



KordaMentha  
forensic

## Comparison Report

Commonwealth Financial Planning Limited and Financial  
Wisdom Limited

Report of Compliance Expert

22 April 2015

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## Background Information & Disclaimer

This report is prepared by KordaMentha Forensic as the compliance expert engaged by ASIC under the additional licence conditions imposed by ASIC on two AFS Licensees: Commonwealth Financial Planning Limited ABN 65 003 900 169 (AFS Licence No: 231139) and Financial Wisdom Limited ABN 70 006 646 108 (AFS Licence No: 231138) ('**Additional Licence Conditions**'). Both Licensees are subsidiaries of the Commonwealth Bank of Australia ABN 48 123 123 124. The report deals only with the issues set out in the Additional Licence Conditions.

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22 April 2015

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Dear Joanna & Louise,

**Comparison Report of the Compliance Expert appointed under the Additional Licence  
Conditions of CFPL and FWL**

This Comparison Report has been prepared by KordaMentha Forensic. It has been prepared pursuant to our appointment as Compliance Expert concerning the Additional Australian Financial Services Licence Conditions imposed on two subsidiaries of the Commonwealth Bank of Australia: Commonwealth Financial Planning Limited (CFPL) and Financial Wisdom Limited (FWL).

We would like to acknowledge the co-operation provided to us by both ASIC and the Commonwealth Bank of Australia in the preparation of this report, and the KordaMentha Forensic engagement team involved in preparing it.

Yours sincerely,



Owain Stone  
Partner  
Project Leader



John Temple-Cole  
Partner

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## A. Executive Summary

### Introduction

1. The Commonwealth Bank of Australia Group ('**CBA**') includes two financial planning entities known as Commonwealth Financial Planning Limited ('**CFPL**') and Financial Wisdom Limited ('**FWL**') ('**Licensee**' or '**Licensees**'). Both Licensees are required to be licensed by the Australian Securities & Investments Commission ('**ASIC**').
2. In September 2008, CFPL commenced investigations into potentially inappropriate advice given by one of its financial planners Mr Don Nguyen ('**Nguyen**' or '**Mr Nguyen**'). CFPL undertook activities referred to as 'Project Hartnett' to assess and compensate clients who suffered losses as a result of inappropriate advice from Mr Nguyen.
3. On 12 July 2010, CFPL lodged a Significant Breach Notification with ASIC in relation to the conduct of ex-CFPL adviser Mr Anthony Awkar ('**Awkar**' or '**Mr Awkar**'). On 17 December 2010, CFPL informed ASIC that the remediation of Mr Awkar's clients would be included in the scope of Project Hartnett. As a result, the remediation activities under Project Hartnett related to two advisers – Mr Nguyen and Mr Awkar.
4. On 25 October 2011, ASIC accepted an Enforceable Undertaking ('**EU**') from CFPL which included the review of the advice given to clients by an additional 16 CFPL advisers who were the subject of Significant Breach Notifications submitted by CFPL to ASIC in the period 1 July 2008 to 25 October 2011.
5. Pursuant to the EU, CFPL undertook to review and, if appropriate, compensate clients who were adversely impacted as a result of inappropriate advice being provided to them by these 16 advisers subject to Significant Breach Notifications. The processes under the EU are referred to as the Past Business Review.
6. Although not covered by the Past Business Review:
  - a. Three additional CFPL advisers; and
  - b. A further six FWL adviserswere identified by the Licensees and were subsequently included in the Licensees' compensation activities.
7. CBA staff and executives were involved in the Licensees' compensation activities.
8. From around 20 April 2012, the compensation activities relating to the 16 advisers in the Past Business Review, the additional three CFPL and the six FWL advisers were given the name 'Project Baringa'.

9. The composition of Project Hartnett and Project Baringa across the 27 advisers mentioned above can be shown as follows:<sup>1</sup>

Definition	Adviser number																										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Project Hartnett	2																										
EU/Past Business Review																											
Additional CFPL advisers																											
Additional FWL advisers																											
Project Baringa																											

## Scope of Additional Licence Conditions and the Engagement

10. On 19 August 2014, CFPL, FWL and ASIC agreed additional conditions to the Australian Financial Services licences of CFPL and FWL (**'Additional Licence Conditions'**). The Additional Licence Conditions arose because of differences in the processes that the Licensees followed in Project Baringa compared to Project Hartnett.
11. KordaMentha Forensic is the Compliance Expert appointed by ASIC under clause 23 of the Additional Licence Conditions. Our scope is defined in the Additional Licence Conditions. We are to produce three reports referred to as:
- Comparison Report (this report);
  - Identification Report; and
  - Compliance Report.
- (‘the Engagement’)**
12. We have summarised the scope of these reports below. The detailed scope as recorded in the Additional Licence Conditions is set out in Section F.
13. The following terms used in this report are defined under the Additional Licence Conditions, namely ‘Project Hartnett’, the ‘Compensation Program’, ‘Affected Clients’ and ‘Identified Former Representatives’. These terms affect the scope of the Engagement, including this report. A glossary of defined terms is at Appendix A.
14. We have defined ‘Potentially Affected Clients’ to mean all clients of advisers assessed (whether compensated or not) under Project Hartnett and the Compensation Program.
- Scope of the Comparison Report*
15. This Comparison Report compares and identifies the differences in the process steps undertaken by the Licensees for communicating with Affected Clients and providing for their participation in both the review process and the decision making process applied between Project Hartnett and the Compensation Program. It identifies any process steps applied in Project Hartnett that were not applied in the Compensation Program (**'Additional Elements'**).
16. Throughout this report, we refer to ‘cases’ and ‘clients’. When performing the review of the advice provided, the Licensees assessed the advice in the manner in which it was given. This meant that some clients were grouped together in a ‘case’ - most commonly where advice was given jointly to a married couple. Therefore a ‘case’ can be one or more clients. Except where specifically indicated, the information provided to us refers to ‘cases’ rather than ‘clients’.

<sup>1</sup> An adviser number has been assigned by us to each adviser. Refer to Appendix E for more details.

17. The Additional Licence Conditions refer to the 'Compensation Program' rather than Project Baringa. The Compensation Program is defined by the Additional Licence Conditions as being the compensation activities relating to 15 advisers (the '**Identified Former Representatives**') who are a subset of the 25 advisers considered in Project Baringa. For the 10 advisers who were part of Project Baringa, but excluded from the definition of Compensation Program:
  - a. In the case of nine advisers, CBA did not offer compensation to any clients; and
  - b. For one adviser, it was agreed with ASIC that because of extenuating circumstances, the adviser will be dealt with in the same manner as the Additional Licence Conditions, but not included in the definition of Identified Former Representatives.<sup>2</sup>
18. For the most part, the fact that the scope of this report covers 15 rather than 25 advisers does not affect the analysis of the communication process steps in this report.
19. However, as we outline in Section D below, there were differences in the application of the methodology for reviewing certain advisers. As a result of the scope of this report, these differences have only been considered for the 15 advisers. The differences, if any, in the application of the methodology for the remaining 10 advisers in Project Baringa have not been identified or considered as part of this report. The processes relating to these 10 advisers are within the scope of our Identification Report.
20. CBA has stated that it adjusted its processes during and after Project Hartnett as its knowledge and experience matured throughout an evolving process.

*Scope of Identification Report*
21. The scope of the Identification Report requires us to provide our opinion in relation to two key aspects:
  - a. Whether there was a reasonable basis for the processes undertaken by the Licensees to identify the clients of the 15 Identified Former Representatives in the Compensation Program - in effect whether more clients of the 15 advisers should have been identified and assessed; and
  - b. Whether there was a reasonable basis for the processes undertaken by the Licensees to identify whether any advisers in addition to those 15 Identified Former Representatives in the Compensation Program also exhibited risk attributes or behaviours which indicated the relevant advisers may have provided inappropriate advice - in effect, whether more than 15 advisers should have been identified and assessed.
22. If in the Identification Report we conclude that there was not a reasonable basis for either (a) or (b) above, then we will identify:
  - a. 'Revised steps' which should reasonably be implemented to identify which clients of the Identified Former Representatives ought to have been assessed as part of the Compensation Program; and
  - b. 'Additional Processes' which should reasonably be implemented to identify whether there were other representatives who ought to have been assessed as part of the Compensation Program.

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<sup>2</sup> We have been informed that both ASIC and CBA were engaging with clients of this adviser at the time the Additional Licence Conditions were agreed. In light of this, ASIC and CBA considered that to delay communications with these clients while the Comparison Report was prepared (as would be required under the Additional Licence Conditions if this adviser was within the definition of Compensation Program) would adversely affect the clients of this adviser. The clients of this adviser are not prejudiced by the adviser's exclusion from the definition of Compensation Program.

### *Scope of Compliance Report*

23. The Additional Licence Conditions require that the Licensees remedy any defects identified in the Comparison Report and Identification Report, in essence by applying the Additional Elements, Revised Steps and Additional Processes.
24. In our third report – the Compliance Report – we will provide our opinion as to whether the Licensees have complied with the Additional Licence Conditions.

## Key findings

### *Summary of communications with clients and outcomes of the compensation process*

25. To assist in understanding the process steps for communication with Affected Clients, we have compiled in Appendix E a summary of the communications with clients and outcomes of the compensation process for each adviser under Project Hartnett and the Compensation Program. The information in Appendix E was provided to us by CBA. Appendix E also provides a reconciliation to the information previously provided by CBA to the Senate Economics References Committee, including where CBA has now identified the need to update the information previously provided to that committee. We are informed that CBA is currently assessing approximately 400 cases that were reviewed in Project Baringa which are currently assessed as ‘advice appropriate’ to confirm the assessment outcome.
26. Additionally, in Appendices C and D, we have constructed process charts to illustrate the process that the Licensees undertook from determining the Potentially Affected Clients population through to the compensation stage.

### *Initial Letter*

27. In Project Hartnett (where 2,093 cases were assessed), Potentially Affected Clients received a letter indicating there was an investigation being conducted into the advice provided to them by their adviser and that, following completion of the review, CBA would contact them to confirm the outcome (**‘Initial Letter’**).
28. In 3,452 of the 4,330 cases assessed in the Compensation Program, clients of advisers did not receive any form of Initial Letter.
29. The CBA database used to manage cases in the Compensation Program records that the remaining 878 of 4,330 cases assessed in the Compensation Program received a letter saved with a file name including ‘initial letter’ or similar. However, the approach and the form of the letter was different to the Initial Letters in Project Hartnett. Rather than being required by the methodology being followed for assessing cases, the decision to send such a letter was made on a case by case basis ‘where the case manager needed to contact the client for further information to complete the review of their case.’
30. Our analysis of the Initial Letters sent in the Compensation Program indicates that in 479 of these 878 cases, the client received an Initial Letter similar in tone to the Project Hartnett Initial Letter.
31. 393 of the 399 remaining cases received a letter in a different tone to the Project Hartnett Initial Letters, namely:
  - a. All 393 letters did not refer to the adviser by name;

- b. 90 of the 393 letters were headed 'reviewing the advice you received' and simply stated that the Licensee was 'in the process of reviewing' the advice provided (and without reference to the name of the adviser) and that a Case Manager would contact the client shortly without giving a specific indication that there was a concern with the advice provided<sup>3</sup>; and
- c. 262 of the 393 letters were sent for Adviser 27 following a template which was headed 'It's time to review your financial plan' and stated that the Licensee would like to meet with them. There was no reference to any potential issues with the advice provided or any investigations relating to the adviser<sup>4</sup>.
32. We were not provided copies of letters for the remaining six cases where an Initial Letter was recorded in the CBA database used to manage cases in the Compensation Program.
33. We consider the absence in the Compensation Program of an Initial Letter in the same tone as the Project Hartnett Initial Letter to be substantive as it did not provide Potentially Affected Clients with an immediate opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.
- Offer of payment up to \$5,000 for independent professional advice*
34. In Project Hartnett, Affected Clients who received advice which was 'implemented'<sup>5</sup> were generally (but not in all cases) sent a letter<sup>6</sup> which included an offer of up to \$5,000 for independent professional advice, regardless of whether CFPL had determined the advice provided was appropriate or inappropriate.
35. This did not happen in all cases. Out of 776 cases who should have received an offer of \$5,000 for independent professional advice, in 54 cases the client did not receive such an offer. In a further 32 cases no offer of \$5,000 for advice was made for the reason that the Licensee was unable to complete its assessment of whether the advice that had been provided was appropriate as it was unable to contact the client for further information. CBA has given a commitment to ASIC that it will write to all of these 86 clients to offer up to \$5,000 for independent professional advice and afford them all the rights of Affected Clients under the Additional Licence Conditions.
36. In the Compensation Program, the offer of up to \$5,000 was discretionary. However, CBA has stated that no Potentially Affected Clients were given this offer<sup>7</sup>. If the same methodology had been used in the Compensation Program as was used in Project Hartnett, 2,740 cases would have received an offer of \$5,000.
37. We consider this difference in the communication process to be substantive as it did not provide 2,740 cases of the 15 advisers considered under the Compensation Program with the same opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.
- Close out letter*
38. In Project Hartnett, Potentially Affected Clients who received the Initial Letter indicating there was an investigation being conducted into the advice provided to them by their adviser, but who were determined by CFPL to not be entitled to compensation, received a letter stating that the client's file had been reviewed and that they were not entitled to compensation.

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<sup>3</sup> See example at Appendix G.2.

<sup>4</sup> See example at Appendix G.8.

<sup>5</sup> As we discuss in Section C below, advice was considered to be 'implemented' if revenue was derived from a recommended product, i.e. if the Statement of Advice recommended investing in product X and there was a commission based on product X which could be identified as relating to the client, then it was assumed that a transaction had occurred based on the advice.

<sup>6</sup> See example at Appendix F.2.

<sup>7</sup> See examples at Appendix G.5 and G.6.

39. In the Compensation Program there were instances where Potentially Affected Clients received an Initial Letter or later communication seeking information or clarification required to enable the Case Manager to complete their assessment. In these circumstances, the Potentially Affected Client subsequently received either a letter offering compensation or a letter advising that they were not entitled to compensation.
40. However, if a client had not been contacted previously:
- Where a client was assessed by the Licensee as being entitled to compensation, the first communication with them was a letter offering compensation, which was sent after the Licensee had completed its assessment process; or
  - Where a client was assessed by the Licensee as not being entitled to compensation, they did not receive any communication from the Licensee.
41. The effect of this was that if a Potentially Affected Client had not been previously contacted and the Licensee assessed them as not being entitled to compensation, they did not receive any communication from the Licensee and so were not given an opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.

*High level elements of Project Hartnett and the Compensation Program*

42. The high level elements of Project Hartnett and the Compensation Program are set out in Appendix B and the table below:

Process Steps	Project Hartnett	Compensation Program
Identification of Potentially Affected Clients	✓	✓
Communicating with Potentially Affected Clients – initial letter sent	✓	X (Although there were some exceptions)
Collation of client files	✓	✓
Preliminary review of identified advisers to determine whose clients may be eligible for compensation	N/A	✓
Case evaluation	✓	✓
Offer of \$5,000 to clients for independent professional advice	✓ (Although there were 86 exceptions)	X
Panel process	✓	✓
Offer of compensation	✓	✓
Payment process	✓	✓
Further internal review after rejection of compensation	✓	✓
Close out letter sent/procedures	✓	X (Unless clients had received earlier communication)

43. These processes are described in more detail in Sections C and D below.
44. We consider the differences in the communication processes between Project Hartnett (two advisers) and the Compensation Program (15 advisers) to be substantive. The absence of communication with clients of the 15 advisers under the Compensation Program who were assessed as not being entitled to compensation and the timing of the initial communication with those clients offered compensation (being after the Licensees' assessment process had been completed) did not provide all Potentially Affected Clients of the 15 advisers under the Compensation Program with an opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.

45. If the client had not been previously communicated with and the Licensee had assessed that no compensation was payable, the client did not receive any communication from the Licensee. In essence, many clients of the 15 advisers were unaware that their advice was being reviewed or that they were part of the Licensees' remediation activities. This happened in a number of scenarios, such as:
- The advice they received was assessed by the Licensee as being 'inappropriate', but the Licensee assessed that no compensation was payable, as the client's actual portfolio had outperformed the appropriate reference portfolio; or
  - The advice they received was assessed by the Licensee as being appropriate and so no compensation was payable; or
  - The Licensee assessed that no advice had been provided to the client; or
  - Where the Licensee has stated that it was unable to complete its assessment of whether the advice that was provided by the adviser to a client was appropriate, as they had been unable to contact the client for information.

*Additional Elements*

46. In Section E below, we identify the specific Additional Elements (i.e. further letters) which should be applied by the Licensees.
47. These should be considered in the context that clients will have now received a letter with regard to the Open Advice Review program, and the clause in the Additional Licence Conditions which states that the written communication must include:
- An explanation that the Affected Client may (but is not required to), as an alternative or in addition to the matters set out in these conditions, have access to the Open Advice Review Program.<sup>8</sup>*
48. The client experience for the 4,330 cases assessed in the Compensation Program differed depending on whether CBA assessed that they were entitled to compensation. Therefore, the form of letter to now be sent by the Licensees (within 30 days) will also need to be varied depending on outcomes and communications to date.

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<sup>8</sup> Additional Licence Conditions, Clause 25 (f). Available at ASIC Media Release 14-192: <http://www.asic.gov.au/about-asic/media-centre/find-a-media-release/2014-releases/14-192mr-asic-imposes-new-afs-licence-condition-on-two-commonwealth-bank-financial-planning-businesses/>

## B. Background

### Introduction

49. KordaMentha Forensic has been engaged by ASIC as the Compliance Expert in relation to two Australian Financial Services licensees: CFPL and FWL.
50. The issues covered by this report are specified in the Additional Licence Conditions imposed by ASIC on CFPL and FWL on 19 August 2014. As a condition of the Additional Licence Conditions, we have been engaged to provide three written reports – the Comparison Report, the Identification Report and the Compliance Report. We set out a summary of the scope of these reports in Section A above.
51. In Section F below, we set out the detailed scope of the subsequent Identification and Compliance Reports as set out in the Additional Licence Conditions.
52. The scope of this Comparison Report is to review and compare the process steps used by the Licensees for communicating with Affected Clients and providing for their participation in both the review process and the decision making process applied:
  - a. To clients in Project Hartnett; and
  - b. In the Compensation Program undertaken by the Licensees with respect to clients of the Identified Former Representatives.
53. We are to provide a written report to ASIC identifying any process steps applied in Project Hartnett that were not applied in the Compensation Program.
54. The next section sets out how the definitions in the Additional Licence Conditions have resulted in specific advisers falling under the definitions of Project Hartnett and Compensation Program.

### Project Hartnett

55. In September 2008, CFPL commenced investigations into potential inappropriate advice given by one of its advisers Mr Don Nguyen. CFPL undertook Project Hartnett to assess and compensate clients who suffered losses as a result of inappropriate advice from Mr Nguyen.
56. On 12 July 2010, CFPL lodged a Significant Breach Notification with ASIC in relation to the conduct of ex-CFPL adviser Mr Anthony Awkar. On 17 December 2010, CFPL informed ASIC that the remediation of Awkar's clients would be included in the scope of Project Hartnett.<sup>9</sup>
57. As a result, the remediation activities under Project Hartnett related to two advisers – Mr Nguyen and Mr Awkar.

