

RECOMMENDATIONS

Queensland case studies

- 1. The Committee recommends that, in conjunction with APRA, the Queensland State Government, through the Department of Industrial Relations and in consultation with the Queensland Industrial Relations Commission and the Queensland Industrial Court, conduct a review of all superannuation provisions in State awards and agreements with a view to ensuring their consistency with national standards. (paragraph 3.30)**
- 2. The Committee recommends that, in conjunction with APRA, all other State Governments conduct a similar review of all superannuation provisions in their own State awards and agreements with a view to ensuring their consistency with national standards. (paragraph 3.31)**

Commercial Nominees of Australia Pty. Limited

- 3. The Committee recommends that the *Superannuation Industry (Supervision) Act 1993* be amended to tighten the requirements applying to trustees to ensure that trustees notify the regulator of any significant adverse event which might impact on any superannuation product under APRA's regulation. (paragraph 4.100)**
- 4. The Committee recommends that the *Managed Investments Act 1998* be amended to ensure all funds that invest monies for superannuation purposes come within the regulatory framework supervised by APRA. (paragraph 4.101)**
- 5. The Committee recommends that the \$10,000 fee requested by the replacement trustee of Commercial Nominees of Australia Pty. Limited be waived and that APRA bear the cost of rendering the small superannuation funds compliant. (paragraph 4.118)**
- 6. The Committee recommends that the Minister for Financial Services and Regulation expedite the application lodged under section 229 of the *Superannuation Industry (Supervision) Act 1993* by the trustee of Commercial Nominees of Australia Pty. Limited on behalf of the affected investors. (paragraph 4.121)**

Solicitors' mortgage schemes

- 7. The Committee recommends that ASIC work with both the Tasmanian Government and the Law Society to devise strategies for the ongoing management of McCulloch and McCulloch and Lewis Driscoll and Bull to the benefit of the clients awaiting compensation. (paragraph 5.128)**

8. The Committee recommends that ASIC work with State governments and relevant law societies to ensure that appropriate strategies are developed for the supervision of mortgage investment funds with fewer than 20 members which will continue after 31 October 2001. (paragraph 5.129)

9. The Committee recommends that the Tasmanian Government further review the *Legal Profession Act 1993* in order to ensure that the benefit of the amendments to the *Legal Profession Act 1993* and the *Freedom of Information Act 1991* are available to the clients who have lost funds, as well as those who may do so in the future. The review should also consider the following areas:

- disciplinary procedures and penalties for legal practitioners who are guilty of professional misconduct;
- complaints procedures, including independent investigative powers by a separate body;
- regular independent audits of legal practices;
- consumer information; and
- a requirement that the Law Society of Tasmania be subject to regular reviews conducted by an external unrelated body. The reviews should focus on the extent to which the Society meets its statutory obligations to its members and their clients. (paragraph 5.153)

10. The Committee recommends that the Law Society of Tasmania adopt a more strategic, open and less rigidly insular approach to its relationships with consumers as well as its members. (paragraph 5.154)

11. The Committee recommends that the Tasmanian Government improve access to compensation for all victims of failed solicitors' mortgage schemes. (paragraph 5.159)

12. The Committee also recommends that the Tasmanian Government continues to ensure that the Solicitors' Guarantee Fund is maintained at a level which is sufficient to meet anticipated needs. This might include legislating to require solicitors to contribute in advance to the fund to ensure an appropriate level of liquidity. (paragraph 5.160)

13. The Committee recommends that the Tasmanian Government:

- evaluate the proposal developed by the Australian Property Institute with a view to incorporating its features in its review of the *Valuers Registration Act 1974*; and
- consider amending the solicitors' Rules of Practice to require solicitors to obtain more than one valuation for properties securing mortgages under the solicitors' mortgage schemes. (paragraph 5.165)

14. The Committee recommends that financial advisers ensure that the consumer information provided to investors in mortgage schemes is concise, in plain English, thoroughly researched and complies with ASIC disclosure and information requirements. (paragraph 5.169)

15. The Committee recommends that ASIC and Garrisons Financial & Retirement Specialists ensure that compensation payments to be made under the rescue package negotiated between ASIC and Garrisons are made to clients without delay. (paragraph 5.172)

