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We Need Our Regulators to 'Man Up'

"Despite numerous reviews and enquiries, the ongoing failure by the regulators to clean out the conflicts of interests and resultant bad advice within the banking and financial services industry remains unresolved" says Adelaide based financial strategist Theo Marinis.

Countless inquiries, mission statements, association guidelines – and the fundamental rules of decency – have been ignored or broken. It is time we had a new level of scrutiny which has robust and personal punishments for the people who, having been paid exorbitant amounts, are found responsible for treating customers so poorly.

The Inquiry merry-go-round has included the recent Hayne Royal Commission, the House and Senate Economics Reference Committees – and who can forget the reports by Campbell in '81, Wallis in '97 let alone the 2014 Murray Report?

There have probably been others. It is my view that there may be a future need for yet another – into the failures of the Hayne RC to dismantle the vertical integration with financial planning within the banking system – not to mention the simplistic and irresponsible actions of Productivity Commission in anointing the superiority of Industry super funds.

In the interim, I believe we need a regime of public corporate cleansing within the industry if we are to drive out the gross failures uncovered Kenneth Hayne in the recent Royal Commission, and to put the financial services industry, led by the banking institutions, on notice of regular scrutiny.

Past 'efforts' to improve the health of the financial system have clearly failed. They are merely proof that there is a need for the industry umpires – ASIC, APRA and the ACCC – to step up and be publicly accountable on their progress with implementation of proper structural reform measures.

One such method may be via a three-yearly formal review of these efforts, with the review also designed to hear from members of the public – the 'little people' who feel aggrieved at their treatment by both the financial institutions and the regulators.

A Standing Review should also be able to direct the DPP to proffer charges to seek maximum penalties against banking and financial services executives found guilty of misconduct. The Australian community could expect banking and financial services executives, if they have acted fraudulently or corruptly, to go to gaol – not to lunch with the regulator.

The acceptance by executives of financial services institutions of very high salaries – sweetened by not just annual bonus payments, but outrageous share option 'gifts' from their remuneration committees must also render them accountable.

A further reform would be to make bonus payments to financial services industry employees subject to a five-year claw-back regime. Such payments would be held within a trust structure, and in the event of that a company or institution is found to have acted against the interests of its customers, these bonuses should be withdrawn. I believe that this would assist greatly will help focus the mind of the decision makers.

Similarly, the actions of the regulators should be subject to public scrutiny.

A Standing Review would also ensure that Industry super funds, the darlings of the moment (with their current inflows bearing testimony to their untrammelled approval) are also kept accountable. Why? Because there are some realities which have been missed in the current simplified argument for their endorsement, and they risk being the next institutional disaster.

Industry funds, whose fees increase as they grow, will continue to cost more as they face less competition. What is not widely understood in the fee argument is that many superannuation fund members can, and are, paying just half the fees of the 'so called' most competitive Industry super funds when they have access to a competent financial adviser.

Notwithstanding the highly paid union board members of Industry funds without appropriate investment qualifications, perhaps of most concern is the duplicitous way in which many funds are currently able to misrepresent the inherent levels of risk within their investment offerings.

This scenario is able to exist because there are currently no clearly defined or regulated benchmarks for the asset allocation profiles currently marketed by many industry funds (e.g. 'Defensive', 'Conservative', 'Moderate', 'Balanced', 'Growth') – which means that they are used more as marketing terms than as indicators of the level of investment risk and appropriate investment timeframes.

As a result, a fund member invested in so called 'balanced' fund offering (traditionally a 70/30 growth to defensive assets ratio) could typically have a 90% exposure to growth assets without any indication or understanding of the risks involved.

As such, these labels are fundamentally misleading – not only do they distort the much vaunted performance comparison benchmarks advocated by the Productivity Commission – they will invite class actions when the market next breaks, and thousands of people about to retire get badly burned financially.

Our regulators need to 'man up' by instituting effective structural reform to prevent the exploitation of ordinary Australians. They should be subject to a regular public reporting regime, on a triennial basis," Theo concludes.

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