



Commonwealth Bank

Open Advice Review program

Fourth Report

Prepared by Promontory

2 February 2016

Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



Commonwealth Bank Open Advice Review program

Fourth Report

2 February 2016

Promontory Financial Group Australasia (Promontory) has been engaged by the Commonwealth Bank Group (Bank) as an Independent Expert to oversee the Bank's Open Advice Review program (Program). Promontory is responsible for monitoring, reviewing and reporting on the Program and its progress. This Report provides an update on the Program for the period between 1 September 2015 and 31 December 2015.

A legal representative of the Bank reviewed a draft of this Report to identify any information subject to a claim for legal professional privilege. There were no such instances identified. Promontory also provided a draft of the Report to the Bank for the purposes of identifying any errors. Promontory retained final judgement on all views and information in this Report.

Promontory's role in the Program is limited and may not incorporate all matters that might be pertinent or necessary to a third party's evaluation of the Program or any information contained in this Report. No third party beneficiary rights are granted or intended.

Promontory is neither a law firm nor an accounting firm. No part of the services performed constitutes legal advice, the rendering of legal services, accounting advice, or the rendering of accounting or audit services.

Contents

1. BACKGROUND	2
2. SUMMARY OF FINDINGS	3
2.1. PROGRAM STATISTICS	3
2.1.1. <i>Progress of case assessments</i>	3
2.1.2. <i>Assessment outcomes and compensation offered</i>	4
2.2. PROGRAM IMPLEMENTATION	5
2.2.1. <i>People and governance</i>	5
2.2.2. <i>Customer file retrieval</i>	6
2.2.3. <i>Pilot cases</i>	6
2.2.4. <i>Assessment processes</i>	7
2.3. SAMPLE CASE REVIEWS	7
2.3.1. <i>Scope and approach to sampling</i>	7
2.3.2. <i>Sample findings</i>	8
3. PROGRAM STATISTICS	10
3.1. EXPRESSIONS OF INTEREST	10
3.2. CUSTOMER CONTACT	10
3.3. CASE PROGRESSION	11
3.3.1. <i>Cases registered and assessed</i>	11
3.3.2. <i>Cases exited</i>	13
3.4. ASSESSMENT OUTCOMES	15
3.5. COMPENSATION	18
4. PROGRAM IMPLEMENTATION	20
4.1. PEOPLE	20
4.1.1. <i>ARp structure and resources</i>	20
4.1.2. <i>Training</i>	24
4.1.3. <i>Incentive structures</i>	25
4.2. GOVERNANCE	26
4.2.1. <i>Program oversight</i>	26
4.2.2. <i>Risk management and audit</i>	26
4.2.3. <i>Case approval structures and controls</i>	27
4.3. CUSTOMER FILE RETRIEVAL	27
4.4. IT SYSTEMS	28
4.5. COMMUNICATIONS AND AWARENESS	29
4.6. PILOT CASES	29
4.7. ASSESSMENT PROCESSES	30
4.7.1. <i>Dealing with potential fraud and other improper adviser conduct</i>	30
4.7.2. <i>Dealing with cases with limited or no documentation</i>	31
4.7.3. <i>Service fee assessments</i>	33

5. SAMPLE CASE REVIEWS	35
5.1. SCOPE OF SAMPLING	35
5.2. APPROACH TO SAMPLING	36
5.2.1. <i>Cases progressed through the Assessment stage</i>	36
5.2.2. <i>Customer withdrawals</i>	37
5.2.3. <i>Administrative exits</i>	38
5.3. SAMPLE FINDINGS	38
5.3.1. <i>Cases progressed through the Assessment stage</i>	39
5.3.2. <i>Other findings from our review of cases assessed</i>	42
5.3.3. <i>Customer withdrawals</i>	43
5.3.4. <i>Cases removed from the Program on administrative grounds</i>	43
5.4. FUTURE SAMPLING	44
APPENDIX 1: PROGRAM STAGES	45

Abbreviations

ARp	Advice Review program
CBA/Bank	Commonwealth Bank of Australia (Group)
CAT	Case Assessment Tool
CFPL	Commonwealth Financial Planning Limited
Current Period	1 September 2015 to 31 December 2015
ESG	Executive Steering Group
FOS	Financial Ombudsman Service
FNA	Financial Needs Analysis
FTE	Full-time equivalent
FWL	Financial Wisdom Limited
ICA	Independent Customer Advocate
IFE	Independent Forensic Expert
Initial Report	Promontory Initial Report (published 19 December 2014)
Independent Panel	Independent Review Panel
IT	Information Technology
KPI	Key Performance Indicator
OAR	Open Advice Review
Pilot	Pilot Program
Program	Open Advice Review program
PSG	Program Steering Group
Promontory	Promontory Financial Group Australasia
Report	Fourth Report
Review Period	1 September 2003 to 1 July 2012
RG 146	Regulatory Guide 146
ROA	Record of Advice
Second Report	Promontory Second Report (published 29 May 2015)
SOA	Statement of Advice
SMAT	Special Matters Assessment Team
STI	Short-term Incentive
Third Report	Promontory Third Report (published 30 September 2015)

1. Background

The Commonwealth Bank Group's (CBA or Bank) Open Advice Review program (OAR program or Program) is a review and remediation program designed to identify and compensate for poor financial advice that may have been provided to customers of Commonwealth Financial Planning Limited (CFPL) and Financial Wisdom Limited (FWL) between 1 September 2003 and 1 July 2012 (the Review Period). Where customers suffered financial loss as a result of poor advice from CFPL or FWL advisers, the Program aims to put customers back in the position they would have been in had they received suitable advice. The Program aims to be transparent, and aspires to deliver fair and consistent outcomes to customers.

The OAR program commenced on 3 July 2014 and was closed to new expressions of interest from 3 July 2015. The Program continues to review cases for customers who have registered for the Program.

