Fraud & Forgery - NAB's Financial Planning Exposed

Summary:
NAB's financial advice arm has been infected with some of the same contagions as CBA's – forged client signatures, fraudulent file reconstructions, and poor advice leading to compensation payouts for some clients – underscores the problems festering in Australia's financial advice industry.

Article Information**Category:** [Banking News]
Banking Company: NAB
Bank Malpractice Type: Predatory Lending
Unconscionable Conduct
Author: Adele Ferguson, Ruth Williams
Source: SMH
Date First Published: 21 Feb 2015

Posted ByPeter Brandson
21 Feb 2015 - 1:30pm

Whistleblower's NAB Leak Reveals Persistent Bad Behaviour - Royal Commission Called

It was early August 2014, and the financial advice industry was on red alert. The Commonwealth Bank's chief executive had just "unreservedly" apologised for a scandal involving fraud, forgery and a cover-up within the bank's financial planning operations. Allegations had just surfaced about cheating on professional exams at Macquarie Group.

And within National Australia Bank, a sensitive and explosive report was circulating.

"We have suspended, terminated or ensured resignations of 31 NAB financial planners and aligned advisers over the past two years due to conflicts of interest, inappropriate advice, inappropriate practices or serious repeat compliance breaches," the internal report reveals.

Another six, it says, had been sacked from Meritum, a NAB-owned advice network that has 110 planners on its books.

The report is part of an extraordinary trove of confidential documents leaked to Fairfax Media that reveal NAB was worried about exposure to its own financial planning problems, and which will fuel calls for broader reform to protect consumers from unscrupulous advisers.

The revelations that NAB's financial advice arm has been infected with some of the same contagions as CBA's – including forged client signatures, file reconstructions, and poor advice leading to compensation payouts for some clients – underscores the problems festering in Australia's financial advice industry.

> They are likely to re-energise calls for a royal commission, which the Abbott government has so far resisted.

The report on the dismissals explains that in the past five years, there had been cases where NAB planners had forged clients' signatures or manipulated clients' files in attempts at covering up poor compliance. Some of these major incidents were "ongoing", it notes; three investigations were on foot in August.

The bad behaviour was detected not by the bank's internal controls, the report states, but instead came to light through complaints from clients or queries by regulators.

The parallels with CBA are not lost on the bank.

"While there is no regulatory supervision or review required, the existence of these cases means there is the risk, should they come under political or media attention, that links could be made to the CBA situation," the August 2014 report warns.The report landed just as Andrew Thorburn took the reins at the $90 billion bank as its new chief executive.

It was authored by NAB's head of wealth Andrew Hagger. It went to key boards and committees – the bank's most senior figures – partly in response to the CBA "situation".

This "situation" is a delicate way of describing a series of scandals that have shaken Australia's advice sector.

Royal Commission Call

In 2013, Fairfax Media detailed revelations of severe misconduct by CBA planners, a systematic cover-up by management, and low-ball offers of compensation to complaining customers. Brought to light by a CBA whistleblower, Jeff Morris, the crisis eventually triggered a bipartisan Senate inquiry, which called for a royal commission.

NAB's financial advice arm is housed within NAB Wealth. NAB Wealth is a massive division incorporating MLC, which includes the bank's life insurance and superannuation businesses, stockbrokers JBWere, planning firms Meritum, Garvan and Godfrey Pembroke, and the NAB-branded financial planning network.

The leaked documents shine a light on multiple problems within NAB Wealth – a business, it turns out, that has been plagued by cost and time overruns on multiple, critical projects; a sudden and recent spike in internal breaches reported to regulators; and multiple highly rated internal risks.

For whistleblower Jeff Morris, this is further evidence of the need for a royal commission.

"One of the worst 'captain's calls' of the Abbott government was to dismiss this recommendation out of hand, despite readily calling royal commissions into unions and pink batts when it suited them," says Morris.

"The deep-seated problems at NAB confirm that it is not just CBA and not just financial planning that is in dire need of the scrutiny only a royal commission can provide."

The "advice review" document – compiled with the help of Deloitte – was done at a sensitive time for the bank. NAB's British division was embroiled in its own industry-wide mis-selling scandal costing hundreds of millions of dollars in compensation.

The Coalition's plans to dilute the future of financial advice (FOFA) reforms had just controversially cleared the Senate. But there were concerns that any new scandal would put these windbacks (ill-fated, as it turned out) in jeopardy.

So despite the report's revelations about sackings, forgery and poor compliance, its overall tone was reassuring.

