



MISCONDUCT IN BANKING, SUPERANNUATION AND FINANCIAL SERVICES ROYAL COMMISSION – KEY FACTS

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry will commence on 12 February 2018, with an initial public hearing streamed live.

The Commission has very extensive powers to require documents and information, regardless of whether subject to legal privilege or they may tend to incriminate a person or entity; to issue search warrants; to summons; and to take evidence.

Failure to comply may result in a fine or arrest and imprisonment. At Murfett Legal we can work with you proactively to provide advice and guidance to comply fully with all obligations.

Key Facts

- **When:** Hearings commencing 12 February 2018. An interim report of the Commissioner, The Honourable Kenneth Hayne AC QC, is required to be submitted by 30 September 2018 with a final report by 1 February 2019.
- **Terms of Reference:** include, whether occurring in Australia or abroad:
 - Whether conduct of financial services entities, their officers, employees or representatives, might have amounted to misconduct, and whether any criminal or other legal proceedings should be referred to relevant Commonwealth, State or Territory agencies;
 - Whether conduct, practices, behaviour or business activities by those entities fall below community standards and expectations;
 - Whether any adverse findings are attributable to particular culture and governance practices, or result from other practices including risk management, recruitment and remuneration;
 - The effectiveness of mechanisms for redress for consumers of financial services who suffer detriment as a result of misconduct;



- The adequacy of existing laws, policies, internal systems and forms of industry self-regulation, including codes of conduct;
- The effectiveness and ability of regulators to identify and address misconduct by financial services entities;
- Whether further changes to the legal framework, practices within financial services entities and financial regulators are necessary to minimise the likelihood of misconduct;
- The Commissioner having regard for implications of any changes to laws proposed to be amended for the economy, for access to and cost of financial services, for competition and for financial system stability; and
- Having regard to comparable international experience, practices and reforms.
- **For financial services providers, officers, employees or agents of financial services providers:** Legal advice should be obtained immediately if compelled by the Commission to appear or give documents or information, to:
 - understand your legal obligations and procedural issues;
 - understand consequences of non-compliance and of giving evidence which may tend to incriminate;
 - consider any claims of legal professional privilege or confidentiality;
 - discuss impact on business, compliance issues and reputation; and
 - assist with, and prepare you for, compliance with your obligations.
- **Dismissal by Employers of a Witness:** Under the *Royal Commissions Act 1902(Cth)* it is an offence for any employer to dismiss any employee or prejudices them in their employment, for or on account of the employee appearing as a witness before the Commission, or giving evidence before the Commission or producing a document under a summons, requirement or notice under that *Act*.
- **For Public Submissions:** if you or an entity have a submission to make about misconduct of a financial services entity, then details of the conduct, the outcome and your views and recommendations may be submitted to the Commission. The Commission does not determine compensation or make orders to take action about any dispute.

For more information contact Mark Fatharly or Jason De Silva at Murfett Legal.