### Compensation Program

58. On 25 October 2011, ASIC accepted an Enforceable Undertaking ('EU') from CFPL which included the review of the advice given to clients of an additional 16 CFPL advisers who were the subject of Significant Breach Notifications submitted by CFPL to ASIC in the period 1 July 2008 to 25 October 2011.<sup>10</sup>

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<sup>9</sup> See Initial Submission by ASIC on CFPL – August 2013: Submission No.45 available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/ASIC/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/ASIC/Submissions)

<sup>10</sup> See CBA's response to Questions on Notice 23 May 2014, 5A, received by the Senate from CBA on 6 June 2014: Available at [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/ASIC/Additional\\_Documents](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/ASIC/Additional_Documents) (follow link to 'Answers to Questions on Notice' then item No.18)

59. Pursuant to the EU, CFPL undertook to review and, if appropriate, compensate clients who were adversely impacted as a result of inappropriate advice being provided to them by these 16 advisers. This review was called the Past Business Review.
60. Although not covered by the Past Business Review:
- Three additional CFPL advisers; and
  - A further six FWL advisers from two corporate authorised representatives of FWL were identified by the Licensees and were subsequently included in the compensation activities.
61. From around April 2012, the compensation activities relating to the Past Business Review, the additional three CFPL and the six FWL advisers were given the name 'Project Baringa'. A total of 25 advisers were reviewed under Project Baringa. The activities under Project Baringa were those discussed in the Senate Inquiry into the Performance of ASIC in June 2014.
62. In summary, the 27 advisers reviewed under Project Hartnett and Project Baringa are as follows:

Definition	Adviser number																										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Project Hartnett		2																									
EU/Past Business Review																											
Additional CFPL advisers																											
Additional FWL advisers																											
Project Baringa																											

63. The scope of this Comparison Report involves comparing the process steps of Project Hartnett with the 'Compensation Program' rather than Project Baringa.
64. The term 'Compensation Program' is not a separate 'program' of remediation activities undertaken by the Licensees. Rather, it is a term defined in the Additional Licence Conditions to refer to a specific subset of 15 advisers, out of the 25 advisers considered under Project Baringa.
65. The process by which the 15 advisers were identified for inclusion in the Compensation Program is covered within the scope of our subsequent Identification Report. That report will consider if there was a reasonable basis for the processes the Licensees adopted to identify whether there were other representatives who ought to have been assessed as part of the Compensation Program.
66. The methodology used for Project Baringa is set out in the 'Project Baringa Client Remediation and Methodology' document. We have been provided with three versions of this methodology. Although it covers more advisers than the Compensation Program, this methodology document describes the processes followed for the advisers who fall within the Additional Licence Conditions definition of the Compensation Program. For this reason we refer in this report simply to the 'Project Baringa Methodology' or 'Project Baringa' to mean the methodology followed for advisers in the Compensation Program.

### Composition of advisers in the Compensation Program

67. The composition of advisers in the Compensation Program is based on the definitions in the Additional Licence Conditions:
- The Compensation Program definition includes only advisers who were Identified Former Representatives; and

b. The Identified Former Representatives definition means a list of advisers provided by the Licensees to ASIC as being advisers whose advice needed to be reviewed and one or more of their clients compensated.

68. The consequence of the Additional Licence Conditions is that if an adviser was reviewed under Project Baringa and no clients of that adviser were offered compensation, then that adviser is not an Identified Former Representative and so is not included in the 'Compensation Program' as defined. However, the effect of the Additional Licence Conditions is that our Identification Report will identify whether there was a reasonable basis for the steps that the Licensees took to identify the advisers that were included in the Compensation Program. The Identification Report will assess whether there was a reasonable basis for the processes undertaken by the Licensees to identify whether any advisers in addition to those 15 Identified Former Representatives should have been identified and assessed.

69. As set out below, there were some differences between the process steps undertaken for each adviser in Project Baringa. As the scope of this report only includes the 15 advisers defined as Identified Former Representatives, we have not considered the communication steps for the remaining 10 advisers who formed part of Project Baringa, but who are not Identified Former Representatives.

70. Extending the diagram from paragraph 62 above, in summary, the 27 advisers considered across the various remediation programs can be shown as follows:

Definition	Adviser number																										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Project Hartnett		2																									
EU/Past Business Review (CFPL)																											
Additional CFPL advisers																											
Additional FWL advisers (Meridien / Adlam)																											
<b>Project Baringa</b>																											
<b>Inclusion/exclusion in definition of Identified Former Representative</b>																											
Specific exclusion as agreed with ASIC			1																								
No compensation paid, so not an IFR																											
Included, although no compensation was paid																											
<b>Compensation Program as defined</b>																											

71. The differences between the advisers in Project Baringa and the Compensation Program shown in the above diagram are as follows:

a. It was agreed with ASIC that one adviser (Adviser 3) would be dealt with in the same manner as the Additional Licence Conditions, but because of extenuating circumstances would not be included in the definition of Identified Former Representative;

- b. Following an assessment of the 25 identified advisers of concern, nine advisers (Advisers 4 to 12) were excluded from any further review. We are informed by CBA that, based on information available at the time, no areas of concern were identified which would warrant the advisers being reviewed because their clients were assessed by the Licensee as having received appropriate advice. As no compensation was offered to any clients of these advisers<sup>11</sup>, these advisers do not meet the definition of Identified Former Representative. For this reason, the processes related to those nine advisers are not included within the scope of this Comparison Report but are within the scope of our subsequent Identification Report; and
- c. In the case of one adviser (Adviser 13), at the date the conditions were imposed, the Licensee informed ASIC that the adviser was an Identified Former Representative. However, the information provided to us (as set out in Appendix E) identifies that no compensation was paid to clients of this adviser and so they should not have been included as an Identified Former Representative. Nonetheless, as they were included as an Identified Former Representative, the Licensee will be required to apply the Additional Elements to this adviser's Affected Clients.

72. In the balance of this report we discuss the process steps relating to clients of those 15 advisers who are Identified Former Representatives under the Compensation Program.

### Effect of the definition of Compensation Program on this Report

73. For the most part, the fact that the scope of this report covers 15 rather than 25 advisers does not affect the analysis of the communication process steps in this report.
74. The processes that the Licensee undertook to determine whether the 10 advisers who were part of Project Baringa but not Identified Former Representatives ought to have been assessed as part of the Compensation Program are within the scope of our subsequent Identification Report.

## Definitions in the Additional Licence Conditions

75. It is important in our opinion for readers of this report to understand the definitions of various of the key terms contained in the Additional Licence Conditions, which act to define the scope of this Comparison Report, namely:

Defined term	Definition
Project Hartnett	Means the process and methodology set out in the Nguyen Methodology and the Awkar Methodology (provided to ASIC on 29 May 2014) and implemented by the Licensee to compensate clients who suffered losses as a result of inappropriate advice provided by two former representatives of the Licensee (CFPL).
Compensation Program	Means the review and compensation activities undertaken by the Licensee which: <ul style="list-style-type: none"> <li>(a) Were designed to identify where inappropriate advice was provided to a client resulting in the need for compensation, and if so, restore that Affected Client of an Identified Former Representative to the position they would have been in had they received appropriate advice;</li> <li>(b) Were based on the process methodology developed for Project Hartnett and extended to address additional client, product and advice attributes; and</li> <li>(c) Commenced or concluded during the period from 25 October 2011 (being the date on which the EU took effect) until 30 June 2013,</li> </ul> but does not include the review and compensation activities conducted under Project Hartnett.

<sup>11</sup> The information provided to us recorded in Appendix E indicates that clients of two cases were offered compensation, but the value of compensation paid was \$0. CBA informed us that these clients were offered compensation, but this was performed outside of the Compensation Program.

Defined term	Definition
Affected Clients	<p>Mean clients of Identified Former Representatives except for:</p> <ul style="list-style-type: none"> <li>(a) Clients where the Licensee has no record of advice having been provided;</li> <li>(b) Groups of clients of Identified Former Representatives as agreed with ASIC where it is not necessary to contact those clients for valid reasons (for example, where the only record of a client relationship involves a client having insurance cover that appears to have been obtained prior to the Identified Former Representatives giving advice);</li> <li>(c) Clients where returned mail is received, and after making appropriate efforts to contact the Affected Clients, the Licensee was unable to do so; or</li> <li>(d) Clients who were not included in the Compensation Program as a result of analysis conducted by the Licensee which indicated that clients did not receive the type of advice from the Identified Former Representative that was the subject of concern.</li> </ul>
Identified Former Representatives	<p>Means those former representatives of the Licensee that the Licensee has, at the date these conditions were imposed, informed ASIC were identified by the Licensee as representatives whose advice needed to be reviewed, and one or more of their Affected Clients compensated, under the Compensation Program.</p>

## Limitations of this report

76. As detailed above, together these definitions have the effect that the scope of this Comparison Report is to report on the processes undertaken by CFPL and/or FWL for certain advisers under Project Hartnett and the Compensation Program.
77. The scope of this Comparison Report is focussed on reviewing and comparing differences in the process steps undertaken by the Licensees for communicating with Affected Clients between Project Hartnett and the Compensation Program.
78. In the event that any Additional Elements are identified, the scope of this report requires identification of the nature of those differences, but does not require an assessment of whether there was a reasonable basis for adopting those process steps. The scope of our subsequent Identification Report includes assessing whether there was a reasonable basis for the steps and processes undertaken in the Compensation Program (as defined by paragraph 23(b) in the Additional Licence Conditions).
79. The scope of this Comparison Report specifically does not include assessing the processes undertaken by each Licensee to identify any Potential At Risk Representatives (again, as defined in the Additional Licence Conditions) or clients thereof who were not assessed in the Compensation Program. Those matters will also be covered by the scope of our subsequent Identification Report, which will consider if there was a reasonable basis for the processes the Licensees adopted to identify whether there were other representatives who ought to have been assessed as part of the Compensation Program.

## Information relied on

80. The statements and opinions contained in this report are given in good faith, and to a large extent depend upon the accuracy and completeness of information and documentation provided to us by CBA, and explanations provided to us by CBA employees and its legal representatives. The scope of this Comparison Report does not extend to testing the accuracy and completeness of the information provided to us. Therefore KordaMentha Forensic does not warrant the accuracy or reliability of any of the information supplied to it.

81. Some of the information provided to us identifies the names of the 27 advisers and the two corporate authorised representatives of FWL. Apart from Mr Nguyen and Mr Awkar, we have been requested in this report to anonymise the names of the individual advisers and corporate authorised representatives for privacy purposes.
82. The report has been prepared by KordaMentha Forensic with care and diligence.

## Overview of our work

83. Having regard to the scope of this report, namely to identify any Additional Elements by reviewing and comparing the process steps used by the Licensees for communicating with Affected Clients, and providing for their participation in both the review process and the decision making process, we have:
  - a. Gathered and reviewed material which in our opinion is relevant to the scope of this report;
  - b. Held meetings with selected CBA staff and CBA's legal representatives to elicit information and explanations;
  - c. Reviewed samples of communications used in Project Hartnett and the Compensation Program;
  - d. Compared process steps in Project Hartnett and the Compensation Program;
  - e. Compared the remediation process and outcomes of Project Hartnett and the Compensation Program;
  - f. Reviewed the content of the letters supplied to us to the extent necessary to understand the process steps applied; and
  - g. Identified Additional Elements in the process steps of the Compensation Program.

## C. Project Hartnett

### Background

84. As set out in Section B above, Project Hartnett is defined as the remediation activities for two advisers – Mr Nguyen and Mr Awkar.

### Objective

85. CFPL's overall stated aim of the remediation in Project Hartnett was to place those clients who had been given inappropriate advice in the position that they would have been in had:
- For Nguyen: the clients received appropriate advice; and
  - For Awkar: the inappropriate elements of the advice or misconduct not occurred.
86. An important overriding principle of Project Hartnett was ensuring 'consistency of process and outcome' as well as 'equitable treatment' of Potentially Affected Clients.

### Methodology

87. The Project Hartnett remediation strategy, principles and processes for assessing compensation payable for potential claims by Nguyen's clients were set out in a document described as 'Project Hartnett Client Remediation – Don Nguyen (Project) Methodology and Process Document' (**the Nguyen Methodology**).
88. The methodology was developed to ensure consistency in the treatment of potential claims within agreed timeframes.
89. CFPL commenced use of the Nguyen Methodology in about January 2011. The methodology evolved throughout the course of Project Hartnett as the Licensee refined the processes to address areas of concern. This resulted in changes and updates being made to the Nguyen Methodology. In total, there were 14 versions of the Nguyen Methodology and eight versions of the Awkar Methodology throughout the duration of Project Hartnett. For the purposes of the Comparison Report, we have used the third edition of version 1.63 of the Nguyen Methodology dated 14 October 2011. We understand that this is the final version of the methodology used in Project Hartnett.
90. The remediation strategy, principles and processes for assessing compensation payable for potential claims by Awkar's clients were set out in a document described as 'Client Remediation – Anthony Awkar - Methodology and Process' (**the Awkar Methodology**).
91. For the purposes of this report we have used the Nguyen Methodology which has the same underlying principles as the Awkar Methodology. We have not identified any substantive differences between these two methodologies with respect to communication with clients and their participation in the review process.

### Communication methodology

92. The following approach to communicating with clients is set out in the Nguyen Methodology:
- An approach to delivering communications to impacted clients will be tailored to accommodate their existing knowledge and previous interactions with CFP regarding the Planner.*
- Messages will be standardised to ensure clients receive consistent information and support through the remediation process.*

- *The client call centre has been briefed to respond to client calls. Clients' details will be collected and passed to a Case Manager to respond appropriately.*
  - *Clients will be allocated a dedicated staff member who will conduct their review and be their Case Manager.*
  - *Information will be provided to clients through a combination of face-to-face meetings, phone discussions and written communications.*
  - *There is a return to sender process in place along with a process for finding lost clients.*
93. A number of letter templates for the relevant adviser's clients were developed for customised communication. The type of letter sent depended upon the individual circumstances of the advice provided by the relevant adviser to clients.

## Reporting structure

94. A Steering Committee was constituted to oversee Project Hartnett and provide guidance as appropriate.
95. A Program Director was appointed to Project Hartnett, with responsibility for the overall project outcomes.
96. The Remediation Manager reported to the Program Director and had responsibility for overseeing the remediation program.
97. Two Project Managers were appointed, with one responsible for the operational management of the remediation processes relating to Nguyen's clients and the other for Awkar's clients.
98. A Review Group, made up of various members of Project Hartnett, was tasked with ensuring that all recommendations made to the Review Panel, following receipt of legal advice, were in an appropriate form and included sufficient information to enable the Review Panel to make a decision.
99. The Review Panel was made up of members from various relevant parts of CBA including the advice businesses, Risk Management, Finance, Legal Services, Group Customer Relations and members of Project Hartnett. Its role was to consider and approve recommended assessment outcomes which involved complex or unclear issues, or approve revised offers that were more than \$10,000 (subsequently increased to \$25,000).

## Process steps

100. For the purposes of implementing remediation for Affected Clients, CFPL prepared process maps to detail the methodology and steps to be adopted.
101. The key steps in the relevant process maps have been consolidated into a summary project comparison prepared by KordaMentha Forensic which is included at Appendix B to this report.
102. The key steps stated to be utilised by CFPL are also described below.
103. The scope of this report does not include undertaking a review of the content and wording of every actual communication. However, we have reviewed some actual communications (where available) to the extent that we considered necessary to understand the communication process steps applied in Project Hartnett and the Compensation Program.

## Step 1: Identification of Potentially Affected Clients

104. The first step involved the identification of the relevant adviser's client population, primarily based on revenue data, including all commissions, fees, trailing commissions and on-going revenue attributed to an adviser. Assessing whether there was a reasonable basis for this approach is within the scope of the Identification Report.
105. Some clients were inherited from other advisers ('**Inherited Clients**'). If an Inherited Client had not received advice from the Inheriting Adviser, they were removed from the client population. The process of determining whether a client received advice from the Inheriting Adviser did not involve contacting the client to independently verify that fact or undertaking a review of correspondence. Rather, it was based on whether the revenue data indicated that advice had been provided.
106. After those Inherited Clients who did not receive advice had been excluded, the remaining clients were considered Potentially Affected Clients.

## Step 2: Communicating with Potentially Affected Clients - Initial Letter sent

107. The general process steps for communication with clients within the Potentially Affected Clients population are set out in the Nguyen Methodology.
108. These processes were only guidelines designed to assist the appropriate communication to clients which was tailored to their specific circumstances.
109. The Potentially Affected Clients comprised all clients of the relevant adviser who were determined to have received advice from the adviser. During the period December 2010 to April 2011, an Initial Letter<sup>12</sup> was sent to the Potentially Affected Clients population:
- Informing them that there may have been an issue with advice given to them by their adviser;
  - Noting an investigation was being undertaken about the advice provided; and
  - Stating the client would be contacted following the investigation.
110. We requested information regarding the number of Initial Letters sent in Project Hartnett. In total, CBA database records indicate that Initial Letters were sent for 1,795 cases out of 2,093 assessed:

Adviser	Initial Letters recorded as being sent	Cases assessed
Nguyen	1,573	1,685
Awkar	222	408
	1,795	2,093

111. We were further informed that CBA only has copies of 94 of the 1,795 Initial Letters sent in Project Hartnett as these were processed by an external mail house.
112. The upfront communication to all of those clients of Nguyen and Awkar who received advice was consistent across all 14 versions of the Nguyen Methodology and the eight versions of the Awkar Methodology.
113. An example of a letter sent to Potentially Affected Clients is at Appendix F.1.
114. This letter did not contain any information specific to the client, other than their contact details.

<sup>12</sup> CBA has indicated there were instances where an Initial Letter was not sent to some of the clients in the Potentially Affected Clients population. This arose when there was a lack of current contact information or because of an oversight.

115. According to the Nguyen Methodology, Inherited Clients considered not to have received advice on the basis of the process described in paragraph 103 above, should not have received an Initial Letter or further communication. However, a flow chart in the Nguyen Methodology records that 188 such clients did receive a 'no remediate' letter. CBA has indicated that the flow chart in the Nguyen methodology is the only reference they have found regarding these letters, and therefore it may be erroneous. CBA is unable to confirm whether these letters were sent.

116. In addition, in relation to the Initial Letter, CBA stated to us that:

*In Project Hartnett, CBA sought to contact all of Mr Nguyen's and Mr Awkar's clients to inform them that CBA had become aware of concerns about the advice provided to a number of their clients and accordingly CBA was investigating the services provided by the former adviser to their clients. In some instances, due to an oversight or a lack of current contact information, the CBA did not communicate with some of Mr Nguyen's and Mr Awkar's clients.*

117. In circumstances where a client was unable to be contacted after taking reasonable steps to locate them, a note was recorded in CBA's electronic system. The purpose of the note was to facilitate the client's identification as a client who had been subject to assessment and was not able to be contacted.

### Step 3: Collation of client files

118. The collation of a client's file (which is referred to as 'reconstruction' in the Nguyen Methodology) involved the collation of information from various CBA record keeping sources, and/or the client. After identification of Potentially Affected Clients, each client's hard copy file was obtained, where available, and scanned. Where the hard copy file was not available or only partially available, file reconstruction was undertaken.

119. The file reconstruction process steps included conducting searches on a CFPL system used in the advice process such as COIN, CommSee, Insight, Calibre, CEA, Paxus, Life400 and FMS. Data stored on COIN included client information such as Statements of Advice ('SOA').

120. A search was also undertaken of the electronic records within CBA systems used to maintain client data known as CommSee and other relevant drives on CBA's systems of the paraplanners assigned to assist the relevant advisers. This included CBA-owned product and platform systems where the client's investments or insurance products were implemented. This enabled the Case Manager to understand the case's investment and transactions, as well as the adviser linked to the case at the time that a transaction took place.

### Step 4: Case evaluation

121. The Nguyen Methodology states each client's file that was able to be recovered or reconstructed was to be evaluated in accordance with a series of specific process steps.

