structures in both the retail and industry fund sectors. Such structures exist across the financial sector and have developed and evolved over a very long period. They are commonplace around the world.

52. AMP believes that there are many advantages of vertically integrated structures and that no recommendation should be made by the Commission which would limit an entity's commercial flexibility to adopt a vertically integrated model, as and when it considers it appropriate to do so.

53. We submit that the concerns raised in the Interim Report do not justify a recommendation of this kind.

54. In our submission to General Questions arising from Round 2 (Advice), AMP detailed some of the advantages of vertically integrated structures.[9]

55. Industry structure has been considered as an issue over many years. AMP agrees with both Treasury and ASIC that there are many benefits to customers of integrated models and that structural separation is not required, provided that there are appropriate controls in place to ensure that conflicts of interest are appropriately and effectively managed.[10]

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[8] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Interim Report Volume 1, pgs 79-80, 138, 155

[9] Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, AMP Group Submission Counsel Assisting's General Questions in Closing Submissions, pgs 8-9

[10] Treasury, Financial Services Royal Commission – Background Paper 24: Submission on key policy issues (13 July 2018) (**Treasury Submission**), pg 50-55; ASIC, Submissions to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry – Round 2: Financial Advice (**ASIC Round 2 Submissions**), pg. 30

56. Treasury's view in its submission to the Royal Commission is that 'structural separation would also be complex and disruptive and could have unintended consequences'.[11] We also note that Treasury agrees there are benefits of vertical integration and that recent or soon to be introduced reforms and other potential reforms that the Royal Commission could recommend, along with heightened attention by firms and ASIC, should be sufficient to mitigate risks involved.[12]

57. Similarly, ASIC in its submission to the Royal Commission noted that there were benefits of 'vertical integration', as set out in ASIC's Report 562 - Financial advice: Vertically integrated institutions and conflicts of interest.[13] It believes that conflicts arising from a vertically integrated model need to be carefully managed to ensure best interest obligations are satisfied. ASIC reached the view that it should be possible for licensees to effectively manage the conflicts of interest associated with providing personal advice to clients and manufacturing financial products. ASIC concluded that it should not be necessary to enforce the separation of products and advice.[14]

58. It should be noted that structural changes would also introduce new (albeit different) costs into the system that would have to be borne by someone and a new set of risks that would need to be managed/mitigated.

59. As indicated above, customers benefit from vertically integrated business models.

60. For example, in our submission to the Royal Commission on 7 May 2018 AMP outlined some of the benefits to consumers including:

    a. economies of scale which benefit consumers;

    b. potentially lowering the cost of advice;

    c. convenience of a relationship with a single financial institution;

    d. perceived safety in dealing with a large institution;

    e. having access to different forms of advice (phone, on-line, face to face);

    f. having trust in the institution; and

    g. that large institutions stand behind the advice that authorised representatives provide to customers and have the capacity to do so.

[11] Treasury Submission, pg. 50
[12] Treasury Submission, pg. 50
[13] ASIC Round 2 Submissions, pg. 4
[14] ASIC Round 2 Submissions, pg. 30

61. Customer choice is also an important consideration. Different industry structures suit the needs of different customers. Vertically integrated businesses provide benefits for some customers (such as known brand, capital backing and security).

62. Vertically integrated models also assist regulators with cost-efficient industry compliance and monitoring, as ASIC is able to liaise with large institutions rather than with hundreds of individual and very different financial entities. Larger structures are more likely to have the resources to develop, manage and supervise advisers (and in doing so prevent advisers from promoting inappropriate products).

Part B: Response to Specific Issues

Grandfathering of commissions

63. The Interim Report considers at length the issue of grandfathered commissions (see pages 94-97) and discusses AMP's position as contained in the AMP Group submission dated 7 May 2018.

64. As AMP notes in that submission, there was an explicit decision made by the Government at the time to grandfather pre-existing commission contracts. These discussions were on-going both at the time the legislation was being drafted and again when it was debated in the Parliament.