Promontory Financial Group Australasia (Promontory) was appointed as the Independent Expert for the Program in August 2014. Our role in the Program is to monitor, review and report on the Program and its progress. In particular, our scope requires us to:

- monitor the progress of the Program;
- review a sample of customer cases in the Program, and assess whether cases are being reviewed in a manner that is consistent with the Program's documented processes and objectives; and
- make our findings, along with statistics about the Program, available to the public through periodic reports.

This Fourth Report (Report) provides an update on the Program for the period ending 31 December 2015. It includes updated statistics on the number of cases that have progressed through the Program, the outcomes of assessments completed by the Bank, and offers of compensation made. It also provides an update on broader aspects of the Program's implementation and findings from our sample review of cases in the Program.

Promontory's previous three reports are available on the Bank's OAR program website.¹

In all aspects reported, Promontory has exercised reasonable due diligence to verify facts and interpretations included in this Report.

We acknowledge the co-operation of the Bank in connection with our preparation of this Report and in responding to our information requests.

Promontory's next (fifth) report is scheduled for release at the end of May 2016.

¹ Refer to: www.commbank.com.au/openadvice.

2. Summary of findings

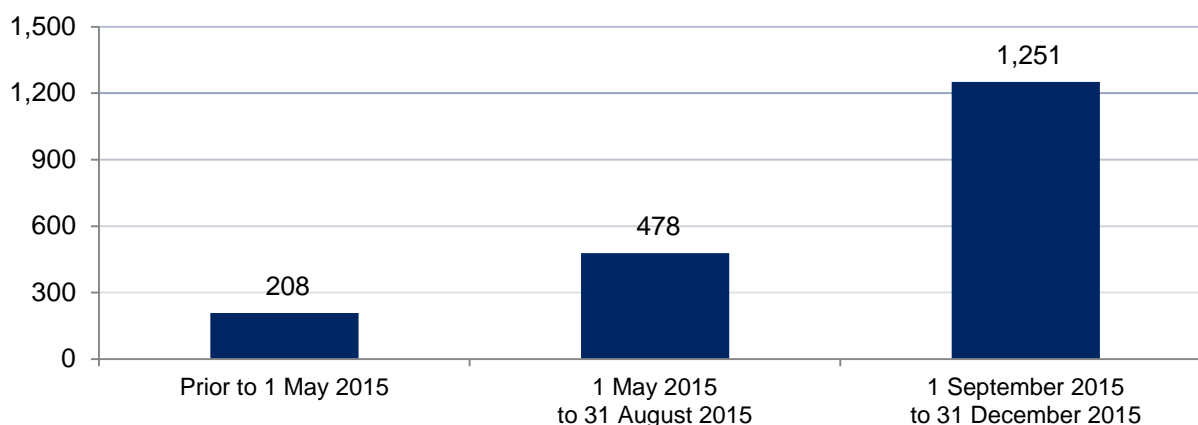
2.1. Program statistics

2.1.1. Progress of case assessments

As at 31 December 2015, the Program had received a total of 23,221 expressions of interest since its commencement, with 9,346 of these cases having formally registered for the Program. Of the 9,346 cases registered for the Program, 1,937 of these cases had been issued an assessment outcome by the Bank as at 31 December 2015.

An analysis of those 1,937 cases by reporting period shows a marked acceleration during the period from 1 September 2015 to 31 December 2015 (the Current Period). More specifically, the Bank issued assessment outcomes to 1,251 cases registered in the Program in the Current Period – a 162% increase in issued assessments relative to the Program's prior four-month period (refer to Figure 2.1).

Figure 2.1: Number of cases with assessment outcomes issued (by reporting period)



Of the 1,937 cases with an assessment outcome issued, 810 cases have exited the Program,² with two of these cases having subsequently contacted the Financial Ombudsman Service (FOS). The remaining cases with assessment outcomes issued were still being considered by customers (or the Bank, in the event a counter-assessment has been made by a customer).

After taking into account the 1,937 cases that had been issued an assessment outcome as at 31 December 2015, the remaining cases that have formally registered for the Program consist of:

- 2,104 cases that had commenced assessment but were yet to be issued an assessment outcome as at 31 December 2015;

² Of this number, 587 cases accepted the Bank's assessment outcome, while 223 cases rejected the assessment outcome or otherwise withdrew from the Program following receipt of the Bank's assessment.

- 1,298 cases that had exited the Program prior to having received an assessment outcome from the Bank;³ and
- 4,007 cases that remain in the Program's Registration stage.

As at the time of this Report, no case that had exited the Program to 31 December 2015 had subsequently pursued a legal claim against the Bank through the courts.

2.1.2. Assessment outcomes and compensation offered

From the total number of 1,937 cases that had been issued an assessment outcome in the Program to 31 December 2015, the Bank had offered compensation to 171 cases (up from 53 cases as at 31 August 2015). These 171 cases involved cases where the Bank found:⁴

- poor or incorrectly implemented advice, the result of which saw the customer suffer financial loss (122 cases);⁵ or
- the incorrect charging of fees, where the advice was found to be otherwise appropriate (49 cases).⁶

In a further 54 cases, the Bank assessed the case as having involved poor or incorrectly implemented advice, but where that poor or incorrectly implemented advice did not result in financial loss to the customer (hence no offer of compensation was made).

The remaining 1,712 cases included 1,684 cases where the Bank assessed the customer to have received appropriate advice, and 28 cases where the Bank found no evidence of advice being provided to the customer by a CFPL or FWL adviser during the Review Period.

As at 31 December 2015, the total amount of compensation that had been offered by the Program since its commencement stood at \$2,892,864 (up from \$950,252 as at 31 August 2015). Of this amount offered, \$2,000,834 had been paid by the Bank (up from \$488,815 as at 31 August 2015).

A summary of the compensation that has been offered by the Program to 31 December 2015, and the overall progress in assessing cases through the Program, is set out in Table 2.1. Section 3 of this Report provides further detailed statistics on the Program.

³ This category includes cases that had withdrawn from the Program (i.e., a customer opting out of the Program) and cases that have been removed from the Program on administrative grounds (e.g., due to a lack of customer response to progress the case further).