122. For the 2,093 cases assessed under Project Hartnett, a detailed file review was undertaken by an experienced Case Manager to identify whether the client had received advice and a SOA prepared, and if so, whether the advice had been implemented. The aim of the file review was to assess the appropriateness of the advice given to the client.

123. Advice was considered to be 'implemented' if revenue was derived from a recommended product, i.e. if the SOA recommended investing in product X and there was a commission based on product X which could be identified as relating to the client, then it was assumed that a transaction had occurred based on that advice.

124. Where relevant information was unavailable on the CBA systems or missing from the client's hardcopy file, the client may have been contacted directly by a Senior Financial Planner or Case Manager, to gain insight as to their investment and risk preferences at the time the advice was provided.
125. Appendix E shows that a total of 2,084 cases in Project Hartnett were contacted for supplementary information and 555 clients responded.
126. The supplementary information requests were initially made by telephone and, if required, by a face to face meeting.
127. If the Case Manager had reason to believe the case's situation may have varied from that recorded in CFPL records (CBA systems or hardcopy records), the client may have been contacted to verify the accuracy and completeness of their records, including details of the Financial Needs Analysis ('FNA'), SOA, and file notes of client meetings countersigned by the client. The purpose of the contact was to verify with the client what the circumstances were at the relevant time the advice was given.
128. In addition, a face to face meeting may have occurred where other special circumstances existed, including where the client had:
- Submitted a formal complaint about the adviser;
  - Been affected by multiple complex issues;
  - Raised new issues regarding the advice they were given; or
  - Suffered from a particular hardship.
129. Further, where there was an absence of client documentation the Nguyen Methodology states that: 'CFP will assess the appropriateness of the advice based on the client's specific circumstances'.

### Step 5: Offer of payment to clients for independent professional advice

130. The earliest version of the Nguyen methodology provided to us<sup>13</sup> states that CFPL:
- [M]ade a commitment that all Nguyen clients who receive compensation have the option to engage professional services to verify the fairness of the compensation offer.*
131. The template letters<sup>14</sup> provided to us indicate that the offer was to pay for up to \$5,000 of independent professional advice.
132. In the next version of the Nguyen Methodology<sup>15</sup>, the population of clients who were given the option to engage professional services was expanded to include not only those clients who received compensation, but also those clients where advice was deemed appropriate. This change was reflected to read as follows:
- CFPL has made a commitment that all of the Planner's clients who receive compensation or those where advice was deemed appropriate have the option to engage professional advisers to verify the fairness of the remediation outcome. (emphasis added)*

<sup>13</sup> Being version 1.3 dated 13 January 2011.

<sup>14</sup> See example at Appendix F.2.

<sup>15</sup> Being version 1.41 dated 6 May 2011.

133. In the subsequent version<sup>16</sup>, there was a further change to the wording of the relevant clause, as follows:

*CFP has made a commitment that all of the Planner's clients who were provided advice (whether compensation is warranted or not) have the option to engaged independent professional advisers to verify the fairness of the remediation outcome. (emphasis added)*

134. Although the wording had changed (on 19 May 2011), this version did not change the population of clients who were given the option to engage professional services compared to the previous version. Similarly, the Awkar Methodology also changed to reflect this wording on 21 June 2011.
135. CBA stated to us that in applying the methodology following review of the client's file, if it was determined the client had received advice which was implemented, the client received a 'remediation letter' which included an offer for the client to be reimbursed for the reasonable costs of obtaining independent advice up to an amount of \$5,000, irrespective of whether they received advice deemed appropriate or inappropriate.
136. If the client had received advice but the advice was not implemented, the client received a close out letter explaining the result of the review process and stating that the outcome was that no remediation would be offered.

#### Summary of offers of \$5,000 for independent professional advice in Project Hartnett

Adviser	Number of cases assessed	No advice provided	Number of cases provided advice	Number of cases offered the \$5,000	Difference
	a	b	= a - b		
Nguyen	1,685	1,194	491	480	(11)
Awkar	408	123	285	214	(71)
<b>Total</b>	<b>2,093</b>	<b>1,317</b>	<b>776</b>	<b>694</b>	<b>(82)</b>

Source: Extract of Appendix E Summary of compensation outcomes

137. As shown in the above table, although there were 776 cases in which the client had received advice, CFPL sent an offer of \$5,000 for independent professional advice to 694 cases. The difference of 82 cases is comprised of 11 for Nguyen and 71 for Awkar.
138. For Nguyen, the difference of 11 cases is represented by:
- 6 cases where inappropriate advice was given and compensation offered. In these cases, the clients did not receive an offer of \$5,000 for independent professional advice, but should have under the methodology;
  - 8 cases where CBA was unable to complete their assessment of whether the advice that had been provided was appropriate, and therefore no compensation was paid, and no offer of \$5,000 for advice made;
  - This gives a total of 14 cases that did not receive an offer of \$5,000 for independent professional advice; Further, there were two cases where the offer of \$5,000 for independent professional advice was made by mistake as no advice was provided and no compensation offered;
  - There was also one case where the customer was assessed as requiring compensation but was not offered compensation due to a request from the Australian Federal Police to freeze the customer's assets. This request is unrelated to the events at CFPL; and

<sup>16</sup> Being version 1.5 (first version) dated 19 May 2011.

- e. The above 14 cases that did not receive an offer, less the two offers made in error and the one case mentioned in paragraph e. above accounts for the net difference of 11.
139. For Awkar, the difference of 71 cases is represented by:
- a. 48 cases where inappropriate advice was given and compensation offered. In these cases, the clients did not receive an offer of \$5,000 for independent professional advice, but should have under the methodology;
  - b. 24 cases where CFPL was unable to complete their assessment of whether the advice that had been provided was appropriate, and therefore no compensation was paid, and no offer of \$5,000 for advice made;
  - c. This gives a total of 72 cases that did not receive an offer of \$5,000 for independent professional advice; and
  - d. Further, there was one case where the offer of \$5,000 was made by mistake as no advice was provided and no compensation offered. The above 72 cases that did not receive an offer, less this one offer made in error, accounts for the net difference of 71.
140. In total therefore, although it was part of the methodology, 54 cases did not receive an offer of \$5,000 for independent professional advice (48 for Awkar's clients, and 6 for Nguyen's). In a further 32 cases (24 for Awkar's clients, and 8 for Nguyen's) no offer of \$5,000 for advice was made for the reason that the Licensee was unable to complete its assessment of whether the advice that had been provided was appropriate. CBA has given a commitment to ASIC that it will write to all of these 86 clients to offer up to \$5000 for independent advice and afford them all the rights of Affected Clients under the Additional Licence Conditions.

### Step 6: Panel process

141. The Review Group was comprised of various members of the project team and was tasked with ensuring that the recommendations made to the Review Panel, once legal advice had been sought and obtained, were in appropriate form and sufficient information was included for the Review Panel to make a decision about whether or not the advice provided was appropriate.
142. The Review Panel (comprised of various senior members from relevant parts of CBA's business) was responsible for reviewing the recommendations put forward by the Review Group in relation to complex or unclear issues, or approve revised offers that were more than \$10,000 (subsequently increased to \$25,000).
143. The Review Panel approved a specific amount of compensation for the remediation of each case.

### Step 7: Offer of compensation

144. Once the remediation amounts had been reviewed and approved by the Review Panel, various senior members of CBA approved the remediation amounts for offer and payment to clients. Additionally, agreements and deeds of release were signed on behalf of CFPL once the client accepted the offer.
145. The offer of compensation was communicated to clients by letter, the content of which was dependent upon the circumstances of each client.

### Step 8: Payment process

146. The payment of compensation was to be triggered by the receipt of a signed Settlement Deed/Agreement or Agreement letter (depending on the level of compensation). The following documentation was required before payment of compensation:
- Panel approval;
  - Payment authorisation;
  - Client payment direction; and
  - Client signed Settlement Deed/Agreement or Agreement letter.
147. By default, payment was by electronic funds transfer, unless specifically directed by the client.

### Step 9: Further internal review after rejection of compensation

148. In circumstances where there was no complaint, an offer of payment of compensation was made and rejected, and there was 'no clear way forward', the case was handed to the Customer Experience Advice Team for internal dispute resolution.
149. In circumstances where there was a complaint, and an offer of compensation was similarly rejected, apart from the opportunity for the case to be dealt with by the Customer Experience Advice Team, the client was also given the option of referring the matter to the Financial Ombudsman Service.

### Step 10: Close out letter sent

150. A close out letter was sent to those clients who received advice from Nguyen or Awkar and, in CFPL's view, were entitled to compensation.
151. A close out letter was also sent to those clients who received advice from Nguyen or Awkar and, in CFPL's view, were not entitled to compensation. This close out letter stated that the client's file had been reviewed and either the advice they had been given was assessed by CFPL as appropriate or that the advice had been assessed by CFPL as inappropriate, but CFPL had determined that they had not suffered any loss.
152. Apart from Inherited Clients who were not Potentially Affected Clients (because they did not receive advice as described in paragraph 103 above), a close out letter was also sent to clients who did not receive advice from Nguyen or Awkar, confirming that following a review of CBA's files, the client never received advice and accordingly there were no further issues to be addressed.

## Compensation outcomes

153. To assist in understanding the process steps for communication with Affected Clients, we have compiled a summary of the outcomes of the compensation process for each adviser for Project Hartnett (and also the Compensation Program). Refer to Appendix E to this report. This includes a reconciliation to the information previously provided by CBA to the Senate Economics References Committee.
154. Additionally, we have analysed the information presented in Appendix E and constructed a process chart to illustrate the process that CFPL undertook from determining the Potentially Affected Clients population through to the compensation stage. This process chart is at Appendix C.

155. In relation to Project Hartnett, Appendices C and E indicate:
- a. A total of 2,093 cases were assessed;
  - b. For a total of 1,317 of these cases, CFPL determined that no advice had been provided by the advisers to the Potentially Affected Clients;
  - c. An Initial Letter was sent to 'nearly all' of the remaining 776 cases where advice was provided;
  - d. Of the 776 cases, 694 cases were sent a close out letter which included an offer of the \$5,000 for advice from an independent adviser<sup>17</sup>;
  - e. Of the 776 cases where advice was provided:
    - i. A total of 415 cases were offered compensation as a result of CFPL's determination that advice was inappropriate; a total of \$23.9 million was paid to these Affected Clients of the two advisers under Project Hartnett (Nguyen and Awkar);
    - ii. A total of 305 cases were not offered compensation as a result of CFPL's assessment that their advice was appropriate;
    - iii. A total of 32 cases were not offered compensation because CFPL was unable to complete its assessment of whether the advice that had been provided was appropriate – because they were unable to contact the relevant client(s); and
    - iv. A total of 24 cases were not offered compensation as a result of CFPL's assessment that their advice was inappropriate, but that no loss had been suffered.

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<sup>17</sup> Refer to Appendix E column labelled '#clients offered \$5,000 for advice'.

## D. Compensation Program

### Background

156. As explained in Section B above, the Compensation Program is not a separate ‘program’ of remediation activities undertaken by the Licensees. Rather, it is a term defined in the Additional Licence Conditions to refer to a specific subset of 15 of the 25 advisers considered under Project Baringa. These 15 advisers are illustrated as follows:

Definition	Adviser number																										
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
Project Hartnett		2																									
EU/Past Business Review (CFPL)																											
Additional CFPL advisers																											
Additional FWL advisers (Meridien / Adlam)																											
Project Baringa																											
Inclusion/exclusion in definition of Identified Former Representative																											
Specific exclusion as agreed with ASIC																											
No compensation paid, so not an IFR																											
Included, although no compensation was paid																											
Compensation Program as defined																											

### Objective

157. CBA’s overall aim of the remediation in Project Baringa was similar to that of Project Hartnett, namely to place the clients who had been given inappropriate advice in the position that they would have been in had they received appropriate advice.
158. Similar to Project Hartnett, an important overriding principle was ensuring consistency of process and outcome as well as equitable treatment of Potentially Affected Clients.
159. Whilst the underlying principles in both projects were similar, CBA stated that lessons learned in Project Hartnett resulted in efficiencies and/or enhancements to the process steps adopted in Project Baringa.

### Methodology

160. CFPL committed to ASIC to develop a documented CFPL Client Remediation Policy to be approved by the CFPL Board. The subsequent CFPL Board-approved Customer Remediation Policy and Methodology (**‘the Customer Remediation Policy and Process Guidelines’**) formed part of the implementation plan under the EU and was provided to ASIC on 17 February 2012. These guidelines were a statement of the principles applied by CFPL for its clients in respect of the EU.

161. Project Baringa was established using a methodology and process put in place by the Licensees for assessing potential claims arising from the advice provided by the 25 identified advisers. The remediation strategy, principles and processes in relation to compensation payable to the Affected Clients was set out in a document described as 'Project Baringa Client Remediation – Methodology and Process Document' (**the Baringa Methodology**). Although it covers more advisers than the number of advisers included in the Compensation Program, this methodology document describes the processes followed for the advisers who fall within the Additional Licence Conditions definition of the Compensation Program.
162. The Baringa Methodology commenced in around June 2012.
163. CBA has indicated to us that:
- a. The Customer Remediation Policy and Process Guidelines is a high level policy document which sets out:
    - i. The client remediation policy and process to be adopted having regard to the responsibility of CFPL for the provision of financial services to its clients; and
    - ii. To have in place arrangements for compensating clients for loss or damage suffered because of breaches by it or its representatives of their relevant obligations; and
  - b. The Baringa Methodology sets out a detailed methodology and set of procedural steps for the review of clients' files.
164. Two relevant corporate authorised representatives of FWL, as Licensee, are Corp A and Corp B<sup>18</sup>. These representatives engaged advisers who were also authorised representatives of FWL. Advisers 22, 23, 24, 25 and 26 were engaged by Corp A whilst Adviser 27 was engaged by Corp B.
165. The Baringa Methodology applied to all advisers except for Adviser 26 and Adviser 27, who had specific methodologies designed for their clients.
166. The methodology developed for Adviser 26 formed the basis of the principles underlying the Baringa Methodology. Once the Baringa Methodology was in existence, the Baringa Methodology was followed for Adviser 26. Adviser 27 had a separate methodology.
167. The Baringa, Adviser 26 and Adviser 27 Methodologies each had a number of versions throughout the duration of the Compensation Program as the process evolved.
168. Whilst a separate methodology was not designed, slightly different review processes were used for five of the CFPL advisers, namely Advisers 13, 16, 18, 19 and 21.
169. These specific processes included, for example in the case of Adviser 19, the review of a sample of client files, which led to the identification of concerns about the adviser's conduct. This was followed by a further targeted review of 30 client files, which also identified concerns regarding their conduct and advice. A total of 43 cases relating to this adviser were ultimately assessed as part of Project Baringa.
170. Specific methodology differences of this type will be assessed as part of the scope of our Identification Report.

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<sup>18</sup> As stated in paragraph 77 above, we have been requested to anonymise the names of these corporate authorised representatives for privacy purposes.

## Communication methodology

171. The following approach to communicating with clients is set out in the Baringa Methodology:

*An approach to delivering communications to impacted clients will be tailored to accommodate, **where appropriate**, their existing knowledge and previous interactions with the Relevant Licensee regarding the Relevant Planner.*

- *Messages will be standardised to ensure clients receive consistent information and support through the remediation process.*
- *It is anticipated that a client call centre will be briefed to respond to client calls. Clients' details will be collected and passed to a Case Manager to respond appropriately.*
- *Clients will be allocated a dedicated staff member who will conduct their review and be their Case Manager.*
- *Information will be provided to clients through a combination of face-to-face meetings, phone discussions and written communications.*
- *There is a return to sender process in place along with a process for finding lost clients.*

*Communication with clients will depend on the results of research into each individual client file. Where a Case Manager needs to contact a client for additional information an introductory letter will be sent. For complex cases, there may be a need to interview the client either by phone or in person. Where possible, communication to clients will be kept to a minimum until client files and circumstances have been examined.*

(emphasis added)

172. A number of letter templates for the relevant advisers' clients were developed for customised communication. The type of letter sent depended upon the individual circumstances of the advice provided by the relevant adviser to clients.

## Reporting structure

173. The reporting structure established in Project Hartnett continued in Project Baringa. However, the membership of the Steering Committee, Review Group and Review Panel changed to reflect the fact that Project Baringa included advisers from FWL as well as CFPL.

## Process steps

174. For the purposes of implementing remediation for Affected Clients, process maps were prepared by the Licensees to detail the methodology and steps to be adopted.
175. The key steps in the relevant process maps have been consolidated into a summary project comparison prepared by KordaMentha Forensic which is included at Appendix B to this report.
176. The key steps as stated to be utilised by the Licensees are also described below.

### Step 1: Identification of Potentially Affected Clients

177. The first step involved the identification of the relevant adviser's client population, primarily based on revenue data, including all commissions, fees, trailing commissions and on-going revenue attributed to an adviser.

178. Some clients were inherited from other advisers. If an Inherited Client had not received advice from the Inheriting Adviser, they were removed from the client population. The process of determining whether a client received advice from the Inheriting Adviser did not involve contacting the client to independently verify that fact. Rather, it was based on whether the revenue data indicated that advice had been provided.
179. After the Inherited Clients had been excluded, the remaining clients were Potentially Affected Clients.
180. As detailed in Section F below, the scope of the Identification Report includes considering whether there was a reasonable basis for the process adopted in identifying Potentially Affected Clients and so will include consideration of whether there was a reasonable basis for removing Inherited Clients.

## Step 2: Communicating with Potentially Affected Clients - no Initial Letter

181. In Project Hartnett, the process was to send Potentially Affected Clients an Initial Letter indicating there was an investigation being conducted into the advice provided to them by their adviser and that, following completion of the review, CBA would contact them to confirm the outcome.
182. The CBA database used to manage cases in the Compensation Program records that 878 of 4,330 cases assessed in the Compensation Program received a letter saved with a file name including 'initial letter' or similar. However, the approach and the tone of the letter was different to the Initial Letters in Project Hartnett. Rather than being required by the methodology, the decision to send such a letter was made on a case by case basis 'where the case manager needed to contact the client for further information to complete the review of their case.'
183. The 878 letters were broken down across the following advisers:

Advisers	Initial Letters sent
CFPL advisers	285
Corp A advisers	331
Corp B adviser (Adviser 27)	262
	878

184. We were provided with copies of 283 of the 285 letters sent to CFPL advisers' clients and 327 of the 331 Corp A advisers' clients in the Compensation Program.

185. These letters were not all in the same tone as the Project Hartnett Initial Letters. For example:

- a. Of the 283 letters provided to us for CFPL advisers:
- i. Up to 23 November 2012, all documents called 'initial letter' referred to the adviser by name (144 letters)<sup>19</sup>;
  - ii. Between 23 November 2012 and 15 January 2013, there was a mix of letters referring to adviser by name or not (18 letters referred to an adviser and 31 did not); and
  - iii. After 15 January 2013, the letters were headed 'reviewing the advice you received' and simply stated that the Licensee was 'in the process of reviewing' the advice provided and that a Case Manager would contact the client shortly without giving a specific indication that there was a concern with the advice provided (90 letters)<sup>20</sup>.

In summary, 162 (57%) of the 283 letters for CFPL advisers referred to the adviser by name; and

<sup>19</sup> See example at Appendix G.1.

<sup>20</sup> See example at Appendix G.2.