65. In order to secure passage of the legislation, the then Assistant Treasurer and Minister for Financial Services and Superannuation – the Hon Bill Shorten MP – gave a number of commitments to advisers, one of which related to grandfathered commissions. These commitments were set out in detail in the Minister's press release dated 29 August 2011.[15]

66. In that press release, the Minister stated:

> *the ban on conflicted remuneration (including the ban on commissions) will not apply to existing contractual rights of an adviser to receive on going product commissions.*
>
> *This means that, in relation to trail commissions on individual products or accounts, any existing contract where the adviser has a right to receive a trail commission will continue after 1 July 2012….*

[15] The Hon Bill Shorten MP, 'Future of Financial Advice Reforms – Draft Legislation' (Media Release no. 127) dated 29 August 2011

67. In the background material attached to the Press Release, the Minister was even more explicit:

> *Following legal advice from the Australian Government Solicitor, the Government has determined that the ban on conflicted remuneration (including the ban on commissions) will not apply to existing contractual rights of an adviser to receive ongoing product commissions.*
>
> *This means, that in relation to trail commissions on individual products or accounts, any existing contract where the adviser has a right to receive a trail commission will continue after 1 July 2012, or in the case of certain risk insurance policies in superannuation, 1 July 2013. This means that trail commission will continue to be paid in these circumstances.*

68. The passage of the FoFA legislation was highly contentious at the time. It is doubtful whether the FoFA legislation would have passed through the Parliament at all and become law had the Minister not provided the above reassurances to advisers.

69. In light of the above, it is arguable whether the statement included in the Commission's report on page 97 that 'the grandfathering arrangements were temporary and exceptional measures' is factually accurate.

70. We note that Treasury stated in its submission to the Royal Commission dated 13 July 2018 that to end grandfathering would be 'complicated and difficult to legislate'.[16]

71. Treasury also indicated that the removal of grandfathered commissions was not straight forward and could negatively impact the viability of some financial advice practices, with implications for their owners, employees and customers.[17]

72. It is also important to recognise that both ASIC and Treasury noted there may be constitutional issues associated with banning grandfathered commissions.[18]

73. In short, there is considerable history and previous commitments given by ministers to advisers that make the issue of removing grandfathered commissions problematic. Transitioning away from grandfathered commissions is not easy; it needs careful consideration before decisions are taken. It is for that reason that AMP has taken a cautious approach to the issue of ceasing grandfathered commissions.

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[16] AMP, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry – AMP Group Submission: Counsel Assisting's General Questions in Closing Submissions, pgs 7-8

[17] Treasury Submission, pg. 45

[18] Treasury Submission, pg. 45 at footnote 121; ASIC Round 2 Submissions pg. 3 at footnote 20

74. In AMP's response to Counsel Assisting's questions in the superannuation round, we elaborated on the position included in our 7 May 2018 submission.[19] Our modified position recognises the legacy issues associated with grandfathered commissions and the unfairness of legislating away property rights, but also recognises the change in sentiment around grandfathered commissions.

75. AMP's position is outlined below:

    a. we agree with Treasury and ASIC that there may be constitutional issues associated with banning grandfathered commissions;

    b. we note that legislative measures to remove grandfathered commissions risk extinguishing the property rights of existing contracts and accordingly that AMP does not support legislative measures of this nature;

    c. however, in light of community sentiment surrounding grandfathered commissions, AMP supports transition away from grandfathered commissions in a manner and timeframe agreed with the industry together with appropriate legislative reform including:

        i. Government and regulatory facilitation for scoped advice (for example the ability to be able to provide a Record of Advice rather than a Statement of Advice); and

        ii. Government support for the removal of impediments to the transition for members, for example capital gains tax relief;

    d. such legislative measures would aid in the transition to contemporary products without grandfathered commissions, if it is in members' best interests to do so. For example, it may make transitioning out of products more cost effective and efficient; and

    e. we support increased and transparent disclosure and reminders of grandfathered commissions in members' annual statements throughout the transition period.

