Relevant Terms of Reference

The terms of Reference that seem to be most relevant to the limited submissions that I wish to make are:

1.1 the current cost, quality, safety and availability of financial services, products and capital for users.

2.3 assessing the effectiveness and need for financial regulation, including its impact on costs, flexibility, innovation, industry and among users;

3.5 corporate governance structures across the financial system and how they affect stakeholder interests; and

4.3 meet the needs of users with appropriate financial products and services;

Personal Background

Both my wife and I are self-funded retirees. We both had fairly senior and reasonably well paying jobs when we were gainfully employed, with each of us contributing to superannuation funds sponsored by our respective employers during most of our working lives.

During the 1990s, I was retrenched and became a 'self employed' consultant. I transferred my superannuation savings into a Self-Managed Superannuation Fund administered by Perpetual Trustee Company; in the section they entitle 'Private Clients'. My wife continued working full-time and continued to contribute to her employer-administered fund.

This arrangement continued for some years, until my wife retired in 2003. Perpetual then set up a separate account in the Maxwell Family Superannuation Fund for her, and she transferred her accumulated superannuation savings into it.

We then converted our Fund from accumulation mode to pension mode, and each of us started drawing a monthly pension from our respective accounts. Things were comfortable, until 2008 when the Global Financial Crisis (GFC) took place. Our combined funds lost approximately $500,000 in capital because of the devaluation of our investments in various managed funds which had been recommended to us by our adviser, Perpetual.

Using Perpetual's resources, we reconstructed our superannuation investments to more appropriately reflect our personal financial needs, and the result is that we should have adequate funds to last us until we are in our 90s before we have to rely on a partial contribution from the Government's Old Age pension.

Submission Points

1. **We learned the hard way that financial advisers' remuneration and fees bear no relation to performance.** Even though the advice we had followed and trusted lost us a considerable amount of capital,
   a. Perpetual took no responsibility for not having foreseen the impact that the GFC would have on our investments.
   b. They did not adjust their fee structure in any way. It continued to be the same % of our Funds Under Management as it had been before, albeit on a smaller funds quantum.
   c. They accepted absolutely no liability for the losses we had suffered; pointing out that no investment can be regarded as having no risks attached.
   d. While we accept their claims regarding risk, and while we do not in any way suggest any dishonesty or illegalities on their part, we do know of investors in similar situations whose advisers recognised the changes happening and who very speedily recommended alternative strategies which enabled these people to largely avoid capital losses. In this crisis, Perpetual's expertise was found wanting and they just did not give their clients the performance that any reasonable investor would have expected they would receive.
   e. Perpetual made no attempt to reimburse us for the funds that we had lost or to compensate us in any way for what can only be described as 'less than adequate' performance.
   f. **Conclusion: The SYSTEM under which financial advisers are remunerated for administering Funds Under Management, and for giving advice regarding the investment of those funds needs to be changed.**

      As long as it continues to be a percentage linked to the capital value of the FUM, rather than to actual performance of results achieved, investors will continue to suffer.
      - Perpetual suffered a diminished income because they did not foresee the GFC;

- Perpetual suffered a diminished income because they did not reconstruct clients' investments quickly enough, but they never suffered a negative loss of income in the way that their clients suffered a loss of both capital and income simply because their systems and practices developed in previous years meant that their clients did not lose all their FUM;
- Perpetual were able to pass off all the losses suffered by their clients as 'part of the risks of investing' rather than being held accountable for not doing their own job properly enough or speedily enough.
- **This result MAY have been less extreme if Perpetual's remuneration for managing our funds had been dependant on achieving pre-agreed targets for capital growth and income earned.**

2. **We also learned that there is no "safety net" for savings invested in superannuation funds.**
   a. All the institutions who offer advice and guidance regarding the investments of the personal savings of individuals say that "they offer no guarantees", that historical performance only describes what happened in the past and may not reflect current or future performance, and that clients must accept that they carry all the risks.
   b. **This situation applies no matter whether the superannuation funds are industry funds, retail funds, wholesale funds, or self managed funds. The type of fund is irrelevant to reducing this problem.**
   c. **There does exist a place for annuity-style investments in superannuation where returns are guaranteed for a specific period.**
   d. Long dated capital-guaranteed infrastructure bonds may well also fit into this gap.
   e. So would the ability to invest in small quantities of Commonwealth Government Bonds by buying them directly from Treasury of the Reserve Bank. This facility has existed in previous years, and during war-time, but is not available today. Some of us in self-managed funds would like to be able to invest in such secure investments easily – without having to pay commissions and brokerage.

3. **The prospect of the reintroduction of commissions being paid in respect of products sold to investors fills me with horror.** Why any responsible government or administrative body would want to do this is beyond comprehension.
   a. Our financial adviser (Perpetual) claims that they have never accepted any hidden commissions, that they disclose any that are received whether they are up-front or trailing, and that they have rebated back to us any commissions actually paid. I believe this, as this adviser is an honourable organisation, and its employees are both honest and trustworthy.
   b. **I am aware that they do split their fees with referring agents such as a accountants and other such contacts for a specific period. However, to me, any such reward given to a contact for such an introduction should also be given to a client who walks in "un-introduced". However this is not common practice, in my experience.**
   c. Before coming to Perpetual, I did have the experience of dealing with several advisors who were paid trailing commissions on products they sold to me. These persons never disclosed to me that they were being paid such commissions, and I received no services at all in return for these commissions.
   d. These secret commissions were definitely not "fees for services rendered", yet I was the one who was paying them no matter how the figures are represented. Consequently, the returns that I received on these investments I made were lower than I should have received.

CONCLUSIONS

1. The SYSTEM under which financial advisers are remunerated for administering Funds Under Management, and for giving advice regarding the investment of those funds needs to be changed AWAY from a percentage of FUM toward a fee for performance in meeting agreed goals, with both bonuses for exceeding the targets and penalties for not achieving them.
2. Such an approach would mean that the risks in investing would be shared between the investor and the financial institution with which (s)he is doing business.
3. There should be no reintroduction of secret commissions to anyone for any reason.
4. Where commissions are paid, investors should be told of their existence, and should have the commission rebated to them as the circumstances apply.
5. Access to long term inflation-proofed bonds needs to be made both easier and cheaper for individual investors saving for their retirement or funding their own pensions.

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