- b. 317 (97%) of 327 letters provided to us for Corp A referred to the adviser by name. The remaining 10 letters did not.
186. Separately, we were informed that 262 letters called 'initial letters' were sent for Adviser 27<sup>21</sup>. The template for these letters was headed 'It's time to review your financial plan' and stated that the Licensee would like to meet with them. There was no reference to any potential issues with the advice provided or any investigations relating to the adviser.
187. In summary, of the 4,330 cases assessed in the Compensation Program, although the Baringa Methodology did not include sending an Initial Letter:
- a. 479 received an Initial Letter similar in tone to the Project Hartnett Initial Letter<sup>22</sup>;
- b. 393 cases received a letter but in a different tone, as they did not refer to the adviser by name and in some cases gave no indication that there were any potential issues with the advice provided or any investigations relating to the adviser<sup>23</sup>; and
- c. In 3,452 cases, clients of advisers did not receive any form of Initial Letter.
188. We were not provided copies of letters for the remaining six cases where an Initial Letter was recorded in the CBA database used to manage cases in the Compensation Program.
189. We consider the absence in the Compensation Program of an Initial Letter in the same tone as the Project Hartnett Initial Letter to be substantive as it did not provide Potentially Affected Clients with an immediate opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.

### Step 3: Collation of client files

190. The collation of a client's file (which is referred to as 'building' in the Baringa Methodology) involved the collation of information from various CBA record keeping sources, and/or the client. After identification of Potentially Affected Clients, each client's hard copy file was obtained, where available, and scanned. This collation of client files was a similar process as used in Project Hartnett. Where the hard copy file was not available or only partially available, file 'building' was undertaken.
191. The 'building' of a client's file in accordance with the Baringa Methodology involved the collation of information from various CBA record keeping sources, and/or the client.
192. Files of clients of Corp A advisers were retrieved from the adviser's office or reviewed in the adviser's office to obtain key information.
193. The file reconstruction process steps included conducting searches on a CBA system used in the advice process known as COIN. Data stored on COIN included client information such as SOAs.
194. In the event a client file was not able to be located on COIN, a search was undertaken of the CBA-wide system used to maintain client data known as CommSee.
195. If there was insufficient or no relevant client information on CommSee, a search was conducted of the relevant drives of the paraplanners who assisted the relevant advisers.

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<sup>21</sup> See example at Appendix G.8.

<sup>22</sup> 479 is the total of: 144 CFPL letters sent up to 23 November 2012, the 18 CFPL letters sent up to 15 January 2013 and the 317 Corp A letters which all referred to the adviser by name as referred to in paragraph 185 above.

<sup>23</sup> 393 is the total of 31 CFPL letters sent up to 15 January 2013, 90 CFPL letters sent after 15 January 2015, 10 Corp A letters and 262 Corp B letters.

#### Step 4: Preliminary review of identified advisers to determine whose clients may be eligible for compensation

196. A preliminary review was then undertaken to determine whether inappropriate advice had been given to Potentially Affected Clients of the 15 Identified Former Representatives and if so, their entitlement to compensation.
197. The first stage of the review process involved performing a checklist based review on the 'scanned client file' in order to ascertain whether the advice that was provided was appropriate.
198. If advice provided by the adviser was deemed to have been appropriate the case was marked 'Preliminary Review Passed'.
199. If the advice was deemed to be inappropriate, or if there was doubt about the appropriateness of advice, or further investigation was required, then the case was marked 'Preliminary Review Failed'.
200. As a different process was followed, this Preliminary Review did not take place in relation to clients of Advisers 15, 19, 27, or the Corp A advisers. Our subsequent Identification Report will assess whether the different processes followed for these advisers was a reasonable basis for identifying Affected Clients.

#### Step 5: Case evaluation

201. If the case was marked 'Preliminary Review Failed', each Potentially Affected Client's file was evaluated in accordance with a series of specific process steps set out in the Baringa Methodology.
202. A detailed file review was undertaken by an experienced Case Manager to identify whether the client had received advice and a SOA prepared and if so, whether it had been implemented. The aim of the file review was to assess the appropriateness of the advice given to the client.
203. The Baringa Methodology is internally inconsistent as to whether there was any discretion in contacting a client:
  - a. According to the 'Assessment principles - summary table,' where possible, the client's risk profile was to be determined or confirmed using information in the client file. If the risk profile determination seemed inconsistent with the client situation, or if sufficient information was not available in the client file, the Case Manager **was to conduct an interview** with the client to confirm their risk profile.' (Emphasis added); and
  - b. The case evaluation process also provided that where there was insufficient or inconsistent documentation to make an assessment, the client **may be contacted** to gain insight as to their investment and risk preferences at the time the advice was provided.' (Emphasis added).
204. CBA indicated to us that the decision as to whether to contact the client remained with the Case Manager and depended on the information available to them. Controls were in place to ensure consistency, such as cases being reviewed by several different Case Managers to confirm assessment outcomes.
205. Where the client file did not contain sufficient information to assess the appropriateness of the financial advice provided to the client, the Case Manager was to endeavour to verify with the client their circumstances at the time the advice was given. A total of 1,166 clients were contacted for supplementary information and 573 clients responded<sup>24</sup>.

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<sup>24</sup> Appendix E.

206. In addition, a face to face meeting may have occurred where other special circumstances existed, including where the client had:
- Submitted a formal complaint about the adviser;
  - Been affected by multiple complex issues;
  - Raised new issues regarding the advice they were given; or
  - Suffered from a particular hardship.
207. After any missing client information was captured or verification of information held had been completed, a case evaluation was finalised.
208. In circumstances where a client was unable to be contacted after taking reasonable steps to locate them, the Case Manager sent a follow-up letter and then a 'final' letter was sent informing the client of the Licensee's attempts to contact them and giving them 45 days in which to respond. The client was also informed that if they failed to respond within 45 days no steps in relation to the matter would be taken.
209. A note was recorded in CBA's system to facilitate the client's identification as a client who had been subject to assessment and was not able to be contacted.

#### Step 6: Offer of payment to clients for independent professional advice

210. The Baringa Methodology provides for a discretionary, ad hoc payment of up to \$5,000 for independent professional advice, as follows:
- Where a client wishes to obtain advice from an independent professional adviser to verify the fairness of the remediation outcome CBA Wealth Management Advice (including but not limited to Commonwealth Financial Planning Limited (CFP) and Financial Wisdom Limited (FWL)) or the Relevant Licensee may, **where it is deemed appropriate**, assist the client by making a contribution to the cost of the advice. This offer may extend to tax, welfare, Centrelink, legal and/or other financial advice.*
- This offer will be in the form of an expense recovery arrangement up to the value of \$5,000 for reasonable costs/fees incurred. Unless otherwise requested, CBA Wealth Management Advice (including but not limited to Commonwealth Financial Planning Limited (CFP) and Financial Wisdom Limited (FWL)) or the Relevant Licensee will pay the reasonable costs of a Professional Service firm direct rather than reimburse the client. (Emphasis added)*
211. Unlike Project Hartnett, which required such an offer, the Baringa Methodology and the Adviser 26 Methodology stated that such offers would be made 'where it is deemed appropriate'.
212. The Adviser 27 Methodology did not refer to an offer to engage professional services and so was not offered to any of these clients.
213. CBA has stated to us that no Potentially Affected Clients were sent letters offering up to \$5,000 for independent professional advice, including Adviser 26's or Adviser 27's clients. If the methodology used in Project Hartnett had been applied in the Compensation Program, 2,740 cases would have received this offer.

#### Step 7: Panel process

214. The Review Group was comprised of various members of the project team and was tasked with ensuring that the recommendations made to the Review Panel, once legal advice had been sought and obtained, were in appropriate form and sufficient information was included for the Review Panel to make a decision.

215. The Review Panel (comprised of various senior members from relevant parts of the CBA business) was responsible for reviewing the recommendations put forward by the Review Group once legal advice had been obtained and formally approving the remediation outcome.
216. The Review Panel approved a specific amount of compensation for the remediation of each client.

#### Step 8: Offer of compensation

217. Once the remediation amounts had been reviewed and approved by the Review Panel, various senior employees of CBA approved the remediation offer and payment to clients. Additionally, agreements and deeds of release were signed by the client and on behalf of the relevant Licensee.

#### Step 9: Payment process

218. The payment of compensation was to be triggered by the receipt of a signed Deed of Settlement and Release or Settlement Agreement (depending on the level of compensation). The following documentation was required before payment of compensation:
- Panel approval;
  - Payment authorisation;
  - Client payment direction; and
  - Client signed Deed of Settlement and Release or Settlement Agreement.
219. By default, payment was by electronic funds transfer, unless specifically directed by the client.

#### Step 10: Further internal review after rejection of compensation

220. In circumstances where there was no complaint and an offer of payment of compensation was made and rejected, and there was 'no clear way forward', the case was handed to the Customer Experience Advice Team for internal dispute resolution ('IDR') as is required under Regulatory Guide 165 *Licensing: Internal and external dispute resolution*. If a matter was not resolved in IDR the client would be given the option of referring the matter to the Financial Ombudsman Service.
221. In circumstances where there was a complaint, and an offer of compensation was similarly rejected, the client was also given the option of referring the matter to the Financial Ombudsman Service. This is because the matter could go straight to the Financial Ombudsman Service because the complaint meant it had already been through IDR.

#### Step 11: Close out procedures

222. In the earliest version of the Baringa Methodology provided to us, it states that '[w]here a client is not being compensated, a follow up letter stating the reasons why no remediation is required **will** be sent' (emphasis added).
223. In the next version, the wording was amended for those clients who were not being compensated to make discretionary the sending of a letter stating why no remediation is required. This change was reflected to read as follows: '[w]here a client is not being compensated, a follow up letter stating the reasons why no remediation is required **may** be sent' (emphasis added).
224. In the case of the Adviser 26 Methodology, the sending of a letter to clients not being compensated where there had been previous communication remained as a requirement (rather than discretionary).

225. Following a review of their advice, Potentially Affected Clients were only sent a letter advising they were not receiving compensation, where there had been earlier communication with them. The effect of this was that if a Potentially Affected Client had not been previously contacted, CBA did not contact them to inform the client that they had been part of Project Baringa and assessed as not requiring compensation.
226. In relation to Adviser 27, clients were sent a close out letter whether they were being offered compensation or not. However the letter was in a different form to those used in Project Hartnett and Project Baringa. Adviser 27's clients were sent the close out letter when they were offered compensation or when they were provided with a SOA following the face to face meeting referred to in the Initial Letter described at paragraph 186 above.

## Compensation outcomes

227. To assist in understanding the process steps for communication with Affected Clients, we have compiled a summary of the outcomes of the compensation process for each of the 15 advisers who were an 'Identified Former Representative' and had one or more of their Affected Clients compensated under the Compensation Program (refer to Appendix E).
228. This also includes:
- a. The reporting of breaches to ASIC and action taken by ASIC to ban certain advisers; and
  - b. A summary of the compensation outcomes and communications for the 10 advisers who were assessed in Project Baringa but not under the Compensation Program. By doing so, Appendix E also provides a reconciliation to the information previously provided by CBA to the Senate Economics References Committee, including where CBA has now identified the need to update the information previously provided to that committee.
229. We have also presented a chart to illustrate the processes that CBA undertook from determining the Potentially Affected Clients population through to the compensation stage. This process chart is at Appendix D.
230. Under the Compensation Program:
- a. A total of 4,330 cases were assessed;
  - b. No clients were offered the \$5,000 for advice from an independent professional adviser;
  - c. For a total of 1,590 of these cases, the Licensee determined that no advice had been provided by the Adviser to the Potentially Affected Client;
  - d. For a total of 2,740 cases, the Licensee determined that advice had been provided by the Adviser to the Potentially Affected Client;
  - e. Of the 2,740 cases where advice was provided:
    - i. A total of 685 cases were offered, and accepted a compensation offer (662 after the first offer, 23 after a second offer). 10 cases could not be contacted for the offer to be made, and 5 cases did not respond to the offer. This is a total of 700 cases where the Licensee determined that advice was inappropriate and an offer of compensation was to be made. A total of \$27.0 million was paid to these 685 cases;
    - ii. A total of 1,435 cases were not offered compensation as a result of the Licensee's assessment that the advice they had received was appropriate;
    - iii. A total of 12 cases were not offered compensation because the Licensee was unable to complete its assessment of whether the advice that had been provided was appropriate – because they were unable to contact the relevant client(s); and

- iv. A total of 586 cases were not offered compensation as a result of the Licensee's assessment that their advice was inappropriate, but that no loss had been suffered because the Licensee had assessed that the client's actual portfolio had outperformed the appropriate reference portfolio.
- 231. All of these 4,330 cases are now required to be written to by the Licensees. We discuss the communication process steps relating to the above groups of compensation outcomes in the next section on Additional Elements.

## E. Identification of Additional Elements

232. The high level elements of Project Hartnett and the Compensation Program are set out in Appendix B.
233. We consider the differences in the communication processes between Project Hartnett (two advisers) and the Compensation Program (15 advisers) to be substantive. The absence of communication with clients of the 15 advisers under the Compensation Program who were assessed as not being entitled to compensation and the timing of the initial communication with those clients offered compensation (being after the Licensees' assessment process had been completed) did not provide all Potentially Affected Clients of the 15 advisers under the Compensation Program with an opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.
234. If the client had not been previously communicated with and the Licensee had assessed that no compensation was payable, the client did not receive any communication from the Licensee. In essence, many clients of the 15 advisers were unaware that their advice was being reviewed or that they were part of the Licensees' remediation activities. This happened in a number of scenarios, such as:
- The advice they received was assessed by the Licensee as being 'inappropriate', but the Licensee assessed that no compensation was payable, as the client's actual portfolio had outperformed the appropriate reference portfolio;
  - The advice they received was assessed by the Licensee as being appropriate and so no compensation was payable;
  - The Licensee assessed that no advice had been provided to the client; or
  - Where the Licensee has stated that it was unable to complete its assessment of whether the advice that was provided by the adviser to a client was appropriate, as they had been unable to contact the client for information.
235. We identify below the specific Additional Elements (i.e. further letters) which should be applied.

### Initial Letter

236. In Project Hartnett, Potentially Affected Clients received an Initial Letter indicating there was an investigation being conducted into the advice provided to them by their adviser and that, following completion of the review, CBA would contact them to confirm the outcome.
237. In 3,452 of 4,330 cases assessed in the Compensation Program, clients of advisers did not receive any form of Initial Letter.
238. The CBA database used to manage cases in the Compensation Program records that 878 of 4,330 cases assessed in the Compensation Program received a letter saved with a file name including 'initial letter'. However, the approach and the tone of the letter was different to the Initial Letters in Project Hartnett. Rather than being required by the methodology, the decision to send such a letter was made on a case by case basis 'where the case manager needed to contact the client for further information to complete the review of their case.'

239. The 878 Initial letters were broken down across the following advisers:

Advisers	Initial Letters sent
CFPL advisers	285
Corp A advisers	331
Corp B adviser (Adviser 27)	262
	878

240. We were provided with copies of 283 of the 285 letters sent to CFPL advisers' clients and 327 of the 331 Corp A advisers' clients in the Compensation Program.

241. These letters were not all in the same tone as the Project Hartnett Initial Letters. For example:

a. Of the 283 letters provided to us for CFPL advisers:

- i. Up to 23 November 2012, all documents called 'initial letter' referred to the adviser by name (144 letters)<sup>25</sup>;
- ii. Between 23 November 2012 and 15 January 2013, there was a mix of letters referring to the adviser by name or not (18 letters referred to an adviser and 31 did not); and
- iii. After 15 January 2013, the letters were headed 'reviewing the advice you received' and simply stated that the Licensee was 'in the process of reviewing' the advice provided and that a Case Manager would contact the client shortly without giving a specific indication that there was a concern with the advice provided (90 letters)<sup>26</sup>.

In summary, 162 (57%) of the 283 letters for CFPL advisers referred to the adviser by name; and

b. 317 (97%) of 327 letters provided to us for Corp A referred to the adviser by name. The remaining 10 letters did not.

242. The remaining 262 letters called 'initial letters' were sent for Adviser 27<sup>27</sup>. The template for these letters was headed 'It's time to review your financial plan' and stated that the Licensee would like to meet with them. There was no reference to any potential issues with the advice provided or any investigations relating to the adviser.

243. We consider the absence, in the Compensation Program, of an Initial Letter in the same tone as the Project Hartnett Initial Letter to be substantive as it did not provide Potentially Affected Clients with an immediate opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.

## Offer of payment up to \$5,000 for independent professional advice

244. In Project Hartnett, Affected Clients who received advice which was implemented were generally sent a close out letter (as discussed at paragraph 139 above, there were 86 cases where this did not occur) which included an offer of up to \$5,000 for independent professional advice regardless of whether CFPL had determined the advice provided was appropriate or inappropriate.

245. By contrast, in the Compensation Program, the offer up to \$5,000 was discretionary. CBA has stated that no Potentially Affected Clients were given this offer<sup>28</sup>. If the same methodology had been used in the Compensation Program as was used in Project Hartnett, 2,740 cases would have received an offer of \$5,000.

<sup>25</sup> See example at Appendix G.1.

<sup>26</sup> See example at Appendix G.2.

<sup>27</sup> See example at Appendix G.8.

<sup>28</sup> See examples at Appendix G.5 and G.6.

246. We consider this difference in the communication process to be substantive as it did not provide Potentially Affected Clients of the 15 advisers considered under the Compensation Program with the same opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.

## Close out letter

247. In Project Hartnett, Potentially Affected Clients who received the Initial Letter indicating there was an investigation being conducted into the advice provided to them by their adviser, but who were determined by CFPL to not be entitled to compensation, received a close out letter stating that the client's file had been reviewed and that they were not entitled to compensation.
248. In the Compensation Program there were instances where Potentially Affected Clients received an Initial Letter or later communication seeking information or clarification required to enable the Case Manager to complete their assessment. In these circumstances, the Potentially Affected Client subsequently received either a letter offering compensation or a letter advising that they were not entitled to compensation.
249. If a client had not been contacted previously:
- Where a client was assessed by the Licensee as being entitled to compensation, the communication with them was a close out letter offering compensation, which was sent after the Licensee had completed its assessment process; or
  - Where a client was assessed by the Licensee as not being entitled to compensation (for example, where the advice was inappropriate, but the client had not suffered a loss), they did not receive any communication from the Licensee.
250. The effect of this was that if a Potentially Affected Client had not been previously contacted and the Licensee assessed them as not being entitled to compensation, they did not receive any communication from the Licensee and so were not given an opportunity to participate in the review and decision making processes as to whether they were entitled to compensation.

## Specific Additional Elements

251. In this section, we identify the specific Additional Elements which should be applied to Affected Clients. These should be considered in the context that clients will have now received a letter with regard to the Open Advice Review program and the clause in the Additional Licence Conditions, which states that the written communication must include:
- An explanation that the Affected Client may (but is not required to), as an alternative or in addition to the matters set out in these conditions, have access to the Open Advice Review Program.<sup>29</sup>*
252. The client experience for the 4,330 cases assessed in the Compensation Program differed depending on whether the Licensee assessed that they were entitled to compensation. Therefore, the form of letter to now be sent by the Licensees (within 30 days) will also need to be varied depending on outcomes and communications to date.