"The entire industry is exposed to the risk of inappropriate advice," it states. "NAB Wealth's key differentiators of quality advice culture and governance ensures that when we become aware of an issue we face into it and deal with the outcomes required."

This is the message Andrew Hagger, the group executive of NAB Wealth, stresses. He authored the advice review and several of the other documents leaked to Fairfax Media.

"Some organisations cloak those sorts of documents in professional privilege, but we have a very open transparent approach within the company," he says.

"Those documents have been aired in the right forums, in some cases the principal board, the management committee, regulators and so forth, and whilst it's very unfortunate for us that those documents have been leaked to you, those documents really reflect good governance and risk management on our part to commission that work in the first place."

He denies NAB Wealth has "systemic issues."

"We do have individual cases," he says.

Angry Staff

A number of staff inside NAB Wealth disagree. To them the tone and content of the "advice review" was disturbing.

Indeed, it enraged some staff, who believed the bank still fostered the "profit before all else" culture exposed by the forex rogue trading scandal that had rocked the bank a decade before.

NAB has had its share of disasters – the $4 billion blown on US mortgage company HomeSide in the early noughties, and $1 billion torched in toxic US mortgage assets in the GFC.

But the rogue trader scandal of 2004 was the most damaging of all. That fiasco, in which four bonus-hungry traders falsified records to cover up mounting losses totalling $360 million, cost the chief executive and chairman of NAB their jobs.

A subsequent scathing APRA report found "risk management controls were seen as trip-wires to be negotiated."

Insiders paint an eerily reminiscent picture of the current picture within NAB Wealth.

One employee, who asked to remain anonymous, says there is frustration within NAB Wealth among staff that the bank is not "telling it how it is."

He believes NAB fears raising significant issues will bring a swift response from regulators – including potential requirements for NAB to spend huge sums of money fixing its deteriorating systems.

"The [advice review] is full of motherhood statements and lack of commitment by management to take issues of risk and compliance seriously," he says.

Another bank insider has reached breaking point and has decided to reach out to Fairfax Media, releasing the highly confidential internal documents.

When it comes to uncovering problems within NAB Wealth, "they usually wait for customers to ring them", the whistleblower says.

"They only fix things when they have to, not because they should."

Hagger sees it differently.

"Our approach is one of continuous improvement," he says. "Where we see things that we need to fix, we want to fix it and that's the path that we've been on for some time."

'Three Star' Audit

It is May 2010, NAB chief executive Cameron Clyne gives a presentation to the NAB board audit committee about a recent "three star" internal audit result he'd been hit with. This is no doubt a chastening experience.

Contrary to how it sounds, **a "three star" audit result within NAB is extremely serious – the worst result possible.**

This poor result is laid out in an internal report, one of the many leaked to Fairfax Media, describing NAB's risk management in terms that seems to deliberately hearken back to that 2004 APRA review.

"Managing risk is not valued or understood as being central to sustainable performance, but rather an impediment to day-to-day business practices," the audit states.

(NAB's internal audit team was on the ball that year. In April 2010, it had issued a "three star" audit against the bank's payment systems and processing. In November 2010, NAB suffered a catastrophic payment systems collapse that left thousands of customers unable to access their funds).

Were things fixed? No, says the NAB whistleblower, who describes the culture inside the wealth division as "volatile" and "toxic" and the bank's attitude to risk as "gross, reckless, wanton and indifferent."

Perhaps not as colourfully, a series of internal reports from last year certainly point to continuing issues.

They show recurring "red" levels of risk on a number of critical issues on a traffic-light rating system. It urges management take notice.

"The overall NAB Wealth risk profile is … high, requiring significant management attention," a February 2014 risk and compliance report states.

In May, a report to the NAB Wealth risk management committee rated the division as "within risk appetite" – except that operational risk was rated "red", in part due to the continued discovery of breaches requiring reporting to regulators.

In August, NAB Wealth's regulatory compliance and operational risk were still rated red, because of "excessive compliance breaches" and the "operational complexity of ageing systems and infrastructure".

These breaches are not just an internal matter for the bank. Institutions like NAB are required to self-report internal breaches to regulators.

They may range from the relatively minor – an incorrect financial disclosure statement being issued, for example – to the serious, such as an adviser being suspected of serious misconduct.

By March last year, NAB's breach notifications to ASIC and APRA had surged from 3 in the first half of 2012-13, to 29 in the first half of 2013-14.