⁴ In addition to these 171 cases, the Bank also offered payments to 11 other cases in the Program after negotiations with the customer, even though the advice was assessed by the Bank to have been appropriate.

⁵ Poor advice refers to advice that failed to satisfy the relevant legal obligations that applied at the time advice was provided.

⁶ Cases where the Bank found both evidence of poor advice and the incorrect charging of fees are included in the first category of "poor or incorrectly implemented advice".

Table 2.1: Overall Program progress to 31 December 2015

Program statistic	Breakdown by period:			Cumulative Total as at 31/12/2015
	Prior to 1/5/2015	From 1/5/2015 to 31/8/2015	From 1/9/2015 to 31/12/2015	
Number of cases:				
Registered	7,237	1,598	511	9,346
Commenced assessment	346	939	2,756	4,041
Issued an assessment outcome	208	478	1,251	1,937
Number of registered cases exited:				
Prior to an assessment outcome issued	170	824	304	1,298
After an assessment outcome issued	22	251	537	810
Number of cases with an assessment outcome of:				
Advice appropriate	174	449	1,061	1,684
Poor advice – no financial loss to customer	6	4	44	54
Poor advice – compensation to customer	25	14	83	122
Fee refund to customer	3	11	35	49
No evidence of advice found by Bank	0	0	28	28
Amount of compensation:				
Offered by the Bank	\$562,513	\$387,739	\$1,942,612	\$2,892,864
Paid by the Bank	\$79,702	\$409,113	\$1,512,019	\$2,000,834

2.2. Program implementation

2.2.1. People and governance

The Advice Review program (ARp) team responsible for implementing the Program (and the Bank's other advice remediation activities) employed over 500 full-time resources as at 31 December 2015. The team is divided into a number of streams and sub-streams, with the largest stream responsible for dealing with customer case assessments and other aspects of the customer relationship (i.e., the Customer stream) employing approximately 65% of all ARp team members. The Customer stream includes 191 members who are responsible for performing or reviewing case assessments in the Program.

Each member of the ARp team responsible for performing case assessments is subject to minimum training and qualification requirements, centring on compliance with Regulatory Guide 146 (RG 146) requirements for

the provision of personal advice. These requirements remain unchanged since our Third Report. In addition, members of the ARp team continue to attend training on various aspects of the advice assessment process, with over 20 types of training courses having been delivered by the Bank during the Current Period.

Further details regarding the people resources employed in the Program are set out in Section 4.1 of this Report. Section 4.2 sets out the governance controls in place to mitigate the risk of the Program delivering outcomes that are inconsistent with the Program's objectives, including details of the Bank's quality assurance and review processes for case assessment outcomes.

2.2.2. Customer file retrieval

The Current Period saw the Bank largely complete its file retrieval initiatives for the Program set out in our previous reports. Since these initiatives commenced, over 970,000 hard-copy advice files of customers of CFPL across the country have been catalogued by the Bank, with files for over 16,000 cases in the Program having been retrieved and scanned into the Program's systems.

Efforts to retrieve the files of customers registered in the Program who received advice from FWL advisers, however, remains ongoing. While the Bank made significant progress in collecting the files of customers in the Program who were advised by *current* FWL advisers during the Current Period (with only two cases left remaining for retrieval), the retrieval of advice files for customers of *former* FWL advisers remains in progress.⁷ The Bank has recently adopted a dual approach to the collection of advice files for customers of former FWL advisers, with the approach used depending on whether the adviser is now connected to a large, third-party advice entity (where the Bank can use a central contact point to retrieve files). The Bank expects to continue to undertake file retrievals for customers of former FWL advisers registered in the Program throughout the first quarter of 2016.

Based on the file retrieval efforts completed to 31 December 2015, the Bank had retrieved an advice file (in either hard-copy or electronic format) for close to 8,000 registered cases in the Program. After excluding those cases that have already exited the Program, approximately 1,050 cases registered in the Program are left with no advice file that is currently available for assessment. Given the material number of cases without an advice file available for assessment, the Bank has recently developed a number of processes to deal with these types of cases in a fair, consistent and efficient manner. These processes are set out in further detail in Section 4.7.2.

2.2.3. Pilot cases

Since our Third Report, the Bank has provided us with additional information on the further work it has undertaken to review cases in the Pilot Program (Pilot) where we had difficulties verifying whether the Program's processes had been adhered to. This work included the Bank undertaking re-assessments on specific elements of the cases where we found it difficult to verify adherence to the Program's processes.

Based on the further work conducted by the Bank during this Current Period, we have no residual concerns with the Bank's implementation of the Pilot. We note that there was one case in the Pilot where the further

⁷ As noted in our Third Report, the retrieval of advice files for customers of former FWL advisers in the Program presents additional challenges such as obtaining the contact details and co-operation of each former FWL adviser.

work that we requested during the Current Period had an impact on the customer's assessment outcome and offer of compensation. The Bank has indicated that it will communicate this change in outcome to the customer's Independent Customer Advocate (ICA) as part of its counter-assessment response.

Given our most recent findings and the safeguards that were introduced for Pilot participants, we are now satisfied that the Pilot participants were not disadvantaged by having been involved in the exercise.

2.2.4. Assessment processes

Section 4.7 of this Report provides an update on three areas of the Program's assessment processes.

The first area relates to the Program's processes for dealing with cases involving potential fraud, forgery or other adviser misconduct. In particular, it discusses the procedures established by the Program to have concerns about these matters escalated to a Special Matters Assessment Team (SMAT) within the ARp team, including the triggers that may cause a case to be referred to the SMAT and/or the Program's Independent Forensic Expert (McGrathNicol Forensic). The SMAT also deals with cases involving "high-risk" advisers identified by the Bank.