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<sup>29</sup> Additional Licence Conditions, Clause 25 (f). Available at ASIC Media Release 14-192: <http://www.asic.gov.au/about-asic/media-centre/find-a-media-release/2014-releases/14-192mr-asic-imposes-new-afs-licence-condition-on-two-commonwealth-bank-financial-planning-businesses/>

253. In the tables below, we outline the Additional Elements by groups of cases.

*3,623 cases where the Licensee assessed that no compensation was payable*

Group	Additional element
<p>1,435 cases where CBA assessed the advice provided (by the 15 advisers) was appropriate.</p> <p>The process was for no Initial Letter to be sent to these clients (although there were exceptions), and no offer of \$5,000 for independent professional advice made. Therefore these clients were not given the same opportunity to participate.</p>	<ul style="list-style-type: none"> <li>• A \$5,000 offer for independent professional advice should now be sent to clients of these 1,435 cases.</li> <li>• In doing so they should take into account whether the client had received a letter in the tone of the Project Hartnett Initial Letter<sup>30</sup>.</li> </ul>
<p>586 cases where CBA assessed the advice provided (by the 15 advisers) was inappropriate. However, because CBA also assessed that the client had suffered no loss, no compensation offer was made.</p> <p>The process was for no Initial Letter to be sent to these clients, and no offer of \$5,000 for independent professional advice made. Therefore these clients were not given the same opportunity to participate.</p>	<ul style="list-style-type: none"> <li>• A \$5,000 offer for independent professional advice should now be sent to clients of these 586 cases.</li> <li>• In doing so they should take into account whether the client had received a letter in the tone of the Project Hartnett Initial Letter.</li> </ul>
<p>12 cases where CBA was not able to complete its assessment as it was unable to contact the relevant client.</p>	<ul style="list-style-type: none"> <li>• Further attempts to contact these clients should be made with a view to undertaking the Additional Elements described above.</li> </ul>
<p>1,590 cases where CBA assessed no advice had been provided (by the 15 advisers).</p> <p>The process was for no Initial Letter to be sent to these clients, and no offer of \$5,000 for independent professional advice made.</p> <p>The Additional Elements only apply to Affected Clients. As these cases were assessed as not receiving advice they do not fall under the definition of Affected Clients under the Additional Licence Conditions.</p> <p>The treatment of these 1,590 cases was different from that which would have been experienced by these clients if they had been assessed under Project Hartnett because they received no Initial Letter, or any other communication from CBA.</p>	<ul style="list-style-type: none"> <li>• A letter that is similar in tone to the Project Hartnett Initial Letter should be sent to these 1,590 cases. If the Licensees subsequently form the view that advice had been provided to any of these cases, a \$5,000 offer for independent professional advice should be made.</li> </ul>

<sup>30</sup> Our analysis has identified that 479 cases received a letter similar in tone to the Initial Letter in Project Hartnett. We requested information which would allow us to identify how many of each group received such a letter. CBA has indicated to us that as at the date of this report they are still undertaking the analysis to ascertain the information we have requested. As such, we are not able to identify the specific number of cases who should now receive a letter.

*700 cases where the Licensee assessed that compensation was payable*

Group	Additional element
<p>For 685 cases, an offer has been accepted.</p> <p>The process was for no Initial Letter to be sent to these clients, and no offer of \$5,000 for independent professional advice made. Therefore these clients were not given the same opportunity to participate.</p>	<ul style="list-style-type: none"> <li>• A \$5,000 offer for independent professional advice should now be sent to clients of these 685 cases.</li> <li>• In doing so they should take into account whether the client had received a letter in the tone of the Project Hartnett Initial Letter.</li> </ul>
<p>For 5 cases, CBA made an offer but the client did not respond.</p> <p>The process was for no Initial Letter to be sent to these clients, and no offer of \$5,000 for independent professional advice made. Therefore these clients were not given the same opportunity to participate.</p>	<ul style="list-style-type: none"> <li>• A \$5,000 offer for independent professional advice should now be sent to clients of these 5 cases.</li> <li>• In doing so they should take into account whether the client had received a letter in the tone of the Project Hartnett Initial Letter.</li> </ul>
<p>For 10 cases, CBA intended to make an offer but the client could not be contacted.</p>	<ul style="list-style-type: none"> <li>• Further attempts to contact these clients should be made with a view to undertaking the Additional Elements described above.</li> </ul>

254. Where relevant, CBA will need to communicate with clients by way of a close out letter notifying the outcome of the assessment.

## F. Next steps

### Scope of this report

255. This Comparison Report is the first of three reports which we have been engaged to provide.
256. As already discussed, the scope of this Comparison Report is to review and compare the process steps used by the Licensees for communicating with Affected Clients, and providing for their participation in both the review process and the decision making process applied:
- a. To clients of the two advisers considered in Project Hartnett; and
  - b. In the Compensation Program undertaken by the Licensees with respect to clients of the 15 Identified Former Representatives.
257. This Comparison Report identifies certain process steps applied in Project Hartnett that were not applied in the Compensation Program (the Additional Elements identified in Section E above).
258. The Additional Licence Conditions require the Licensees to apply the Additional Elements which are identified in this report to applicable Affected Clients, and to communicate in writing with each of the Affected Clients, within 30 days of receipt of this report.

### Scope of Identification Report

259. In this Comparison Report we have also made reference to certain matters that will be covered by the scope of our next report, referred to as the Identification Report.
260. The scope of the Identification Report is as follows:
- 23(b) Review:*
- i. The steps that the Licensee undertook to identify which of the clients of the Identified Former Representatives were Affected Clients and therefore assessed as part of the Compensation Program;*
  - ii. The process the Licensee undertook in or around July 2012 to identify representatives (other than the Identified Former Representatives) who exhibited risk attributes or behaviours which indicated the relevant representatives may have provided inappropriate advice ('Potential at Risk Representatives'); and*
  - iii. The additional processes that the Licensee undertook to determine whether any of those Potential At Risk Representatives ought to have been assessed as part of the Compensation Program.*
- 23(c) Provide a written report to ASIC and the Licensee ("Identification Report") outlining the Compliance Expert's opinion as to:*
- i. Whether there was a reasonable basis for the Licensee adopting the:*
    - A Steps referred to in condition 23(b)(i) to identify which clients of the Identified Former Representatives ought to have been assessed as part of the Compensation Program; and*
    - B Processes referred to in conditions 23(b)(ii) and 23(b)(iii) to identify whether there were other representatives who ought to have been assessed as part of the Compensation Program.*

- ii. *To the extent that the Compliance Expert forms the opinion that there was not a reasonable basis for adopting the steps referred to in condition 23(b)(i), what revised steps should reasonably be implemented to identify which clients of the Identified Former Representatives ought to have been assessed as part of the Compensation Program (“Revised Steps”); and*
- iii. *To the extent that the Compliance Expert forms the opinion that there was not a reasonable basis for adopting the processes referred to in condition 23(b)(ii) or 23(b)(iii), what additional processes should reasonably be implemented to identify whether there were other representatives who ought to have been assessed as part of the Compensation Program (“Additional Processes”).*

261. This scope will require us to provide our opinion in relation to two key aspects:
- a. Whether there was a reasonable basis for the processes undertaken by the Licensee to identify the clients of the 15 Identified Former Representatives in the Compensation Program - in effect whether more clients of the 15 advisers should have been identified and assessed; and
  - b. Whether there was a reasonable basis for the processes undertaken by the Licensee to identify whether any advisers in addition to those 15 Identified Former Representatives in the Compensation Program also exhibited risk attributes or behaviours which indicated the relevant advisers may have provided inappropriate advice - in effect, whether more than 15 advisers should have been identified and assessed.
262. The Identification Report will identify:
- a. Any steps which should reasonably be implemented to identify which clients of the Identified Former Representatives ought to have been assessed as part of the Compensation Program (**‘Revised Steps’**); and
  - b. Any processes which should reasonably be implemented to identify whether there were other representatives who ought to have been assessed as part of the Compensation Program. (**‘Additional Processes’**)
263. We therefore anticipate that the Identification Report will require us to review and assess in detail the bases for decisions taken, and processes adopted, which led to the inclusion, or exclusion of advisers and clients from the review and compensation activities (including any relevant communications) undertaken by the Licensees.

## Scope of Compliance Report

264. The third report which we have been engaged to provide (**‘Compliance Report’**) will require us to report on whether the Licensees have complied with the Additional Licence Conditions in respect of these Additional Elements, Revised Steps and Additional Processes.

## Appendix A    Glossary

## Appendix A Glossary

Defined term	Definition included in Licence Conditions	Definition
Additional Elements	Yes	Any process steps applied in Project Hartnett that were not applied in the Compensation Program.
Additional Licence Conditions	No	The Licence Conditions imposed by ASIC on CFPL (Licence No: 231139) and FWL (Licence No: 231138).
Adviser 26 Methodology	No	The remediation strategy, principles and processes for assessing compensation payable for potential claims by clients of Adviser 26. This methodology formed the basis of the principles underlining the Baringa Methodology and ultimately was incorporated into the Baringa Methodology.
Adviser 27 Methodology	No	The remediation strategy, principles and processes for assessing compensation payable for potential claims by clients of Adviser 27. This document described as '[Adviser 27] – Client Remediation Principles', which aims to inform the panel of the remedial approach notified to and agreed by ASIC and FWL and applied in relation to the case assessment process and the calculation methodology for any compensation payments.
Affected Clients	Yes	Refers to clients of Identified Former Representatives except for: <ul style="list-style-type: none"> <li>a) Clients where the Licensee has no record of advice having been provided;</li> <li>b) Groups of clients of Identified Former Representatives as agreed with ASIC where it is not necessary to contact those clients for valid reasons (for example, where the only record of a client relationship involves a client having insurance cover that appears to have been obtained prior to the Identified Former Representatives giving advice);</li> <li>c) Clients where returned mail is received, and after making appropriate efforts to contact the Affected Clients, the Licensee was unable to do so;</li> <li>d) Clients who were not included in the Compensation Program as a result of analysis conducted by the Licensee which indicated that clients did not receive the type of advice from the Identified Former Representative that was the subject of concern.</li> </ul>
ASIC	No	Australian Securities and Investments Commission
Awkar Methodology	No	The remediation strategy, principles and processes for assessing compensation payable for potential claims by Awkar's clients as set out in a document described as 'Client Remediation – Anthony Awkar – Methodology and Process'.
Baringa Methodology	No	The remediation strategy, principles and processes in relation to compensation payable for potential claims

		involving inappropriate advice provided by CFPL's current or former advisers/planners, as set out in a document described as 'Project Baringa Client Remediation – Methodology and Process Document'.
CBA	No	Commonwealth Bank of Australia Group, which includes both CFPL and FWL
CFP or CFPL	No	Commonwealth Financial Planning Limited
Compensation Program	Yes	Means the review and compensation activities undertaken by the Licensee which: <ul style="list-style-type: none"> <li>(a) Were designed to identify where inappropriate advice was provided to a client resulting in the need for compensation, and if so, restore that Affected Client of an Identified Former Representative to the position they would have been in had they received appropriate advice;</li> <li>(b) Were based on the process methodology developed for Project Hartnett and extended to address additional client, product and advice attributes; and</li> <li>(c) Commenced or concluded during the period from 25 October 2011 (being the date on which the EU took effect) until 30 June 2013,</li> </ul> but does not include the review and compensation activities conducted under Project Hartnett. It covers the 15 advisers which are the Identified Former Representatives encompassed by the Additional Licence Conditions.
Customer Remediation Policy and Process Guidelines	No	The CFPL Board approved Customer Remediation Policy and Process Guidelines in February 2012.
EU	No	CFP Enforceable Undertaking with ASIC executed on 25 October 2011
FNA	No	Financial Needs Analysis – a document used to collect facts in relation to a customer's personal and financial circumstances to assist in understanding their financial needs for the purposes of providing financial advice.
FOS	No	Financial Ombudsman Service
FWL	No	Financial Wisdom Limited
Identified Former Representatives	Yes	Means those former representatives of the Licensee that the Licensee has, at the date these conditions were imposed, informed ASIC were identified by the Licensee as representatives whose advice needed to be reviewed, and one or more of their Affected Clients compensated, under the Compensation Program.
Inherited Clients	No	Clients that were transferred to a new adviser and may or may not have received advice from the Inheriting Adviser.
Inheriting Adviser	No	An adviser that inherited clients from another adviser. The adviser may or may not have provided advice subsequent to that provided by the previous adviser.

Licensee(s)	No	Refers to CFPL and FWL, unless in the context of Project Hartnett where it refers only to CFPL.
Nguyen Methodology	No	The remediation strategy, principles and processes for assessing compensation payable for potential claims by Nguyen's clients as set out in a document described as 'Project Hartnett Client Remediation – Don Nguyen (Project) Methodology and Process'.
Past Business Review (PBR)	No	Refers to review procedures performed as part of the CFP Enforceable Undertaking.
Potential At Risk Representatives	No	Representatives (other than Identified Former Representatives) who exhibited risk attributes or behaviours which indicated the relevant representatives may have provided inappropriate advice.
Potentially Affected Clients	No	All clients of advisers assessed in Project Hartnett and the Compensation Program.
Project Baringa	No	Means the process and methodology set out in the 'Project Baringa Client Remediation and Methodology' document. In effect, the methodology document used for this project describes the process undertaken for the Compensation Program, and refers to the advisers covered by the EU and other compensation activities (excluding the two advisers under Project Hartnett).
Project Hartnett	Yes	Means the process and methodology set out in the Nguyen Methodology and the Awkar Methodology (provided to ASIC on 29 May 2014) and implemented by the Licensee to compensate clients who suffered losses as a result of inappropriate advice provided by two former representatives of the Licensee (CFPL).
SOA	No	Statement of Advice – a document recording the financial advice provided by an adviser to a customer.
The Engagement	No	As a condition of the Additional Licence Conditions, KordaMentha Forensic have been engaged to provide three written reports.

## Appendix B Project Comparison Summary

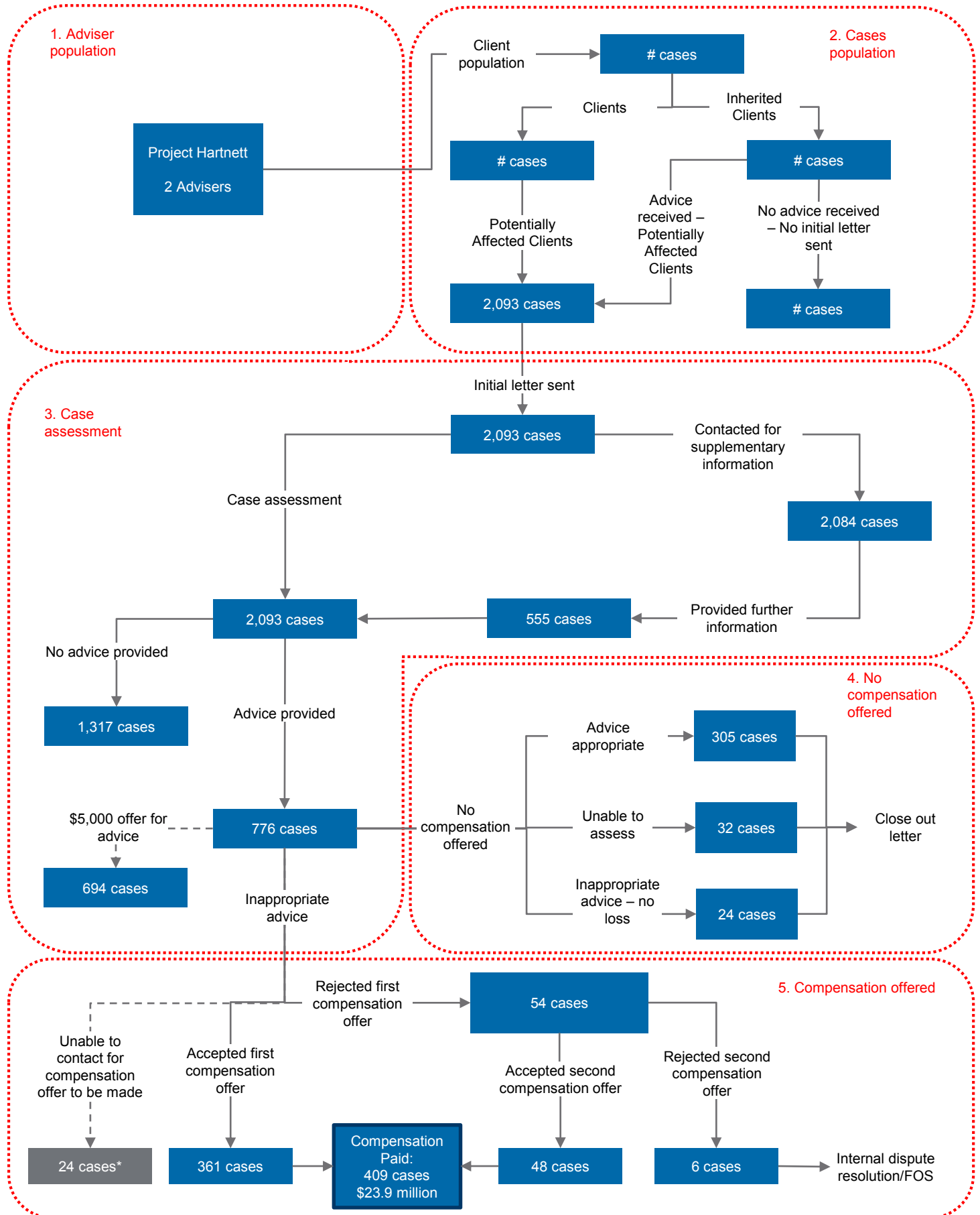
# Appendix B Project Comparison Summary



Process Steps	Project Hartnett	Compensation Program
Identification of Potentially Affected Clients	✓	✓
Communicating with Potentially Affected Clients – initial letter sent	✓	X (Although there were some exceptions)
Collation of client files	✓	✓
Preliminary review of identified advisers to determine whose clients may be eligible for compensation	N/A	✓
Case evaluation	✓	✓
Offer of \$5,000 to clients for independent professional advice	✓ (Although there were 86 exceptions)	X
Panel process	✓	✓
Offer of compensation	✓	✓
Payment process	✓	✓
Further internal review after rejection of compensation	✓	✓
Close out letter sent/procedures	✓	X (Unless clients had received earlier communication)

## Appendix C    Project Hartnett Process Chart Summary

# Appendix C Project Hartnett Process Chart Summary



# cases in Clients and Heritage clients are out of scope for the Comparison Report.  
 \* These cases are not included in 'Total cases offered compensation' outlined in Appendix E.  
 All numbers (cases and compensation) are sourced from Appendix E.