"While some are in the nature of technical and formal … there is evidence that long-standing events are being discovered," a May report to NAB Wealth's risk management committee explained.

Battling On Many Fronts

Why? NAB Wealth has been battling on a series of fronts.

There was the Navigator superannuation issue where a four-year glitch saw 70,000 customers underpaid, $2.4 million in compensation handed out and a review from PricewaterhouseCoopers issuing 96 recommendations for improvement.

There was a massive blowout on superannuation compliance work (from $60 million to $180 million) at the same time as Project Blaze, an attempt to integrate JBWere's systems into the rest of NAB Wealth, was blowing a similar hole in the budget (the original $45 million cost blew out to $129 million).

Then there was Win Tomorrow, an overhaul of the leadership within NAB Wealth, which is blamed by some insiders for a flight of corporate memory and deteriorating morale.

It was recently described in court by former NAB executive Duncan West as "the worst change-making process he had experienced in his 30 years career in the finance industry".

Hagger says the bank has worked through many of these issues. Project Blaze was finally finished last year and is running smoothly, he says. Nab Wealth is now complying with all 230 compliance requirements of Stronger Super. And on the Navigator issue, he says NAB Wealth has fulfilled 83 of PwC's 96 recommendations.

Perhaps NAB Wealth's biggest problem was its own "three star" audit, which landed in 2013, about the same time Hagger took over as head of NAB Wealth after previously running the bank's corporate affairs and marketing division. NAB's internal audit team had effectively given the business an "F" for its internal control processes.

Hagger says NAB Wealth is "on track" to resolve the issues highlighted in the audit. As for the red ratings, Hagger says things have improved – and says the ratings show NAB is not trying to cover up its problems.

"You wouldn't want to see a business blind to what's going on, rate everything green and move on," he says.

"For us when we see a red, we see opportunities to improve."

But the whistleblower says the documents containing the red ratings show NAB has "never got its house in order when it comes to risk, risk culture and culture in general".

He also flags concerns that serious issues within the bank are "diluted" and "word-smithed" as they are elevated up the chain of command. "I don't know whether it is plausible deniability but it has created a situation where NAB is a CBA disaster waiting," he says.

One document supplied to Fairfax Media, a risk and compliance report from August 2013, refers to "board concerns around ongoing quality and accuracy of papers and presentations".

Vertically integrated

Of all of NAB Wealth's recent problems, it is perhaps the issues within its financial advice arm that will be cause of the greatest anxiety.

At stake is the survival of the "vertically integrated" model that allows Australian banks to both manufacture investment products and flog them through their financial advice networks – whose clients are drawn from their millions of loyal bank customers.

Nationals senator John Williams, a relentless critic of the financial advice sector, has dubbed it the "big issue" at the heart of the sector's problems.

"The big six – the big four banks, Macquarie Private Wealth and AMP – basically **run the industry: their planners work for them ... they are going to tell you to invest in one of their products** – but it may not be the best product in your case or in your circumstances," he told Parliament in November.

ASIC has pointed to the **"inherent" conflict of interest within this model**, and is in the midst of a surveillance project focusing on vertical integration that will report mid-year. Last year's landmark Murray report pointed to vertical integration as an issue, and called for it to be "proactively monitored."

NAB Wealth is alert to this criticism. An August 2014 memo, detailing the "risk profile" of NAB Wealth, lists "public policy" concerns as a key area of emerging risk for the business.

"Vertically integrated financial services provision is being questioned ... expectations of financial planners and product distribution to align with 'customer best interest' is increasing 'misconduct' risk."

Of course, "misconduct" by financial advisers is more than a risk. The controversial August 2014 "advice review" confirms that NAB Wealth has "encountered and continues to encounter cases of inappropriate advice and occasionally, rogue advisers".

The NAB document states that NAB Wealth has a long history, going back to the 1990s, of "terminating" high income producing advisers who do not fit its culture.

It lists **George Cassimatis**, a one-time insurance adviser for MLC prior to NAB's purchase of MLC. He operated out of Townsville and was moved on in the late 1990s for what NAB describes as "a 'cookie-cutter' process that led to inappropriate gearing". He later established **Storm Financial**, which advised thousands of clients to excessively borrow to invest – ultimately leading to their and

Storm's financial ruin. He continues to blame ASIC for Storm's collapse and denies any wrongdoing.