76. A reasonable transition period is required to provide sufficient time for industry participants to implement required changes, including to business models, systems, disclosure documents, advice and communications to members, to minimise

[19] AMP, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry – AMP Group Submission: Counsel Assisting's Policy and General Questions in Closing Submissions for Round 5, pg. 11

unintended consequences for customers, financial advisers and the community in general.

77. AMP notes the comments contained in the Commission's Interim report that 'some entities have overcome the arguments against removing grandfathered commissions, and now consider it advantageous to do so' (p 97).

78. Most of the entities that have removed grandfathered commissions have removed them for their employed advisers rather than addressing the issue amongst their authorised representatives.

79. Ceasing grandfathered commissions for authorised representatives is much more challenging as these are usually self-employed small businesses.

80. Finally, AMP endorses APRA's views in their recent submission in response to Counsel Assisting's closing submissions on superannuation, which include that 'APRA does not accept as a blanket proposition that grandfathered commissions looked at in the overall context of members' best interests are necessarily contrary to those interests based on the current state of the law, the current structure and operations of most RSE Licensees and the superannuation industry as a whole.'[20]

Ongoing service fees and two-year fee agreements

81. Ongoing service fees are a fee option provided to clients in accordance with the opt-in renewal notice and Fee Disclosure Statement (FDS) regime introduced under FoFA. This means that every two years, a client receives a notice from their financial adviser and must opt-in to continue the ongoing service arrangement with their adviser.

82. In this way, ongoing service arrangements are more appropriately termed a 'two-year service arrangement' rather than an 'ongoing service arrangement' as each client must opt into the arrangement every two years for the arrangement to continue.

83. In addition, under the current regulatory regime, an FDS must be provided to each client every 12 months setting out the following:

    a. the services that the client and adviser had agreed would be provided over the course of the year;

    b. the services that the client actually received from the adviser; and

[20] APRA, Submissions to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry – Round 5: Superannuation, pg. 5

c. the cost of those services.

84. AMP supports providing choice to customers in the way that they pay fees for services from their financial adviser in relation to their superannuation, including upfront one-off service fees, ad-hoc one-off service fees and ongoing service fees. We also support choice for superannuation members to pay these fees from both inside or outside their superannuation account, depending on the customer's preference.

85. The advantages of ongoing service arrangements include:

a. regular ongoing personal interactions between the financial adviser and the customer;

b. the ability for the customer to contact the adviser at any time throughout the year;

c. the provision of information and services in relation to changed regulatory and legislative conditions, for example in the Federal Budget context, or when legislation or Centrelink rules change; and

d. the capability for immediate contact with the adviser in the event of changes to market circumstances.

86. An ongoing relationship with a financial adviser is both important to customers and highly valued by them.

87. Furthermore, the payment of ongoing service fees from superannuation accounts provides members with a tax-efficient and cashflow effective payment option.

88. In addition, AMP believes that product issuers and trustees should do more to ensure that the fees deducted from a superannuation account have been approved by the member. AMP advocates for ongoing service fees to be automatically switched off by the product issuer after two years, if the product issuer has not received confirmation that the member has agreed for the fees to continue. This process should be automated to improve control and overall member outcomes.

89. AMP also supports working with advice licensees to manage the process of obtaining client confirmations for ongoing service fees on a timely basis.

90. AMP believes that such an automated process initiated by the product issuer in relation to ongoing service fees being paid from a member's account would mitigate the risks identified as matters of concern for the Royal Commission and satisfy ASIC's view as stated in its submission to the Royal Commission, that 'platform

operators should be expected to have controls in place to ensure that fee recipients are legally entitled to the funds removed from client funds'.[21]

91. AMP also supports measures to provide greater transparency to members of ongoing service fees paid from their superannuation accounts on their annual statements.