The second area covered in Section 4.7 relates to recent processes the Bank has introduced to deal with cases where there are limited or no advice documents available to assess. These processes were developed following the completion of much of the Program's file retrieval efforts (discussed in Section 2.2.2 above). At a high level, the Bank has developed three broad approaches to deal with these cases. The approach that applies to an individual case depends on the extent to which the Bank has been able to find any evidence of advice, including whether any advice documents were retrieved from the Bank's systems or physical locations. Section 4.7.2 of this Report covers the three approaches developed by the Bank in further detail.

The final area covered in Section 4.7 provides an update on the Bank's assessment of certain ongoing adviser service fees. In our Second Report, we noted that the Bank had identified some potential issues in relation to adviser service fees, where some customers within CBA's advice business may have been charged a service fee where not all of the services paid for were received. Section 4.7.3 of this Report provides an update on developments in relation to this issue and the impact on customers in the OAR program.

2.3. Sample case reviews

2.3.1. Scope and approach to sampling

Promontory's role requires us to review a sample of cases at different stages of the Program to determine if cases have been assessed in a manner that is materially consistent with the Program's documented processes and objectives.

The scope of cases we reviewed for this Current Period included:

- **206 cases progressed through the Program’s Assessment stage:** Based on the number of cases we have sampled in this population for this Current Period (206) and prior periods (52), we have sampled 14% of the overall population for this category of cases.⁸
- **26 cases of customer withdrawals:** Based on the number of cases we have sampled in this population for this Current Period (26) and prior periods (481), we have sampled 38% of the overall population for this category of cases.
- **205 cases removed from the Program on administrative grounds (“administrative exits”):** Based on the number of cases we have sampled in this population for this Current Period (205) and prior periods (40), we have sampled 16% of the overall population for this category of cases.

We note that, in reviewing the sample of 206 cases that had progressed through the Program’s Assessment stage in this Current Period, we commenced applying a risk-based sampling methodology by focusing our sample on those cases with attributes indicating potentially higher risk. In particular, from the sample of 206 cases that we selected for this period, 92 cases (45% of the cases we sampled) were identified as containing attributes of higher risk⁹ (e.g., cases involving vulnerable customers or high-risk advisers – refer to Section 5.2 for further details regarding these attributes).

We reduced our sampling of cases of customer withdrawals in this Current Period due to our finding from previous reviews that the Bank had demonstrated strong adherence to the Program’s documented processes for these cases.

2.3.2. Sample findings

The large number of cases we sampled in this Current Period has allowed us to further test the Bank’s implementation of the Program, and whether the Program is meeting its objectives.

Based on our sample review of cases to date, we believe that the Bank is continuing to apply the Program’s processes in a manner that is materially consistent with the Program’s objectives. While there were a number of cases we identified in this Current Period where the Bank’s assessment did not fully adhere to the Program’s documented processes (referred to as “exceptions” in this Report), in our opinion none of these exceptions represented serious or intentional failings to assess poor advice. In particular, the majority of the exceptions we identified (7 out of the 10) related to instances where the Bank’s assessment did not identify incorrect advice implementation or issues with fee over-charging, as required under the Program’s documented processes. We found only three exceptions relating to the Bank’s assessment of whether poor advice was provided to the customer. Details of the case exceptions we found in our sampling for this Current Period, including the Bank’s response to these exceptions, are set out in Section 5.3.1 of this Report.

⁸ The figures and percentages quoted here exclude the 60 Pilot cases we reviewed.

⁹ We defined higher-risk cases as those where a failure of the Bank to adhere to the Program’s documented processes could have a greater impact on the customer’s outcome and hence undermine the success or effectiveness of the Program.

Our review of additional cases in the Current Period also identified some areas of the Program's assessment process that could be strengthened. The main area in which we identified a need for strengthening related to the Program's assessment of certain one-off fees that may be paid by a customer to implement advice. In particular, we found in our most recent sampling of cases that the Program was not assessing product entry fees that a customer may pay to implement advice.¹⁰ We believe this omission could lead to inconsistent outcomes in the Program. In response to this finding, the Bank has indicated it will conduct a thorough review of relevant one-off fees that should be included in the Program's assessment, including entry fees and other one-off fees. The Bank has also agreed to communicate to us the outcomes of its review to identify an appropriate course of action to address our findings. We will provide an update on these actions in our next report.

The other area where we have identified some opportunity for further refinement in the Program's assessment process relates to the processes for dealing with cases with limited or no advice documentation. As noted in Section 2.2.4, these processes have only recently been implemented by the Bank and we believe there are opportunities to further strengthen the consistency, quality and efficiency of assessing these cases by using customer transactions data. Further details of our findings in this area, as well as the issue relating to fee assessments, are set out in Section 5.3.2 of this Report.

In relation to our sample review of cases in other categories for this Current Period – namely, customer withdrawal and administrative exit cases – we found that the Bank had adhered to the Program's documented processes in all but one case. The one case where we identified an exception was among the 205 administrative exit cases we sampled for this Current Period. In response to our finding for this case, the Bank subsequently contacted the customer, who confirmed that he/she did not want to participate in the Program.

Based on our most recent review, we believe that the processes that have been applied to deal with cases that have exited the Program without an assessment outcome continue to be implemented in line with the Program's objectives.

¹⁰ Fees that are being assessed in the Program are limited to fees directly associated with the provision of financial advice, such as fees associated with the preparation of advice documents and adviser service fees.

3. Program statistics

This section of the Report provides updated statistics on cases progressed through the Program's various stages as at 31 December 2015. It also includes more detailed statistics on assessment outcomes issued and compensation offers made by the Bank.

As per our previous reports, the figures quoted in this Report refer to cases rather than customers. For the purposes of the Program, customers who have expressed interest in the Program are assigned a "case number". A "case" may include more than one customer and more than one instance of advice.

Appendix 1 to this Report provides a description of each "stage" of the Program used in the presentation of the statistics in this Report.

3.1. Expressions of interest

As noted in our Third Report, the Program closed to new expressions of interest on 3 July 2015 following an extensive marketing and communications campaign to raise public awareness.