## Appendix D Compensation Program Process Chart Summary



## Appendix E Summary of Compensation Outcomes

Appendix E - Summary of Compensation Outcomes

If printed, this is best viewed on A3



The information in this table was provided by CBA

Adviser Code	Licensee	Project Methodology used	Description used in CBA Senate Submission	Covered by CFP Enforceable Undertaking	Reported to ASIC (breach notice)	ASIC banning or EU	Project name as defined in Licence Conditions	Defined as Identified Former Representative in Licence Conditions	Cases assessed		Advice provided		Information requested		\$5,000 offer for advice		No compensation offered					Compensation offered					
									Total # cases assessed as part of the compensation process	# Cases advice provided	# Cases no advice provided	# Cases contacted to provide information	# Cases provided information	# Cases offered \$5000 for advice	# Cases not offered \$5000 for advice	No compensation - advice appropriate	No compensation - inappropriate advice / no loss	No compensation - unable to assess	No compensation - No advice provided	Total cases not offered compensation	# Cases accepted first offer	# Cases rejected first offer & received revised offer	# Cases accepted revised offer	# Cases unable to contact for a compensation offer to be made	# Cases who did not respond after being provided a compensation offer	Total cases offered compensation (Note A)	Total compensation paid (as at May 2014)
Anthony Awkar	CFPL	Hartnett Methodology	Project Hartnett	No	Yes	Banned	Project Hartnett	No	408	285	123	400	257	214	194	44	3	24	123	194	209	5	4	18	-	214	\$ 1,422,000
Don Nguyen	CFPL	Hartnett Methodology	Project Hartnett	No	Yes	Banned	Project Hartnett	No	1,685	491	1,194	1,684	298	480	1,205	261	21	8	1,194	1,484	152	49	44	6	-	201	\$ 22,510,000
Adviser 3	CFPL	Project Baringa	Past Business Review	Yes	Yes	Banned	Excluded	No	55	53	- 2	55	11	55	36	-	3	2	41	10	4	4	-	-	14	\$ 1,073,000	
Advisers 4 - 12	CFPL	Project Baringa	Past Business Review	Yes	Yes	Banned/EU	Excluded	No	181	181	-	30	16	181	179	-	-	-	179	2	-	-	-	-	2	\$ -	
Adviser 13	CFPL	Project Baringa	Past Business Review	Yes	Yes		Compensation Program	Yes	36	28	8	1	-	36	27	-	1	-	8	36	-	-	-	-	-	-	\$ -
Adviser 14	CFPL	Project Baringa	Past Business Review	Yes	Yes		Compensation Program	Yes	233	153	80	34	21	233	131	2	-	80	213	19	1	-	-	1	20	\$ 133,000	
Adviser 15	CFPL	Project Baringa	Past Business Review	Yes	Yes	EU	Compensation Program	Yes	699	537	162	339	235	699	142	112	9	162	425	259	9	7	9	1	274	\$ 13,690,784	
Adviser 16	CFPL	Project Baringa	Past Business Review	Yes	Yes		Compensation Program	Yes	258	174	84	35	22	258	133	14	-	84	231	21	2	-	-	1	27	\$ 379,000	
Adviser 17	CFPL	Project Baringa	Past Business Review	Yes	Yes		Compensation Program	Yes	714	341	373	102	73	714	246	40	-	373	659	51	3	1	1	1	55	\$ 939,557	
Adviser 18	CFPL	Project Baringa	Past Business Review	Yes	Yes	EU	Compensation Program	Yes	329	215	114	25	16	329	193	6	-	114	313	15	-	-	-	-	16	\$ 48,000	
Adviser 19	CFPL	Project Baringa	Other CFPL	No	Yes	Banned	Compensation Program	Yes	43	42	1	41	40	43	4	-	2	1	11	32	-	-	-	-	32	\$ 970,298	
Adviser 20	CFPL	Project Baringa	Other CFPL	No	No		Compensation Program	Yes	655	430	225	43	31	655	401	8	-	225	634	19	-	-	-	-	21	\$ 138,000	
Adviser 21	CFPL	Project Baringa	Other CFPL	No	No		Compensation Program	Yes	300	27	273	7	6	300	22	1	-	273	296	4	-	-	-	-	4	\$ 175,389	
Adviser 22	FWL	Project Baringa-Corp A	FWL	No	Yes		Compensation Program	Yes	28	25	3	20	5	28	5	5	-	3	13	15	-	-	-	-	15	\$ 62,000	
Adviser 23	FWL	Project Baringa-Corp A	FWL	No	Yes		Compensation Program	Yes	173	117	56	93	18	173	57	35	-	56	148	24	1	1	-	-	25	\$ 367,000	
Adviser 24	FWL	Project Baringa-Corp A	FWL	No	Yes	Banned	Compensation Program	Yes	163	96	67	74	18	163	9	7	-	67	152	10	1	1	-	-	11	\$ 199,000	
Adviser 25	FWL	Project Baringa-Corp A	FWL	No	Yes		Compensation Program	Yes	59	43	16	34	7	59	6	25	-	16	47	12	-	-	-	-	12	\$ 128,000	
Adviser 26	FWL	Project Baringa-Corp A	FWL	No	Yes		Compensation Program	Yes	320	213	107	224	81	320	36	77	-	107	220	88	12	12	-	-	100	\$ 7,312,202	
Adviser 27	FWL	Project Baringa-Corp B	FWL	No	Yes		Compensation Program	Yes	320	299	21	94	-	320	23	180	1	21	225	93	2	1	-	1	95	\$ 2,423,677	
<b>TOTAL</b>									<b>6,659</b>	<b>3,750</b>	<b>2,909</b>	<b>3,335</b>	<b>1,155</b>	<b>694</b>	<b>5,965</b>	<b>1,955</b>	<b>610</b>	<b>47</b>	<b>2,909</b>	<b>5,521</b>	<b>1,035</b>	<b>89</b>	<b>75</b>	<b>34</b>	<b>5</b>	<b>1,138</b>	<b>\$ 51,970,907</b>

Totals based on the information provided by CBA above

Adviser Code	Licensee	Total # cases assessed as part of the compensation process	# Cases advice provided	# Cases no advice provided	# Cases contacted to provide information	# Cases provided information	# Cases offered \$5000 for advice	# Cases not offered \$5000 for advice	No compensation - advice appropriate	No compensation - inappropriate advice / no loss	No compensation - unable to assess	No compensation - No advice provided	Total cases not offered compensation	# Cases accepted first offer	# Cases rejected first offer & received revised offer	# Cases accepted revised offer	# Cases unable to contact for a compensation offer to be made	# Cases who did not respond after being provided a compensation offer	Total cases offered compensation (Note A)	Total compensation paid (as at May 2014)
21	Total by Licensee	5,596	2,957	2,639	2,796	1,026	694	4,902	1,819	212	46	2,639	4,716	793	73	60	34	4	880	\$ 41,479,028
6	FWL	1,063	793	270	539	129	-	1,063	136	398	1	270	805	242	16	15	-	1	258	\$ 10,491,879
27		<b>6,659</b>	<b>3,750</b>	<b>2,909</b>	<b>3,335</b>	<b>1,155</b>	<b>694</b>	<b>5,965</b>	<b>1,955</b>	<b>610</b>	<b>47</b>	<b>2,909</b>	<b>5,521</b>	<b>1,035</b>	<b>89</b>	<b>75</b>	<b>34</b>	<b>5</b>	<b>1,138</b>	<b>\$ 51,970,907</b>

Adviser Code	Methodology Used	Total # cases assessed as part of the compensation process	# Cases advice provided	# Cases no advice provided	# Cases contacted to provide information	# Cases provided information	# Cases offered \$5000 for advice	# Cases not offered \$5000 for advice	No compensation - advice appropriate	No compensation - inappropriate advice / no loss	No compensation - unable to assess	No compensation - No advice provided	Total cases not offered compensation	# Cases accepted first offer	# Cases rejected first offer & received revised offer	# Cases accepted revised offer	# Cases unable to contact for a compensation offer to be made	# Cases who did not respond after being provided a compensation offer	Total cases offered compensation (Note A)	Total compensation paid (as at May 2014)
2	Total by Project Methodology Used	2,093	776	1,317	2,084	555	694	1,399	305	24	32	1,317	1,678	361	54	48	24	-	415	\$ 23,932,000
19	Project Baringa	3,503	2,181	1,322	712	471	-	3,503	1,514	188	14	1,322	3,038	432	19	12	10	4	465	\$ 17,547,028
5	Project Baringa-Corp A	743	494	249	445	129	-	743	113	218	-	249	580	149	14	14	-	-	163	\$ 8,068,202
1	Project Baringa-Corp B	320	299	21	94	-	-	320	23	180	1	21	225	93	2	1	-	1	95	\$ 2,423,677
27		<b>6,659</b>	<b>3,750</b>	<b>2,909</b>	<b>3,335</b>	<b>1,155</b>	<b>694</b>	<b>5,965</b>	<b>1,955</b>	<b>610</b>	<b>47</b>	<b>2,909</b>	<b>5,521</b>	<b>1,035</b>	<b>89</b>	<b>75</b>	<b>34</b>	<b>5</b>	<b>1,138</b>	<b>\$ 51,970,907</b>

Adviser Code	Description used in CBA Senate Submission	Total # cases assessed as part of the compensation process	# Cases advice provided	# Cases no advice provided	# Cases contacted to provide information	# Cases provided information	# Cases offered \$5000 for advice	# Cases not offered \$5000 for advice	No compensation - advice appropriate	No compensation - inappropriate advice / no loss	No compensation - unable to assess	No compensation - No advice provided	Total cases not offered compensation	# Cases accepted first offer	# Cases rejected first offer & received revised offer	# Cases accepted revised offer	# Cases unable to contact for a compensation offer to be made	# Cases who did not respond after being provided a compensation offer	Total cases offered compensation (Note A)	Total compensation paid (as at May 2014)
2	Total by description used in CBA Senate Submission	2,093	776	1,317	2,084	555	694	1,399	305	24	32	1,317	1,678	361	54	48	24	-	415	\$ 23,932,000
16	Project Hartnett	2,093	776	1,317	2,084	555	694	1,399	305	24	32	1,317	1,678	361	54	48	24	-	415	\$ 23,932,000
3	Past Business Review	2,505	1,882	823	621	394	-	2,505	1,087	175	12	823	2,097	377	19	12	10	4	408	\$ 16,263,341
6	Other CFPL	998	499	499	91	77	-	998	427	13	2	499	941	55	-	-	-	-	57	\$ 1,283,667
27	FWL	1,063	793	270	539	129	-	1,063	136	398	1	270	805	242	16	15	-	1	258	\$ 10,491,879
27		<b>6,659</b>	<b>3,750</b>	<b>2,909</b>	<b>3,335</b>	<b>1,155</b>	<b>694</b>	<b>5,965</b>	<b>1,955</b>	<b>610</b>	<b>47</b>	<b>2,909</b>	<b>5,521</b>	<b>1,035</b>	<b>89</b>	<b>75</b>	<b>34</b>	<b>5</b>	<b>1,138</b>	<b>\$ 51,970,907</b>

Adviser Code	Project name as defined in Licence Conditions	Total # cases assessed as part of the compensation process	# Cases advice provided	# Cases no advice provided	# Cases contacted to provide information	# Cases provided information	# Cases offered \$5000 for advice	# Cases not offered \$5000 for advice	No compensation - advice appropriate	No compensation - inappropriate advice / no loss	No compensation - unable to assess	No compensation - No advice provided	Total cases not offered compensation	# Cases accepted first offer	# Cases rejected first offer & received revised offer	# Cases accepted revised offer	# Cases unable to contact for a compensation offer to be made	# Cases who did not respond after being provided a compensation offer	Total cases offered compensation (Note A)	Total compensation paid (as at May 2014)
2	Total by project name as defined in Licence Conditions	2,093	776	1,317	2,084	555	694	1,399	305	24	32	1,317	1,678	361	54	48	24	-	415	\$ 23,932,000
15	Project Hartnett	2,093	776	1,317	2,084	555	694	1,399	305	24	32	1,317	1,678	361	54	48	24	-	415	\$ 23,932,000
10	Compensation Program	4,330	2,740	1,590	1,166	573	-	4,330	1,435	586	12	1,590	3,623	662	31	23	10	5	707	\$ 26,965,907
27	Excluded	236	234	2	85	27	-	236	215	-	3	2	220	12	4	4	-	-	16	\$ 1,073,000
27		<b>6,659</b>	<b>3,750</b>	<b>2,909</b>	<b>3,335</b>	<b>1,155</b>	<b>694</b>	<b>5,965</b>	<b>1,955</b>	<b>610</b>	<b>47</b>	<b>2,909</b>	<b>5,521</b>	<b>1,035</b>	<b>89</b>	<b>75</b>	<b>34</b>	<b>5</b>	<b>1,138</b>	<b>\$ 51,970,907</b>

Adviser Code	Total for Identified Former Representatives	Total # cases assessed as part of the compensation process	# Cases advice provided	# Cases no advice provided	# Cases contacted to provide information	# Cases provided information	# Cases offered \$5000 for advice	# Cases not offered \$5000 for advice	No compensation - advice appropriate	No compensation - inappropriate advice / no loss	No compensation - unable to assess	No compensation - No advice provided	Total cases not offered compensation	# Cases accepted first offer	# Cases rejected first offer & received revised offer	# Cases accepted revised offer	# Cases unable to contact for a compensation offer to be made	# Cases who did not respond after being provided a compensation offer	Total cases offered compensation (Note A)	Total compensation paid (as at May 2014)
15	Total for Identified Former Representatives	4,330	2,740	1,590	1,166	573	-	4,330	1,435	586	12	1,590	3,623	662	31	23	10	5	707	\$ 26,965,907
12	IFR	4,330	2,740	1,590	1,166	573	-	4,330	1,435	586	12	1,590	3,623	662	31	23	10	5	707	\$ 26,965,907
27	Not IFR	2,329	1,010	1,319	2,169	582	694	1,635	520	24	35	1,319	1,898	373	58	52	24	-	431	\$ 25,005,000
27		<b>6,659</b>	<b>3,750</b>	<b>2,909</b>	<b>3,335</b>	<b>1,155</b>	<b>694</b>	<b>5,965</b>	<b>1,955</b>	<b>610</b>	<b>47</b>	<b>2,909</b>	<b>5,521</b>	<b>1,035</b>	<b>89</b>	<b>75</b>	<b>34</b>	<b>5</b>	<b>1,138</b>	<b>\$ 51,970,907</b>

Notes - ASIC banning or EU for the adviser

- Banned based on information provided after adviser ceased providing advice under the FWL licence.
- Within this group of excluded advisers, there was one adviser banned and another adviser who personally entered into an EU
- CBA informed us that these clients were offered compensation, but this was performed outside of the Compensation Program.

Other notes:

We are informed that CBA is currently assessing approximately 400 cases that were reviewed in Project Baringa which are currently assessed as 'advice appropriate' to confirm the assessment outcome.

Note A - CBA stated there are discrepancies in the numbers that CBA provided due to 7 cases being offered compensation outside of the Compensation Program. In

## Appendix F.1 Project Hartnett - Example Letters

<DATE>

<Title> <First name> <Last name>  
<Address>  
<SUBURB> <NSW> <Postcode>

## Reviewing the advice you received

Dear <Client name>

Commonwealth Financial Planning believes in the value of providing quality advice to clients. We fully appreciate the significant role we can play with helping our clients identify financial opportunities and achieve their personal goals. We work hard to maintain a high standard of service, and where we see potential issues with our service we treat it very seriously.

We have become aware of concerns about the advice provided by a former Commonwealth Financial Planner, Mr Anthony Awkar, to a number of his clients. We understand that Mr Awkar was once your adviser.

We are in the process of investigating the services Mr Awkar provided to his clients, which includes the advice provided to you.

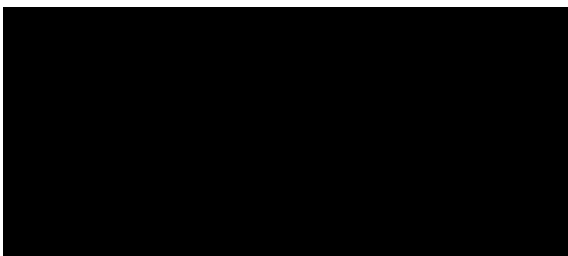
### Assessing your situation

In order to better understand and assess your situation we will be in contact to invite you to meet with us to discuss the advice provided by Mr Awkar. We expect, however, that it may be some months before we contact all clients given the detailed review we are undertaking of potentially affected clients.

**It's important to note** that the advice you received may have been appropriate to your situation and objectives, and our review may conclude there is no issue. However, in the event that Commonwealth Financial Planning discovers inappropriate advice and needs to rectify the situation, we will do the right thing. Please be assured this is a high priority for Commonwealth Financial Planning.

We appreciate that you will want to discuss your individual circumstances with us, but as we have not completed our review of client files we will only be able to discuss this matter in general terms at present. As this review program is being undertaken by a specialist team appointed by Commonwealth Financial Planning, your local branch staff will not be able to provide information regarding our review, so in the event you may have any questions please call our Service Centre on [REDACTED] between 8.30am and 5pm (Sydney time).

Yours sincerely



## Appendix F.2 Project Hartnett - Example Letters

<Date>

<Title> <First name> <Last name>  
<Address>  
<SUBURB> <State> <Postcode>

WITHOUT PREJUDICE

Dear <Title> <Last Name>

**Offer of settlement**  
**Impact of inappropriate advice provided by former adviser Anthony Awkar**

I refer to [our letter dated <letter date>/your conversation on <call date> with <staff name>/your complaint] regarding former Commonwealth Financial Planning adviser Anthony Awkar and would like to advise you that our review of your situation is now complete.

As a result of our review, Commonwealth Financial Planning would like to make you an offer of settlement. Our offer aims to place you in the financial position that you would have been in had you received appropriate financial advice.

Enclosed with this letter are the following documents:

- Fact Sheet: Tax information for you and your accountant
- two copies of our Deed of Settlement
- a return envelope.

**Our offer**

Commonwealth Financial Planning’s investigations team has considered the information you have provided us, along with that contained in your client file.

<Insert bespoke copy in regard to compensation details>

In summary, our total settlement offer includes:

The difference between the actual value of your portfolio/s and <a> modelled portfolio/s reflecting an appropriate asset allocation, <including a refund of all related Adviser Service Fees>	\$<portfolio difference>
Interest (6%) <OR delete this row>	\$<interest>
Statement of Advice fee refund <OR delete this row>	
<b>Total amount of offer</b>	<b>\$&lt;settlement amount&gt;</b>

Compensation representing the difference between the actual value of your <pension/superannuation> portfolio/s and a modelled portfolio/s reflecting an appropriate asset allocation, which may include other elements such as an Adviser Service Fee and any interest on this sum, will be paid directly to the Trustee for your

<superannuation/pension> Fund.> OR <superannuation/pension> fund/s to be re-opened in your name/s>.

<Compensation for the Investment loss and any associated interest suffered by your managed fund portfolio will be paid back into your investment account or into your nominated bank account in accordance with your personal preference as detailed in the Payment Form contained within the Deed of Settlement.>

Any refund of invoiced Statement of Advice Fees, Entry Fees or One-Off Advice Fees including any associated interest <on both investment and pension/superannuation accounts> will be paid directly into your nominated bank account.

Our offer is valid for 60 days from the date of this letter. If you require more time to assess our offer, please advise us as soon as you can.

### How to accept our offer

To accept our offer, please complete the following steps:

- Action:** Please complete the Payment Form (contained within the Deed of Settlement) and sign and date both copies of the Deed of Settlement. Your signature must be witnessed by a person who is at least 18 years of age and is not an employee of the Commonwealth Bank Group or any of its subsidiaries. <Please note that the witness to your signature cannot be a party to the Deed of Settlement.>
- Action:** Return both copies of the Deed of Settlement to us in the envelope enclosed for your convenience.

If you wish to clarify our offer or you are not satisfied with it, please refer to Appendix B (attached) for the options available to you.

### Independent advice

If you need help to assess the fairness of our settlement offer, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser.

It is important that you consider how the settlement payment may affect your own situation including your income and capital gains tax, Centrelink income and assets tests, and your superannuation contributions caps. You may wish to seek advice in relation to your individual circumstances before deciding how the funds will be used. We have enclosed a Fact Sheet to assist you and/or your accountant to better understand the tax implications of your settlement payment.

To assist you with this, Commonwealth Financial Planning will pay the reasonable costs associated with assessing the settlement offer, up to a total value of \$5,000. Appendix C (attached) provides further details of this offer and, if you need assistance in selecting a legal adviser, a list of independent legal firms has been provided. You may also choose to obtain independent financial and tax advice.

### What will happen next?

Once we have received the signed Deed of Settlement from you, we will sign and forward you a copy of the completed Deed of Settlement and will pay the settlement amount.

Please be assured that this matter has been dealt with thoroughly. An independent expert has reviewed the implementation of the advice review program for clients of Mr Awkar and ASIC is aware of this.

**ONLY USE IF ACCOUNT OPEN AND STILL INAPPROPRIATELY INVESTED**

### **Your financial circumstances**

We understand that you are in the process of receiving advice from <planner name> but as at today's date you may still be invested in a way which is inappropriate for you. Commonwealth Financial Planning does not accept any responsibility for any loss which may be suffered by you as a result of you remaining invested in a manner which may not be appropriate for you. We encourage you to contact <planner name> on <planner contact number> if you have any questions as to the ongoing appropriateness of any investments which you still hold as a result of advice received from Mr Awkar.