92. For these reasons AMP does not support legislative intervention to remove ongoing service fees paid from a client's investment account. AMP is concerned that this would have a significant negative impact on customers and result in unintended detrimental consequences including making financial advice less affordable and less accessible to those who need it most.

Affordability of Advice

93. The Letters Patent of the Royal Commission directed the Commissioner to have regard to the implication of, among other things, 'access to and the cost of financial services for consumers' when making any recommendation to changes to laws.

94. In this context, it is important to flag potential consequences flowing from any proposed regulation or legislation on access to, and affordability of financial advice.

95. Over the last several years, advice has become less affordable as the regulatory burden has increased and costs have risen. It is now the case that many in the community who most need advice cannot afford it. That is neither in the national interest nor in the interests of those effected.

96. Affordable financial advice has been a key objective of both political parties, and one of the twin objectives of the FoFA reforms was to make financial advice more accessible, more available and more affordable. It is arguable that this key FoFA objective has not been achieved.

97. Since FoFA was introduced there have been additional regulatory imposts including Foreign Account Tax Compliance Act (FATCA) and the Common Reporting Standard (CRS) – both which have increased costs. Furthermore, the recent Financial Adviser Standards and Ethics Authority (FASEA) reforms – which we support and believe will have a positive impact on adviser educational standards and professionalisation of the industry – will also result in increased costs for customers.

98. We believe it is important in a country that has a superannuation guarantee regime that financial advice should be affordable and accessible. Where government

[21] ASIC Round 2 Submissions, pg. 5

benefits are means tested and self-funded retirement is encouraged, accessibility and affordability of advice to people across the wealth spectrum is paramount.

99. In light of the above, it is vital that any regulatory or legislative policy change proposed by the Royal Commission takes into account the need to ensure that low to middle income earners will continue to have access to advice.

100. It is concerning that ASIC in its submission to the Royal Commission Round 2: Financial Advice states at paragraph 59:

> *Accordingly, providing the average consumer with cost-effective access to financial advice is likely, in ASIC's view, to be challenging and to require more than simply further regulation of the "personal professional adviser" model*.

101. In the same paragraph, ASIC notes that basic advice services should be provided at low cost, subsidised by the industry or Government.

102. In terms of regulatory reform, an important lesson may be learned from the UK when it introduced Retail Distribution Review (RDR) reforms in January 2013. The RDR banned advisers from taking commissions and instead required that fees be paid upfront. The result of the implementation of these reforms was that only the wealthiest could afford advice and there was a disenfranchisement of customers who had previously been able to access advice and who could now no longer afford it.

103. AMP considers that the above concerns should be factored into any consideration of new or revised regulations that may be recommended by the Commission.

Remediation

104. As noted in our submission to Round 2 (Advice) of the Royal Commission, AMP understands and accepts that some of our remediation program has not progressed as quickly as we would have wished.

105. It is difficult to specify an appropriate timeframe to remediate customers. This is because each customer's circumstance will be individual, and the cases are often complex.

106. AMP has allocated additional resources to accelerate these programs (see AMP's submission for Case Study 3: Inappropriate Financial Advice dated 4 May 2018 at [60(a)]).

107. In relation to our Advice business, AMP has recently restructured and augmented its Review and Remediation Program and increased staffing so as to expedite the investigation and remediation of clients of Advisers who may have provided

inappropriate advice. AMP has also retained a third party to assist, with the flexibility to expand in accordance with the needs of the program.

108. AMP has set aside $415M (pre-tax) or $290M (post-tax) to compensate customers who have been charged for advice they didn't receive or that wasn't appropriate.

109. AMP considers that its revised Review and Remediation Program will be well placed to efficiently and effectively identify clients who have suffered financial loss as a result of inappropriate advice and remediate where appropriate.

26 October 2018