As at 31 December 2015, the total number of expressions of interest in the Program stood at 23,221 cases. This figure compares to 23,269 expressions of interest as at 31 August 2015. The net reduction of 48 cases reflected duplicate cases being found by the Bank following further analysis of information in the customer files of some cases.¹¹

Table 3.1 sets out the total number of expressions of interest in the Program. The figures in Table 3.1 exclude cases identified by the Bank as duplicates.

Table 3.1: Expressions of interest

Number of:	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Expressions of interest	23,269	-48	23,221

3.2. Customer contact

In our Third Report, we noted that the Bank had sent information packs about the Program to all but a small percentage of cases (6%) in the Program that had expressed interest as at 31 August 2015. Since our Third Report, the Bank was able to contact some of these customers and send them the necessary information pack.

Table 3.2 below provides an update on the number of cases where the Bank had sent an information pack as at 31 December 2015.

¹¹ Duplicate cases are those where the customer had registered or expressed interest in the Program more than once. As at 31 December 2015, the Bank identified 1,597 duplicate cases (1,427 as at 31 August 2015). The increase of 170 duplicate cases since 31 August 2015 is offset by 122 new expressions of interest in the Program. The Bank may continue to find additional duplicates over time as it undertakes further reviews of customer files.

Table 3.2: Information packs sent

Number of cases where:	Total as at 31/12/2015
Information pack had been sent	22,050
Information pack had not been sent	55
Information pack is not required	1,116
TOTAL	23,221

As Table 3.2 illustrates, the Bank also identified (as at 31 December 2015) 1,116 cases where an information pack was not required to be sent to the customer. These cases included:

- customers who had voluntarily withdrawn from the Program prior to receiving an information pack;
- “non-genuine” and “ineligible” cases that had been removed by the Bank (refer to Section 3.3.2 for further details of these categories of case exits); and
- cases that had progressed to the Program’s Assessment stage (or beyond) without having previously been sent an information pack.¹²

The 55 cases where an information pack had not been sent as at 31 December 2015 related to either: i) cases that were recent expressions of interest;¹³ or ii) cases where the Bank had been unable to contact the customer or confirm a correct mailing address after having made efforts to retrieve these details through phone calls and searches in its system.¹⁴

3.3. Case progression

3.3.1. Cases registered and assessed

The Current Period saw the Bank significantly accelerate the number of cases it had assessed in the Program. This acceleration can largely be attributed to the various initiatives and investments made in the Program’s infrastructure earlier in 2015 (for details see our Third Report).

During the four-month period to 31 December 2015, the Bank issued 1,251 assessment outcomes to customers in the Program. This figure represents a more than doubling of the 478 cases assessed in the prior four-month period. When added to the aggregate of 686 cases that had been issued an assessment outcome

¹² These were typically cases where the customer had submitted their details to the Bank through an ICA.

¹³ While the Program closed to new expressions of interest on 3 July 2015, the Bank accepted (at its sole discretion) a number of cases into the Program following this date.

¹⁴ For most of these cases, the Bank is likely to remove the case from the Program on administrative grounds after sufficient time (typically 12 months) has passed since the expression of interest in the Program.

Commonwealth Bank Open Advice Review program

Fourth Report

2 February 2016

as at 31 August 2015, the total number of cases that had been issued an assessment outcome as at 31 December 2015 stood at 1,937 (refer to Table 3.3 below).¹⁵

Table 3.3: Cumulative number of cases progressed to each stage of the Program¹⁶

Stage	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Registration	8,835	511	9,346
Assessment	1,285	2,756	4,041
Consideration of Assessment Outcome	686	1,251	1,937
Independent Panel Review	0	0	0
Exits at Registration	994	304	1,298
Exits after assessment outcome issued	273	537	810

As Table 3.3 illustrates, 511 new cases also registered in the Program during the Current Period – bringing the total number of registered cases in the Program to 9,346 as at 31 December 2015. This increase in the number of registered cases during the Current Period reflected additional customers having returned their *You and Your Advice* forms to the Bank over recent months (after having previously expressed an interest in the Program).

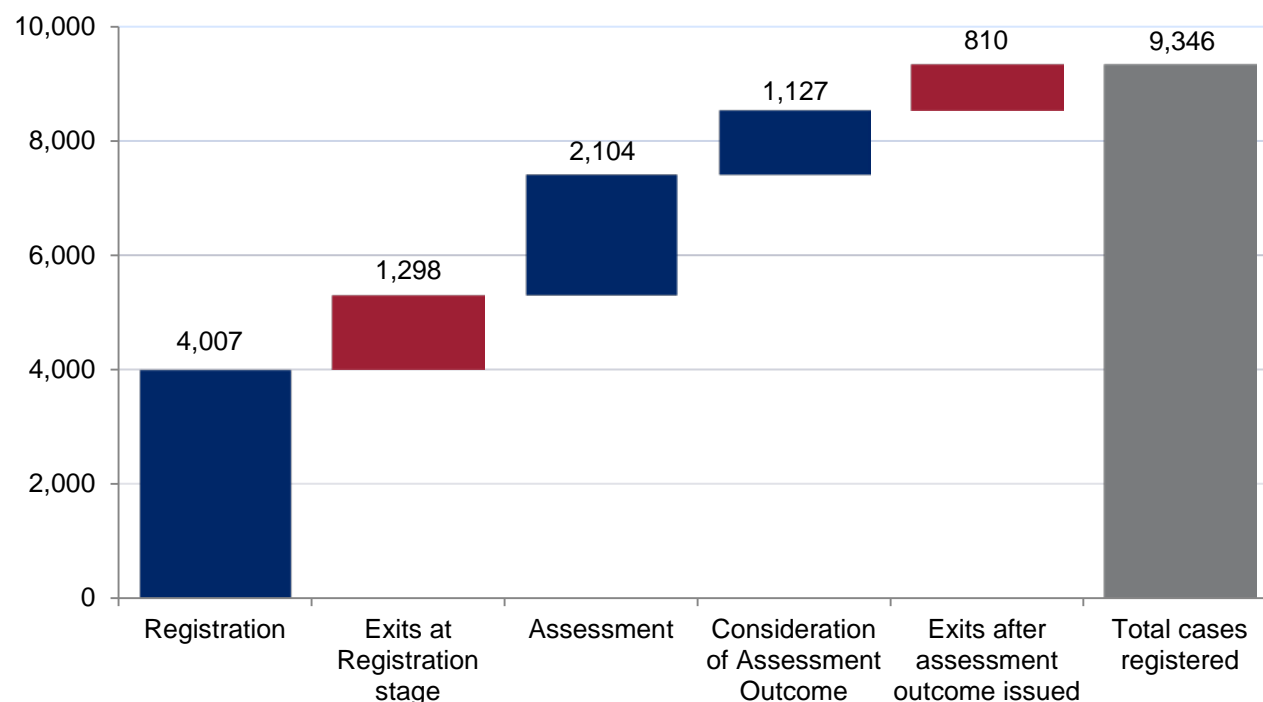
Table 3.3 also illustrates that the total number of cases progressed from the Program's Registration stage to its Assessment stage increased by 2,756 cases during the Current Period. These cases reflect those that moved from the Bank's initial eligibility assessments into the Program's formal case Assessment stage during the Current Period. Given the number of cases in the Assessment stage as at 31 December 2015 (see Figure 3.1 below), the number of cases with assessment outcomes issued is likely to continue to increase markedly over coming months.

