

ASIC media releases are point-in-time statements. Please note the date of issue and use the internal search function on the site to check for other media releases on the same or related matters.

Wednesday 15 June 2022

22-143MR Avanteos Investments penalised \$1.7 million for defective disclosure statements

Avanteos Investments Limited, a former subsidiary of the Commonwealth Bank, has been convicted and penalised a total of \$1,710,000 by the County Court of Victoria for failing to update defective disclosure statements.

The defective disclosure related to the charging of fees to superannuation members after their death, when it was known that Avanteos, which traded as Colonial First State Custom Solutions, did not have lawful authority to do so. This conduct was the subject of a referral to ASIC by the Financial Services Royal Commission.

As a result of the offending, 499 deceased members with funds in Avanteos superannuation products were charged almost \$700,000 in fees by Avanteos when it was not entitled to do so. Avanteos has remediated all affected customers' estates.

ASIC Deputy Chair Sarah Court said 'This is the first criminal prosecution for failing to update defective disclosure statements, and it should be seen as a warning to the industry to act on advice and rectify problems quickly, or face possible criminal action.

'This matter was particularly serious because senior managers within Avanteos were aware that it did not have the authority to deduct fees from its members after their death. Despite this knowledge, there were no changes made to Avanteos' disclosure documents and the unlawful fees continued to be charged for over two years.'

Judge Wright noted the seriousness of Avanteos's disclosure failures, observing they were caused by a 'systemic breakdown'.

'The offending can only be described as a very serious failure of corporate governance and an example of a financial corporation putting its own interests above those of its investors in breach of the law,' His Honour said.

His Honour also noted that had it not been for Avanteos' early guilty plea, he would have handed down a penalty of \$2.7 million.

Avanteos pleaded guilty to the 18 criminal charges in December 2021 ([21-337MR](#)).

The matter was prosecuted by the CDPP after an investigation and referral by ASIC.

Download

[Judgment \(PDF 317 KB\)](#)

Background

This matter is the first criminal prosecution under s1021J(1) of the Corporations Act, making it an offence for the preparer of a disclosure document or statement to not take reasonable steps to ensure that a defective disclosure document is not distributed or is not accompanied by information that corrects the deficiency.

Avanteos was a wholly owned subsidiary of the Commonwealth Bank of Australia when the misconduct occurred. Since 1 December 2021, KKR has been the majority shareholder of Avanteos.

Avanteos' conduct was the subject of evidence given at the Financial Services Royal Commission. With its conclusion, there are now seven ASIC cases arising from the Royal Commission that remain before the Court. See the [Summary of ASIC enforcement](#)

action for further information.

The Financial Services Royal Commission findings regarding Avanteos were outlined in Volume 1 of the Interim Report (pages 126 – 134) and Volume 2 of the Final Report (pages 62 - 102).

Last updated: 15/06/2022 12:21