### **Any questions?**

If you have any questions regarding our settlement offer, or any related matters, please do not hesitate to contact me on (02) <insert case manager phone number>.

At Commonwealth Financial Planning we work hard to maintain a high standard of service. We therefore sincerely regret any inconvenience this matter has caused you.

Yours sincerely

<Case Manager Name>

Case Manager

**Commonwealth Financial Planning Limited**

### **Important information**

Commonwealth Financial Planners are Representatives or Authorised Representatives of Commonwealth Financial Planning Limited ABN 65 003 900 169, AFSL 231139, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.

## Appendix A

### What to do if you want to clarify our settlement offer

We have set out below the steps to follow if you have a question or you wish to clarify our offer (step 1). If, after seeking clarification and/or independent advice, you are not satisfied with our offer you have the option of making a complaint (step 2).

#### **Step 1: Initial queries to Commonwealth Financial Planning's investigations team**

If you have any questions or you are not satisfied with our settlement offer, in the first instance you should contact your case manager, <case manager name> on (02) <insert number>. <Case Manager name> will be able to clarify the details of the settlement offer and answer any specific questions you may have.

In order for us to assist you with your query, it would be greatly appreciated if you could have in mind the specific component of the offer or calculation that you wish to question prior to calling.

As outlined in Appendix B, you have the option of seeking advice from an accountant, lawyer and/or independent licensed financial adviser regarding our settlement offer. Your independent adviser is also welcome to follow up with your case manager.

#### **Step 2: Formal complaint to CBA Group Customer Relations**

If you are not satisfied with the response you receive from the investigations team, you have the option to make a formal complaint. The Commonwealth Bank provides a specialist team within its Customer Relations area that assists clients with complaints regarding financial planning matters. You can contact them at:

Telephone: [REDACTED]

Email: CustomerRelations@cba.com.au

Post: CBA Group Customer Relations  
Commonwealth Financial Planning  
Reply Paid 41  
Sydney NSW 2001

Should you choose to submit a complaint, we will investigate it through our Internal Dispute Resolution process. We would aim to provide you with a response within 25 business days of receiving your complaint. Our internal dispute resolution process is available at no cost to you.

#### **Step 3: Financial Ombudsman Service**

If you are still dissatisfied with our response to your complaint, you also have the right to refer the matter to the Financial Ombudsman Service.

The Financial Ombudsman Service provides a free, independent and accessible dispute resolution service for clients who are unable to resolve their dispute with their financial services provider. Commonwealth Financial Planning is a member of the Financial Ombudsman Service.

You can call the Ombudsman on [REDACTED] to make a complaint or to obtain information about your rights.

## **Appendix B**

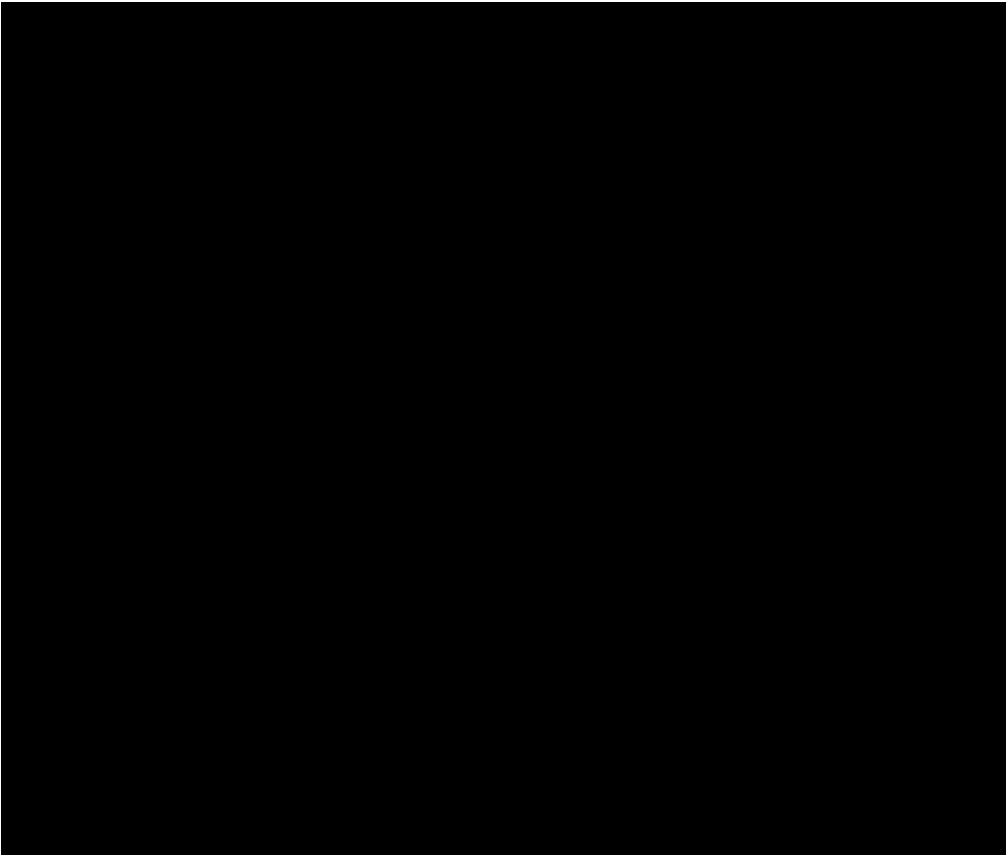
### **Seeking independent advice on the offer of settlement**

Commonwealth Financial Planning is prepared to contribute up to \$5,000 towards the reasonable costs incurred by you, should you seek to obtain advice from an accountant, lawyer and/or independent licensed financial adviser in order to assess the fairness of this offer.

Should you decide to take up our offer we can organise payment of a maximum of \$5,000 (in aggregate) to be made directly to the advice provider(s). To do this, you will need to provide Commonwealth Financial Planning with an original invoice made out to you from your advice provider(s).

**Important note:** Fees for independent advice sought may be greater than \$5,000. You will be responsible for paying any amounts charged beyond the \$5,000 offered by Commonwealth Financial Planning.

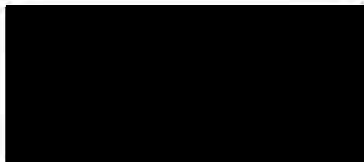
If you need any assistance selecting a legal adviser, we have established a panel of independent lawyers who are available to assist you to assess the fairness of the settlement offer made to you. The members of this panel are:



Any member of the panel may be contacted to provide an independent assessment of Commonwealth Financial Planning's settlement payment offer to you.

## Appendix G.1 Compensation Program - Example Letters

6 September 2012



Dear [REDACTED]



**Reviewing the advice you received**

Commonwealth Financial Planning believes in the value of providing quality advice to clients. We appreciate the significant role we can play with helping our clients identify financial opportunities and achieve their personal goals. We work hard to maintain a high standard of service, and where we see potential issues with our service we treat it very seriously.

We have become aware of concerns about the advice provided by former Commonwealth Financial Planning adviser [REDACTED], and are in the process of investigating the advice provided by [REDACTED] to his clients, including the advice provided to you.

Accordingly, one of our case managers will be in touch with you via telephone in the coming weeks to better understand your situation as part of our review process.

It's important to note that the advice you received may have been appropriate for your situation and objectives, and our review may conclude there is no issue. However, in the event that Commonwealth Financial Planning discovers inappropriate advice and needs to rectify the situation, we will do so.

If you have immediate concerns about the advice you received from [REDACTED], or any other questions, please call our Service Centre on [REDACTED] between 8.30am and 5pm (Sydney time). One of our case managers will phone you and arrange a time to discuss your concerns.

Please be assured this is a high priority for us.

Yours sincerely



**Important information**

Commonwealth Financial Planners are Representatives or Authorised Representatives of Commonwealth Financial Planning Limited ABN 65 003 900 169, AFSL 231139, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.

## Appendix G.2 Compensation Program - Example Letters

21 January 2013




Dear 

**Reviewing the advice you received**

Commonwealth Financial Planning believes in the value of providing quality advice to clients. We appreciate the significant role we play to help our clients identify financial opportunities and achieve personal goals.

We work hard to maintain a high standard of service, and where we see potential issues with our service we treat it very seriously.

We are in the process of reviewing our advice to you. As part of our review, one of our case managers will be in touch with you via telephone in the coming weeks to better understand your situation.

If you have any questions, please call our Service Centre on  between 8.30am and 5pm (Sydney time). One of our case managers will phone you and arrange a time for a discussion.

Yours sincerely



**Important information**

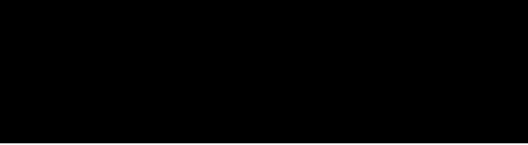
Commonwealth Financial Planners are Representatives or Authorised Representatives of Commonwealth Financial Planning Limited ABN 65 003 900 169, AFSL 231139, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.



## Appendix G.3 Compensation Program - Example Letters



1 March 2012



Dear [REDACTED]

### Former Financial Wisdom Limited Advisers

Financial Wisdom Limited ("Financial Wisdom") believes in the value of providing quality advice. We appreciate the significant role our financial advisers play in assisting clients to reach their financial goals.

We have become aware of concerns about the advice provided by former financial advisers with [REDACTED]

At Financial Wisdom we know it is important to maintain a high standard of service, and where we see potential issues we treat them very seriously.

### Reviewing the advice you received

Financial Wisdom is working with [REDACTED] to review the advice provided to clients of [REDACTED] and other former [REDACTED] advisers. Please be assured this is a high priority for us.

If you have concerns about the advice you received from [REDACTED] or other former [REDACTED] advisers, please call our Service Centre on the toll free number at the end of this letter. One of our case managers will phone you and arrange a time to discuss your concerns.

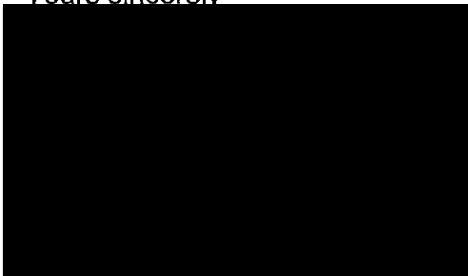
### Contacting you

This is a complex matter and Financial Wisdom is undertaking a detailed review of clients who are potentially affected. We will be in touch with an update of our review, however we expect that it may be some months before we contact all clients.

After the review is complete we will discuss with you any issues which may arise should your situation and objectives not have been taken into account by [REDACTED] or other former [REDACTED] Advisers.

If you have questions regarding this letter, or would like to discuss any concerns with us, please call our Service Centre on [REDACTED] on weekdays between 8.30am and 5pm (Queensland time).

Yours sincerely



### Important information

[REDACTED], an Authorised Representative of Financial Wisdom Limited ABN 70 006 646 108, AFSL 231138, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.



**FPA**  
PRINCIPAL MEMBER

\*Financial Wisdom Limited, ABN 70 006 646 108, AFSL No. 231138



## Appendix G.4 Compensation Program - Example Letters



4 June 2012



Dear [REDACTED]

**Reviewing the advice you received from [REDACTED]**

We refer to our letter dated 1 March 2012 regarding former Financial Wisdom Limited (“**Financial Wisdom**”) advisers.

As outlined to you, we have become aware of potential concerns about the advice given by former [REDACTED] advisers to a number of their clients.

We have undertaken a review of the information contained in your client file, your investment goals, your previous investment experience and your investment timeframe.

We undertook calculations that compared your actual investment portfolios with reference portfolios. The reference portfolios show how your investments would have performed had your funds been invested appropriately.

As a result of our review, we have concluded that while your funds weren’t invested appropriately, your investments did in fact outperform the reference portfolios more appropriate to your situation.

The relevant details we have considered when reviewing the performance of your investments and the advice you received from Financial Wisdom representatives are outlined in Appendix A (attached).

Please be assured that this matter has been dealt with thoroughly. However, if you wish to clarify our assessment or you are not satisfied with it, please refer to Appendix B (attached) for the options available to you.

If you need help to assess the basis of our review, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser.

**A review of your financial circumstances**

If you would like a review of your current financial circumstances, we invite you to phone [REDACTED] on [REDACTED] to make a time to meet with one of our experienced Financial Planners.

**Any questions?**

If you have any questions regarding our review, or any related matters, please phone our Service Centre between 8.30am and 5pm (Queensland time) on [REDACTED] and they will organise for your case manager to speak with you.

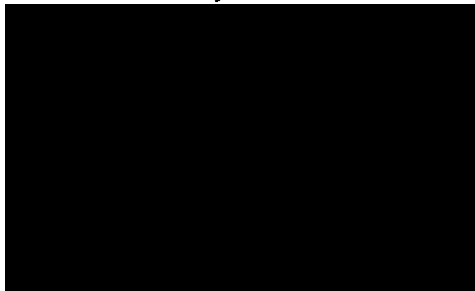


**FPA**  
PRINCIPAL MEMBER

\*Financial Wisdom Limited, ABN 70 006 646 108, AFSL No. 231138

At Financial Wisdom we work hard to maintain a high standard of service. We therefore sincerely regret any inconvenience this matter has caused you.

Yours sincerely



**Important information**

[Redacted Name], an Authorised Representative of Financial Wisdom Limited ABN 70 006 646 108, AFSL 231138, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.

## Appendix A

### [REDACTED] – Details of your review

Financial Wisdom has considered the information contained in your client file, your investment goals, your previous investment experience and your investment timeframe.

[REDACTED]

[REDACTED]

As outlined in the following calculations, your actual investments did in fact outperform reference portfolios appropriate to your situation. The calculation dates reflect the period your funds were inappropriately invested.

Therefore, notwithstanding the inappropriate advice, the financial performance of your investments has exceeded that which you would have experienced had you been invested appropriately.

[REDACTED]

[REDACTED]

## **Appendix B**

### **What to do if you want to clarify our review**

We have set out below the steps to follow if you have any questions or you wish to clarify our review (step 1). If, after seeking clarification and/or independent advice, you are not satisfied with our review you have the option of making a complaint (step 2).

#### **Step 1: Initial queries to Financial Wisdom**

If you have any questions or you are not satisfied with our review, in the first instance you should call the Financial Wisdom Service Centre between 8.30am and 5pm (Queensland time) on [REDACTED]

They will organise for your Financial Wisdom case manager to speak with you, who will be able to clarify the details of our review and answer any specific questions you may have.

In order for us to assist you with your query, it would be greatly appreciated if you could have in mind the specific component of our assessment that you wish to query prior to calling.

As outlined previously, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser regarding our review. Your adviser is also welcome to follow up with your case manager by calling the Financial Wisdom Service Centre between 8.30am and 5pm (Queensland time) on [REDACTED]

#### **Step 2: Formal complaint to CBA Group Customer Relations**

If you are not satisfied with the response you receive from Financial Wisdom, you have the option to make a formal complaint. The Commonwealth Bank (of which Financial Wisdom is a wholly owned but non-guaranteed subsidiary) provides a specialist team within its Customer Relations area that assists clients with complaints regarding financial planning matters. You can contact them at:

Telephone: [REDACTED]  
Email: CustomerRelations@cba.com.au  
Post: CBA Group Customer Relations  
Financial Wisdom Limited  
Reply Paid 41  
Sydney NSW 2001

Should you choose to submit a complaint, we will investigate it through our Internal Dispute Resolution process. We would aim to provide you with a response within 25 business days of receiving your complaint. Our internal dispute resolution process is available at no cost to you.



## Appendix G.5 Compensation Program - Example Letters



7 March 2012



WITHOUT PREJUDICE

Dear [REDACTED]

**Offer of compensation – Reviewing the advice you received from [REDACTED]**

We refer to our letter dated 23 November 2011 regarding former Financial Wisdom Limited (“Financial Wisdom”) adviser [REDACTED]. We would like to inform you that our review of your situation is now complete.

As a result of our review, Financial Wisdom would like to make you an offer of compensation. Our offer aims to place you in the financial position that you would have been in had you received appropriate financial advice at all times when advised by representatives and advisers from Financial Wisdom or [REDACTED].

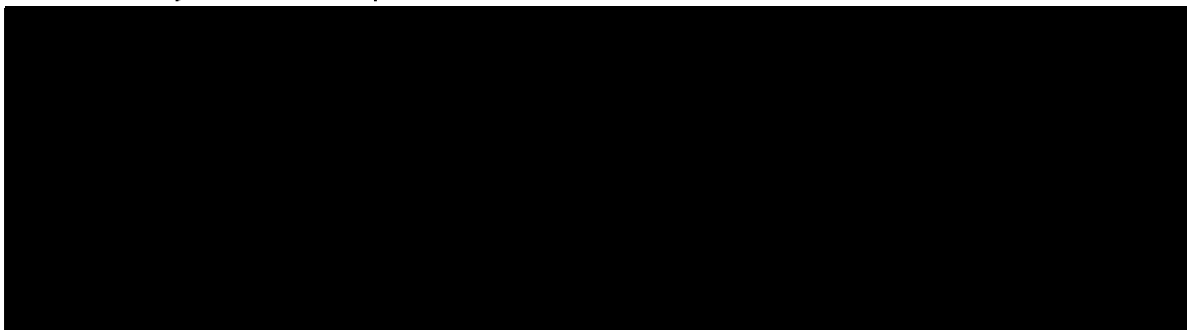
Enclosed with this letter are the following documents:

- Fact Sheet: Tax information for you and/or your accountant
- two copies of a Deed of Settlement and Release
- a return envelope.

**Our offer**

We have reviewed the advice you were provided, in particular the allocation to the various asset classes in relation to your risk profile, the margin lending recommendation, your subsequent investment, and the impact this advice had on your investment outcomes. The relevant details considered when calculating your offer are outlined in Appendix A (attached).

In summary, our total compensation offer includes:



Our offer is valid for 60 days from the date of this letter, namely to 6 May 2012. If you require more time to assess our offer, please advise us as soon as you can.

### How to accept our offer

To accept our offer, please complete the following steps:

- Action:** Please complete the Payment Form (contained within the Deed of Settlement and Release) and sign and date **both copies** of the Deed of Settlement and Release. Your signature must be witnessed by a person who is at least 18 years of age and is not an employee of the Commonwealth Bank Group or any of its subsidiaries.
- Action:** Return **both copies** of the Deed of Settlement and Release and Payment Form to us in the envelope enclosed for your convenience.

### Independent advice

If you need help to assess the fairness of our compensation offer, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser.

It is important that you consider how the compensation payment may affect your own situation including your income and capital gains tax, Centrelink income and assets tests and, if relevant, your superannuation contribution caps. You may wish to seek advice in relation to your individual circumstances before deciding how the funds will be used.

We have enclosed a Fact Sheet to assist you and/or your accountant to better understand the tax implications of your compensation payment.

### What will happen next?

Once we have received both copies of the signed Deed of Settlement and Release from you, we will sign and return your copy of the completed Deed of Settlement and Release and will pay the compensation amount.

If you wish to clarify our offer or you are not satisfied with it, please refer to Appendix B (attached) for the options available to you.

### A review of your financial circumstances

We would also like to take this opportunity to offer you a complimentary review of your current financial circumstances and invite you to meet with one of our experienced Financial Planners. If you would like to make a time to review your financial circumstances, please phone [REDACTED]

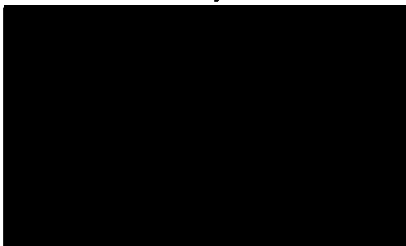
### Any questions?