Figure 3.1 provides a point-in-time snapshot of the number of cases that were in each stage of the Program as at 31 December 2015. The figure shows that, as at 31 December 2015, 2,104 cases were in the Assessment stage of the Program, and 1,127 cases had assessment outcomes issued that were still the subject of review/finalisation between the Bank and the customer. Figure 3.1 also shows the number of registered cases that had exited the Program to 31 December 2015 (coloured in red).

¹⁵ The figures presented under the "Consideration of Assessment Outcome" stage represent those customers who had been issued an assessment outcome by the Bank.

¹⁶ Note that, although case exits are reported as separate line items in this table, the figures quoted for the Registration, Assessment, Consideration of Assessment Outcome and Independent Panel Review stages include those cases that had progressed through these stages, then exited the Program.

Figure 3.1: Number of cases in each stage of the Program as at 31 December 2015 (including registered case exits)



3.3.2. Cases exited

The Current Period saw 2,060 new cases (including expressions of interest) exit the Program – bringing the total number of cases that had exited the Program since its commencement to 3,714 (as at 31 December 2015). The 3,714 cases that have exited the Program to 31 December 2015 include 2,108 registered cases, and 1,606 expressions of interest (where the customer had not formally registered by returning a *You and Your Advice* form to the Bank).

Table 3.4 below provides a breakdown of the number of cases that had exited at various stages of the Program.

Table 3.4: Number of cases exited from the Program

Reason for exit	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Exits prior to Registration stage			
Customer withdrew from Program	158	769	927
Case deemed ineligible for the Program	63	0	63
Case removed on administrative grounds	166	450	616

Commonwealth Bank Open Advice Review program

Fourth Report

2 February 2016

Reason for exit	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Exits at Registration stage			
Customer withdrew from Program	350	40	390
Case deemed ineligible for the Program	11	0	11
Case removed on administrative grounds	633	264	897
Exits at Assessment stage			
Customer withdrew from Program	0	0	0
Exits after assessment outcome issued			
Customer accepted assessment outcome – compensation was offered	19	50	69
Customer accepted assessment outcome – no compensation was offered	191	327	518
Customer withdrew from Program	63	160	223
TOTAL	1,654	2,060	3,714

The statistics in Table 3.4 show that during the Current Period:

- 537 registered cases exited the Program after having been issued an assessment outcome from the Bank (up from 251 cases in the prior four-month period to 31 August 2015).
- 1,219 expressions of interest in the Program exited due to either: i) the customer electing to opt out of the Program; or ii) the Bank removing the case from the Program due to administrative reasons (e.g., the customer having not returned a *You and Your Advice* form within 12 months from the date of initial expression of interest, or the Bank classifying the case as “non-genuine”).¹⁷
- 304 registered cases exited prior to having an assessment outcome issued by the Bank.
- No new cases exited the Program due to an assessment of ineligibility.¹⁸

As at 31 December 2015, no case had been referred to the Independent Panel for further review.

¹⁷ Non-genuine cases were those where investigations by the Bank indicated that the expression of interest or registration was made by a person (other than the customer) without the customer's consent, with one of the following conditions also applying: i) the customer informed the Bank that he/she did not want to participate in the Program; ii) the customer did not respond to the Bank's invitation to participate in the Program; or iii) the Bank had no contact details for that customer. It also included cases where the Bank assessed that the person never genuinely intended to register for the Program.

¹⁸ The Bank has effectively revised its approach to dealing with cases that are ineligible for the Program after recently having completed much of its file retrieval activities. One of the approaches that the Bank has recently introduced is the “No Evidence of Advice” Assessment approach detailed in Section 4.7.2.

Of the total number of cases exited from the Program, one case had subsequently contacted the FOS during the Current Period following receipt of an assessment outcome. This brings the total number of cases that have exited the Program and subsequently contacted the FOS to two (as at 31 December 2015).

No case that had exited the Program as at 31 December 2015 had subsequently pursued a claim against the Bank through the courts (refer to Table 3.5).

Table 3.5: FOS referrals and legal claims

Number of cases exited from the Program and:	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Referred a complaint to FOS	1	1	2
Pursued a claim against the Bank	0	0	0

3.4. Assessment outcomes

As at 31 December 2015, a total of 1,937 cases had been issued an assessment outcome from the Program since its commencement (up from 686 cases as at 31 August 2015). A breakdown of the 1,937 cases that had been issued an assessment outcome by the Bank as at 31 December 2015 is provided in Figure 3.2.