Another alumni listed is **Craig John Stubbs,** a former adviser through NAB-owned Apogee, who, according to NAB, was "moved on" due to poor compliance. Stubbs went on to run $8 billion debenture flogger **Fincorp**, whose collapse in 2007 hit 8000 investors. Stubbs gave evidence in the criminal trial of jailed Fincorp chairman Eric Krecichwost. He has blamed "over-zealous" regulators for Fincorp's demise and his subsequent battle with depression.

Stubbs strongly denies NAB's version of events. He told Fairfax Media that the planning business, which had many pilots on its books, had suffered a hit to revenue after the collapse of Ansett and September 11, and he had terminated the arrangement with NAB by exercising a pre-existing buy-back arrangement. "I never had anything written to me or my advisers about anything to do with a breach of compliance."

A third name is **Graeme Cowper**, a Sydney adviser now working for **AMP's IPAC**. Cowper has no official black marks against his name. But Fairfax Media has identified at least three of his former clients who were quietly paid compensation by NAB for his "inappropriate advice".

When Fairfax Media contacted Cowper, he responded with a legal letter, and followed up with a statement. "I strongly refute any allegations of inappropriate advice," he says. "I want to make it clear that it was my decision to leave NAB. A confidentiality agreement signed with NAB at the time prevents me from discussing this further. I've never been contacted or sanctioned by ASIC."

A fourth person listed was a senior financial planner at **Godfrey Pemb**roke, who, according to the NAB document, was "moved on" in 2013 due to "sustained poor compliance."

While the "advice review" states that these men were ushered out of NAB and MLC, nothing is said about what actions, if any, NAB took to report any wrongdoing to ASIC to ensure the same conduct was not repeated elsewhere.

NAB declines to comment on whether it has alerted authorities to any specific individuals.

Hagger does say that NAB has advised ASIC of misconduct by financial planners "on a number of occasions" – but this did not take place in every case. Hagger says not every case involves reportable breaches – in some cases, the adviser does not fit within the bank's "philosophy."

"To the best of our knowledge, we comply with ASIC obligations as they relate to reporting breaches and where we discover that we have not reported something, then we do," he says.

As for whether the clients of the 37 have been contacted and offered a file review – and even compensation – Hagger says:

"Where we believe it's appropriate to advise customers we have done so. In many cases we've written to customers and have offered them an advice review … in some cases that has also led to compensation."

NAB says that since 2009, it has paid more than 750 customers between $10 million and $15 million in compensation, which equates to an average of $13,000 to $20,000 per customer. It declines to say how many financial advisers had given advice that warranted compensation.

Even before its poor advice problems hit the headlines in mid-2013, CBA had written to some clients and paid customers more than $50 million in compensation.

Meanwhile, NAB Wealth is under scrutiny from ASIC. Last year, ASIC set up a specialist "wealth management project" to focus on the conduct of the advice arms of the big four banks, Macquarie Group and AMP.

Financial advice surveillance is one area of ASIC that has not been targeted for budget cuts.

"We have significant work under way targeting those entities," an ASIC spokesman said this week. "This includes work that covers NAB Wealth's business. We cannot comment further on this work at this point in time."

The whistleblower hopes the risks he has taken will get the regulators to act, the politicians to take note, and aggrieved customers to speak out and come forward. "At NAB, money talks," he says.

Websites For More Information: Whistleblower's NAB Leak Reveals Persistent Bad Behaviour
http://www.smh.com.au/business/banking-and-finance/whistleblowers-nab-leak-reveals-persistent-bad-behaviour-in-financial-planning-fuels-royal-commission-calls-20150220-13hv1f.html
Coalition Refuses Royal Commission Probe Into CBA
http://www.smh.com.au/business/coalition-refuses-royal-commission-probe-into-cba-20141023-11ar7u.html
Exposed - Planners Go Rogue
http://www.smh.com.au/business/planners-go-rogue
UK Insurance Scandal To Hit NAB Earnings
http://www.smh.com.au/business/uk-insurance-scandal-to-hit-nab-earnings-20110512-1ekm7.html
NAB Rogue Traders Gone, Board On Shaky Ground
http://www.smh.com.au/articles/2004/03/12/1078594564398.html
Pay Delays As NAB Woes Spread
http://www.smh.com.au/business/pay-delays-as-nab-woes-spread-20101126-189kc.html
NAB To Pay New Refunds Over Investment Systems Glitch
http://www.smh.com.au/business/banking-and-finance/nab-to-pay-new-refunds-over-investment-systems-glitch-20140502-37mtc.html

Source URL (modified on 2 Mar 2015 - 11:42pm): https://www.bankreformnow.com.au/node/200