If you have any questions regarding our compensation offer, or any related matters, please phone our Service Centre between 8.30am and 5pm (Queensland time) on [REDACTED] and they will organise for your case manager to speak with you.

Please be assured that this matter has been dealt with thoroughly.

At Financial Wisdom we work hard to maintain a high standard of service. We therefore sincerely regret any inconvenience this matter has caused you.

Yours sincerely



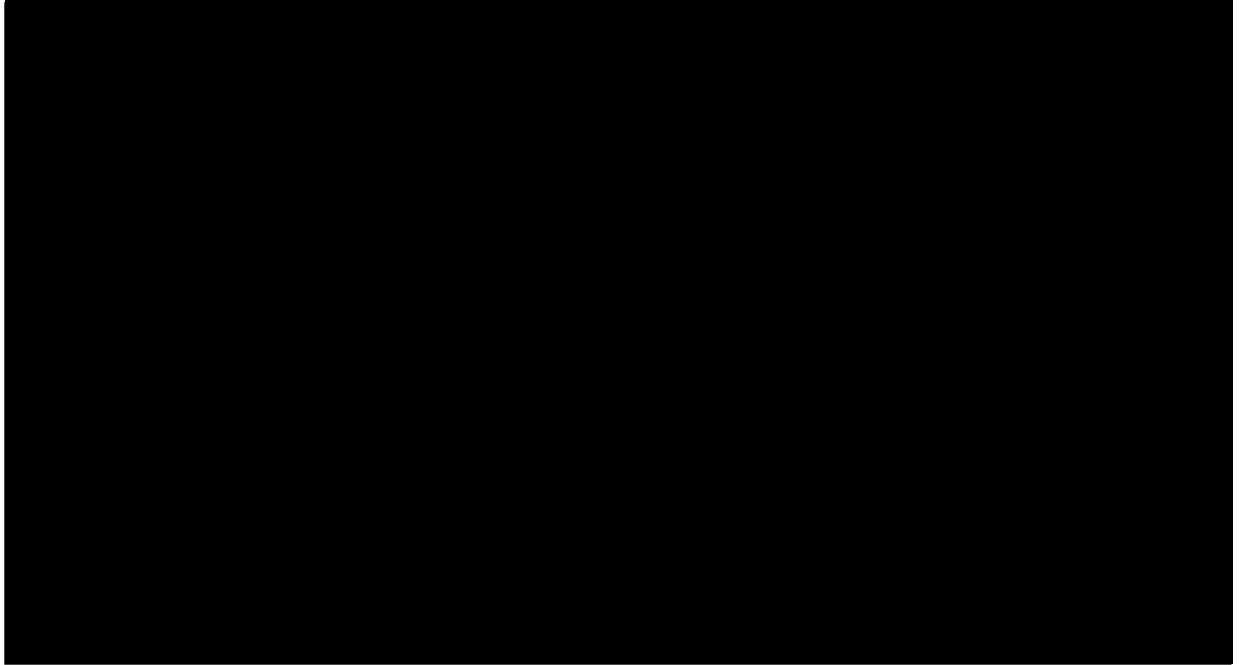
### Important information

[REDACTED], an Authorised Representative of Financial Wisdom Limited ABN 70 006 646 108, AFSL 231138, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.

## Appendix A

### – Details of your review

Financial Wisdom's advice review team has considered the information contained in your client file, your investment goals, your previous investment experience and your investment timeframe.



Please refer to the enclosed Fact Sheet for further information about the tax implications of your compensation offer.

## Appendix B

### What to do if you want to clarify our compensation offer

We have set out below the steps to follow if you have a question or you wish to clarify our offer (step 1). If, after seeking clarification and/or independent advice, you are not satisfied with our offer you have the option of making a complaint (step 2).

#### Step 1: Initial queries to Financial Wisdom

If you have any questions or you are not satisfied with our compensation offer, in the first instance you should call the Financial Wisdom Service Centre between 8.30am and 5pm (Queensland time) on [REDACTED]

They will organise for your Financial Wisdom case manager to speak with you, who will be able to clarify the details of the compensation offer and answer any specific questions you may have.

In order for us to assist you with your query, it would be greatly appreciated if you could have in mind the specific component of the offer or calculation that you wish to query prior to calling.

As outlined, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser regarding our offer of compensation. Your adviser is also welcome to follow up with your case manager by calling the Financial Wisdom Service Centre between 8.30am and 5pm (Queensland time) on [REDACTED]

#### Step 2: Formal complaint to CBA Group Customer Relations

If you are not satisfied with the response you receive from Financial Wisdom, you have the option to make a formal complaint. The Commonwealth Bank provides a specialist team within its Customer Relations area that assists clients with complaints regarding financial planning matters. You can contact them at:

Telephone: [REDACTED]

Email: [CustomerRelations@cba.com.au](mailto:CustomerRelations@cba.com.au)

Post: CBA Group Customer Relations  
Financial Wisdom Limited  
Reply Paid 41  
Sydney NSW 2001

Should you choose to submit a complaint, we will investigate it through our internal Dispute Resolution process. We would aim to provide you with a response within 25 business days of receiving your complaint. Our internal dispute resolution process is available at no cost to you.

## Appendix G.6 Compensation Program - Example Letters

24 October 2012



WITHOUT PREJUDICE



Dear [REDACTED]

**Offer of compensation**

**Reviewing the advice you received from former adviser [REDACTED]**

We refer to our letter dated 14 September 2012 and your conversation on 25 September 2012 with [REDACTED] regarding former Commonwealth Financial Planning adviser [REDACTED]. We would like to inform you that our review of your financial situation is now complete.

As a result of our review, Commonwealth Financial Planning would like to make you an offer of compensation. Our offer aims to place you in the financial position that you would have been in had you received appropriate financial advice.

Enclosed with the letter are the following documents:

- Fact Sheet: Tax information for you and your accountant
- two copies of a Deed of Settlement and Release
- a return envelope.

**Our offer**

We have reviewed the advice you received from [REDACTED], in particular the allocation to the various asset classes in relation to your risk profile, your subsequent investment, and the impact the advice had on your investment outcomes. The relevant details considered when calculating your offer are outlined in Appendix A (attached).

In summary, our total compensation offer reflects:



The compensation amount in respect of your superannuation account will be paid directly to the Trustee for your superannuation fund.

Our offer is valid for 60 days from the date of this letter. If you require more time to assess our offer, please inform us as soon as you can.

**How to accept our offer**

To accept our offer, please complete the following steps:

- Action:** Please complete the Payment Form (contained within the Deed of Settlement and Release) and sign and date **both copies** of the Deed of Settlement and Release.

Your signature must be witnessed by a person who is at least 18 years of age and is not an employee of the Commonwealth Bank Group or any of its subsidiaries.

- Action:** Return **both copies** of the Deed of Settlement and Release to us in the envelope enclosed for your convenience.

### **Independent advice**

If you need help to assess the fairness of our compensation offer, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser.

It is important that you consider how the compensation payment may affect your own situation including your income and capital gains tax, Centrelink income and assets tests, and, if relevant, your superannuation contribution caps. You may wish to seek advice in relation to your individual circumstances before deciding how the funds will be used.

We have enclosed a Fact Sheet to assist you and/or your accountant to better understand the tax implications of your compensation payment.

### **What will happen next?**

Once we have received both copies of the signed Deed of Settlement and Release from you, we will sign and return your copy of the completed Deed of Settlement and Release and will pay the compensation amount.

Please be assured that this matter has been dealt with thoroughly. However, if you wish to clarify our offer or you are not satisfied with it, please refer to Appendix B (attached) for the options available to you.

### **A review of your financial circumstances**

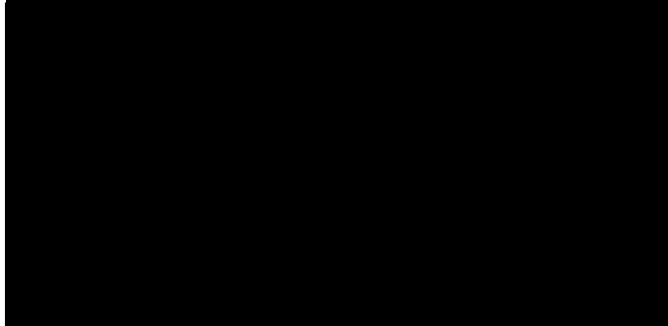
At the time of our assessment you were inappropriately invested. We encourage you to obtain financial advice to ensure your portfolio is appropriate for your current situation. If you do not have a financial adviser you may wish to contact us for assistance by phoning our Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED]

### **Any questions?**

If you have any questions regarding our compensation offer, or any related matters, please phone our Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED] and they will organise for a case manager to speak with you.

At Commonwealth Financial Planning we work hard to maintain a high standard of service. We therefore sincerely regret any inconvenience this matter has caused you.

Yours sincerely



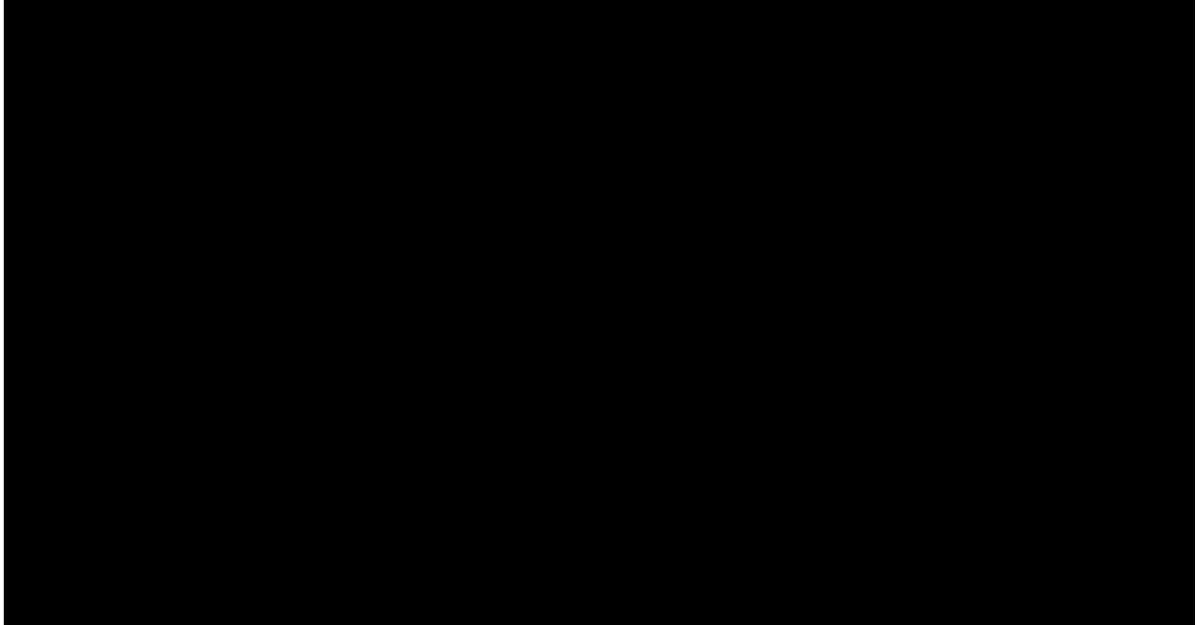
### **Important information**

Commonwealth Financial Planners are Representatives or Authorised Representatives of Commonwealth Financial Planning Limited ABN 65 003 900 169, AFSL 231 139, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.

## Appendix A

### Mr [REDACTED] – Details of your review

Commonwealth Financial Planning's advice review team has considered the information you have provided us, the information contained in your client file, your investment goals, your previous investment experience and your investment timeframe.



Please refer to the enclosed Fact Sheet for further information about the potential tax implications of your compensation offer.

## Appendix B

### What to do if you want to clarify our review

We have set out below the steps to follow if you have any questions or you wish to clarify our review (step 1). If, after seeking clarification and/or independent advice, you are not satisfied with our assessment you have the option of making a complaint (step 2).

#### **Step 1: Initial queries to Commonwealth Financial Planning**

If you have any questions or you are not satisfied with our review, in the first instance you should call Commonwealth Financial Planning's Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED]

They will organise for your Commonwealth Financial Planning case manager to speak with you, who will be able to clarify the details of our review and answer any specific questions you may have.

In order for us to assist you with your query, it would be greatly appreciated if you could have in mind the specific component of our assessment that you wish to query prior to calling.

As outlined previously, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser regarding our review. Your adviser is also welcome to follow up with your case manager by calling Commonwealth Financial Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED]

#### **Step 2: Formal complaint to CBA Group Customer Relations**

If you are not satisfied with the response you receive from Commonwealth Financial Planning, you have the option to make a formal complaint. The Commonwealth Bank provides a specialist team within its Customer Relations area that assists clients with complaints regarding financial planning matters. You can contact them at:

Telephone: [REDACTED]

Email: CustomerRelations@cba.com.au

Post: CBA Group Customer Relations  
Commonwealth Financial Planning  
Reply Paid 41  
Sydney NSW 2001

Should you choose to submit a complaint, we will investigate it through our Internal Dispute Resolution process. We would aim to provide you with a response within 25 business days of receiving your complaint. Our internal dispute resolution process is available at no cost to you.



## Appendix G.7 Compensation Program - Example Letters

{ FILENAME \\* MERGEFORMAT }

<Date>

<Title> <First Name> <Last name>  
<Address>  
<SUBURB> <STATE> <POSTCODE>

Dear <Title> <Last Name>

**Reviewing the advice you received from former adviser** [REDACTED]

We refer to [our letter dated <letter date>/your conversation on <call date> with <staff name>/your complaint] regarding former Commonwealth Financial Planning adviser [REDACTED]. As outlined to you, we have become aware of concerns about the advice given by [REDACTED] to a number of his clients.

We have undertaken a review of the information contained in your client file, and have concluded that your risk profile, asset allocation and subsequent investments were indeed appropriate for your situation and objectives.

Please be assured that this matter has been dealt with thoroughly. [REDACTED]

However, if you would like to clarify our review of your circumstances or you are not satisfied with it, please refer to Appendix A (attached) for the options available to you.

If you need help to assess the basis of our review, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser.

**Any questions?**

If you have any questions regarding our assessment, or any related matters, please phone our Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED] and they will organise for your case manager to speak with you.

At Commonwealth Financial Planning we work hard to maintain a high standard of service. We therefore sincerely regret any inconvenience this matter has caused you.

Yours sincerely

[REDACTED]

**Important information**

Commonwealth Financial Planners are Representatives or Authorised Representatives of Commonwealth Financial Planning Limited ABN 65 003 900 169, AFSL 231139, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.

{ FILENAME \\* MERGEFORMAT }

## Appendix B (Option 1 – no complaint)

### What to do if you want to clarify our review

We have set out below the steps to follow if you have any questions or you wish to clarify our review (step 1). If, after seeking clarification and/or independent advice, you are not satisfied with our assessment you have the option of making a complaint (step 2).

#### **Step 1: Initial queries to Commonwealth Financial Planning's advice review team**

If you have any questions or you are not satisfied with our review, in the first instance you should call Commonwealth Financial Planning's Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED]

They will organise for your case manager (a member of Commonwealth Financial Planning's advice review team) to speak with you, who will be able to clarify the details of our review and answer any specific questions you may have.

In order for us to assist you with your query, it would be greatly appreciated if you could have in mind the specific component of our assessment that you wish to query prior to calling.

As outlined previously, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser regarding our review. Your adviser is also welcome to follow up with your case manager by calling Commonwealth Financial Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED]

#### **Step 2: Formal complaint to CBA Group Customer Relations**

If you are not satisfied with the response you receive from the advice review team, you have the option to make a formal complaint. The Commonwealth Bank provides a specialist team within its Customer Relations area that assists clients with complaints regarding financial planning matters. You can contact them at:

Telephone: [REDACTED]

Email: CustomerRelations@cba.com.au

Post: CBA Group Customer Relations  
Commonwealth Financial Planning  
Reply Paid 41  
Sydney NSW 2001

Should you choose to submit a complaint, we will investigate it through our Internal Dispute Resolution process. We would aim to provide you with a response within 25 business days of receiving your complaint. Our internal dispute resolution process is available at no cost to you.

## Appendix B (Option 2 - complaint)

### What to do if you want to clarify our review

We have set out below the steps to follow if you have any questions or you wish to clarify our review (step 1). If, after seeking clarification and/or independent advice, you are not satisfied with our assessment you have the option of making a complaint (steps 2 and 3).

#### Step 1: Initial queries to Commonwealth Financial Planning's advice review team

If you have any questions or you are not satisfied with our review, in the first instance you should call Commonwealth Financial Planning's Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED]

They will organise for your case manager (a member of Commonwealth Financial Planning's advice review team) to speak with you, who will be able to clarify the details of our review and answer any specific questions you may have.

In order for us to assist you with your query, it would be greatly appreciated if you could have in mind the specific component of our assessment that you wish to query prior to calling.

As outlined previously, we encourage you to seek advice from an accountant, lawyer and/or independent licensed financial adviser regarding our review. Your adviser is also welcome to follow up with your case manager by calling Commonwealth Financial Service Centre between 8.30am and 5pm (Sydney time) on [REDACTED]

#### Step 2: Formal complaint to CBA Group Customer Relations

If you are not satisfied with the response you receive from the advice review team, you have the option to make a formal complaint. The Commonwealth Bank provides a specialist team within its Customer Relations area that assists clients with complaints regarding financial planning matters. You can contact them at:

Telephone: [REDACTED]  
Email: CustomerRelations@cba.com.au  
Post: CBA Group Customer Relations  
Commonwealth Financial Planning  
Reply Paid 41  
Sydney NSW 2001

Should you choose to submit a complaint, we will investigate it through our Internal Dispute Resolution process. We would aim to provide you with a response within 25 business days of receiving your complaint. Our internal dispute resolution process is available at no cost to you.

#### Step 3: Financial Ombudsman Service

If you are still dissatisfied with our response to your complaint, you also have the right to refer the matter to the Financial Ombudsman Service free of charge.

The Financial Ombudsman Service provides a free, independent and accessible dispute resolution service for clients who are unable to resolve their dispute with their financial services provider. Commonwealth Financial is a member of the Financial Ombudsman Service.

You can call the Ombudsman on [REDACTED] to make a complaint or to obtain information about your rights.



## Appendix G.8 Compensation Program - Example Letters

[Insert date]

[Title] [First name] [Last name]

[Address]

[Suburb] [State] [Post code]

Dear [First name]

### **It's time to review your financial plan**

As a valued client of our practice, we would like to meet with you to review your financial plan. When it comes to the financial and investment world, things can and do change frequently. It is possible that since we last discussed your financial plan, factors such as the financial markets, your chosen fund managers or legislation have changed in a way that affects your plan. Also, your situation or personal objectives may have changed.

A meeting to review your plan can take as little as an hour. In the meeting, we will examine the suitability of your plan for your goals and objectives, and check whether there have been any market-based or legislative changes that affect you. If your plan needs to be updated there may be an additional cost, depending on the change required, which I would explain fully at this meeting. However, there is no obligation to make any changes if you do not want to.

I believe this meeting will be highly beneficial in ensuring you remain on track to achieving your goals. Reviewing your financial plan requires a relatively small amount of time, and can have a significant positive impact on your long-term financial security.

Please give me a call on [insert telephone number] to arrange an appointment. I look forward to hearing from you.

Yours sincerely

[insert adviser name]

[insert position]

[insert practice name]

#### **Important information**

Financial Wisdom advisers are Authorised Representatives of Financial Wisdom Limited ABN 70 006 646 108, AFSL 231138, a wholly owned but non-guaranteed subsidiary of Commonwealth Bank of Australia ABN 48 123 123 124.