Figure 3.2: Breakdown of assessment outcomes issued from Program commencement to 31 December 2015

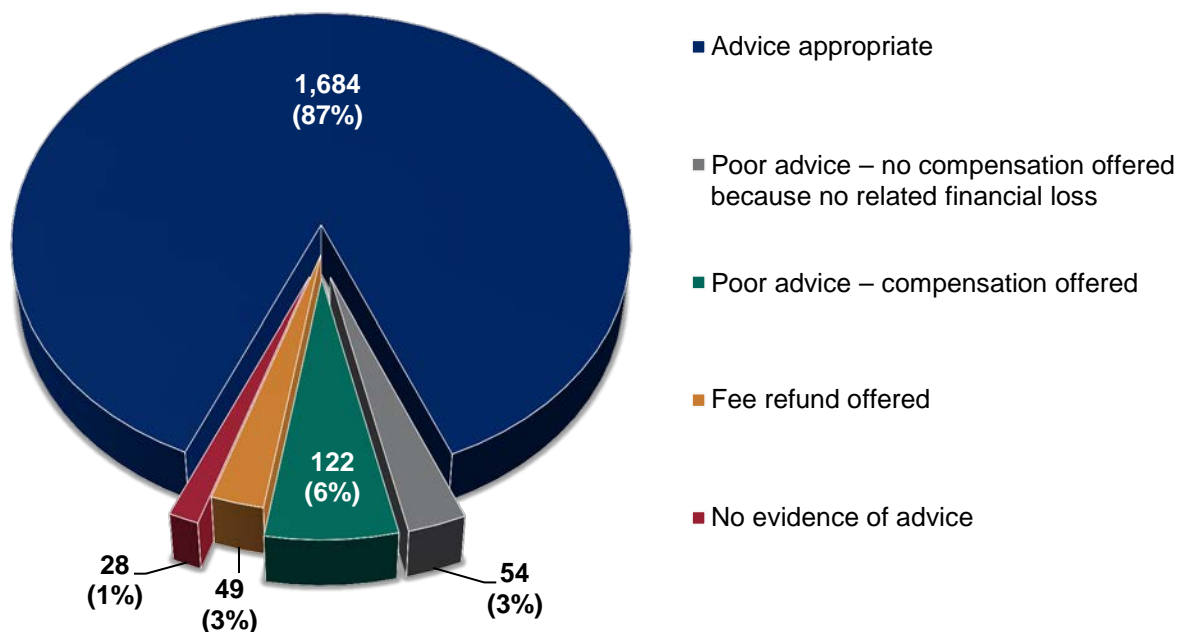


Figure 3.2 breaks down the assessment outcomes into the following categories:

- **Advice appropriate:** This category refers to cases where the Bank found no evidence of poor advice being provided to the customer, nor any evidence of incorrectly implemented advice or incorrect fees being charged.
- **Poor advice found – no compensation offered because no related financial loss:** This category refers to cases where the Bank found poor or incorrectly implemented advice, but where no offer of compensation was made because the Bank assessed that no related financial loss was suffered by the customer.¹⁹
- **Poor advice found – compensation offered:** This category refers to cases where the Bank found poor or incorrectly implemented advice, and where compensation was offered because the Bank assessed the customer to have suffered financial loss as a result of the poor or incorrectly implemented advice.
- **Fee refund offered:** This category refers to cases where issues were identified with the advice fees charged to the customer, and where the compensation offered related solely to a fee refund.²⁰
- **No evidence of advice:** This category, introduced for the first time in this Report, refers to cases where the Bank had been unable to find evidence that the customer received advice from a CFPL or FWL adviser during the Program's Review Period. This category was introduced following the Bank's recent completion of much of its file retrieval activities (discussed further in Section 4.3). Cases in this category relate to those cases where the Bank's searches (in systems, branches and other locations) were unable to identify documents or any other evidence that the customer received advice from a CFPL or FWL adviser during the Review Period.

As Figure 3.2 illustrates, the Bank had offered compensation to 171 of the 1,937 cases (9%) that had been issued an assessment outcome in the Program to 31 December 2015. A further 54 cases (3%) were assessed by the Bank as having involved poor or incorrectly implemented advice, but where that advice was assessed to have not resulted in the customer suffering financial loss (hence no offer of compensation was made).

In 1,684 cases (87%), the Bank assessed the advice (and fees) to be appropriate and consequently made no offer of compensation.²¹

The remaining 28 cases with assessment outcomes issued (1%) were those where the Bank was unable to find any evidence of advice being provided by CFPL or FWL to the customer during the Review Period. Customers who have been issued an assessment outcome letter with a finding of no evidence of advice are

¹⁹ The Bank takes into account any previous compensation that may have been paid to a customer under past CBA remediation programs. Where poor advice has been identified during the Review Period and compensation has been paid by the Bank for the poor advice identified previously, the Bank will offset its compensation under the Program against the previous amount paid. To the extent the offset completely eliminates the amount of compensation payable under the Program, such cases will be captured in this category.

²⁰ Cases that involved both poor advice (which resulted in the customer suffering financial loss) and a fee refund are covered in the "Poor advice found - compensation offered" category, and excluded from this category.

²¹ In 11 of these cases, the Bank had offered a payment after negotiations with the customer, even though it assessed the advice to be appropriate.

Commonwealth Bank Open Advice Review program

Fourth Report

2 February 2016

invited to provide information to the Bank for further assessment and may access the services of an ICA to assist them with their cases.

As in previous reports, we note that the figures and percentages in Figure 3.2 may change over time (due both to increases in the number of assessment outcomes issued, and to the possibility of customers successfully countering the assessment outcomes issued by the Bank). Of the 1,937 cases where an assessment outcome had been issued as at 31 December 2015, 147 cases were the subject of a counter-offer or counter-assessment by the customer.²² A further 980 cases with assessment outcomes issued were under review by the customer (including the 28 cases where the Bank found no evidence of advice).

Table 3.6 below provides a detailed breakdown of the status of the cases that had been issued an assessment outcome as at 31 December 2015.

Table 3.6: Status of cases that had been issued an assessment outcome as at 31 December 2015

Case status	Total as at 31/12/2015
Offer of compensation made by Bank	
Offer accepted by the customer	69
Offer under review by the customer	96
Offer rejected by the customer and counter-offer made to the Bank	17
No offer of compensation made by Bank	
Assessment outcome accepted by the customer ²³	518
Customer rejected or did not respond to the assessment outcome, and withdrew from the Program	223
Assessment outcome under review by the customer	884
Assessment outcome rejected by the customer and counter-assessment made to the Bank	130
TOTAL	1,937

During the Current Period, a total of 133 cases chose to retain an ICA – representing 11% of new cases that were issued an assessment outcome during the Current Period.²⁴ In total, the number of cases that had

²² Since the Program's commencement, 218 customers had submitted a counter-assessment or counter-offer to the Bank as at 31 December 2015. In 16 of these cases, the Bank had increased its offer of compensation to the customer.

²³ After an assessment outcome is issued by the Bank, the Bank attempts to contact the customer(s) and discuss whether they accept the outcome (or wish to make a counter-assessment or counter-offer). Where customers accept the Bank's assessment outcome with no offer of compensation, the Bank writes to them confirming their acceptance and exit from the Program (at which point, the case is included in this category). Also included in this category are cases where the customer(s) (or their ICA) have written to the Bank confirming their acceptance of the assessment outcome.

²⁴ This percentage continues to reduce from ICA retention rates in earlier periods of the Program.

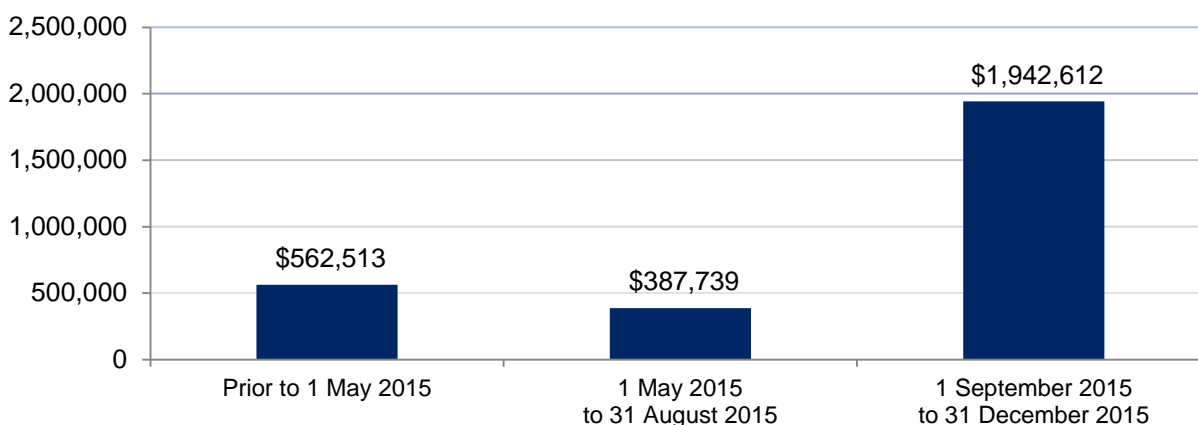
retained an ICA since the Program’s commencement stood at 855 (as at 31 December 2015). This figure includes 503 cases where the customer chose to retain an ICA prior to receiving an assessment outcome from the Bank.

3.5. Compensation

The amount of compensation offered and paid by the Program continued to increase during the Current Period with the growing number of cases being issued an assessment outcome by the Bank.

During the Current Period, the Bank offered compensation of \$1,942,612 in the Program – more than doubling the amount of compensation that had previously been offered since the Program’s commencement (refer to Figure 3.3). Taking into account the compensation offered in this Current Period, the Program had offered total compensation of \$2,892,864 as at 31 December 2015.

Figure 3.3: Amount of compensation offered by reporting period



Of the total amount of compensation offered to 31 December 2015, the Bank had paid \$2,000,834 to affected customers (69% of total compensation amounts offered). The difference between the total amount of compensation offered and the total amount paid as at 31 December 2015 (\$892,030) related to cases where the Bank’s assessment outcome was still under review by the customer (or by the Bank in the event a counter-offer had been made by a customer).²⁵

The total amount of \$2,000,834 in compensation paid to 31 December 2015 consisted of payments made to 101 cases in the Program. The 101 cases include 67 cases where the customer had accepted the Bank’s assessment outcome, and 34 cases where the Bank was yet to finalise the assessment outcome (as at 31 December 2015) but had issued an interim payment of compensation to the customer.²⁶

²⁵ The difference also includes two cases where compensation had been accepted by the customers but had yet to be paid as at 31 December 2015.

²⁶ The Bank may offer interim payments of compensation to certain customers in the Program to facilitate more efficient payments. Interim offers of compensation are made without prejudice to a customer’s right to make a counter-assessment under the Program, or pursue other actions outside of the Program.

Table 3.7 sets out details of the amount of compensation offered and paid by the Program to 31 December 2015.

Table 3.7: Compensation amounts

Compensation	Prior Total <i>as at 31/8/2015</i>	New	Total <i>as at 31/12/2015</i>
Offered by the Bank	\$950,252	\$1,942,612	\$2,892,864
Paid by the Bank	\$488,815	\$1,512,019	\$2,000,834

4. Program implementation

This section provides an update on the Program's implementation, including the people, governance, systems and processes used to support the Program.

In providing these updates on the Program's implementation, we note that our role as Independent Expert has dual objectives: i) to provide assurance that the outcomes of the Program are consistent with its objectives and the Bank has adhered to its documented processes; and ii) to provide transparency to the public regarding the Bank's internal processes, structures and systems. Our remit excludes an assessment or audit of the specific design elements of the Program (i.e., our scope does not entail forming opinions on how elements of the Program have been designed). We do, however, provide the information in this section in the interest of transparency.

While our scope excludes a formal audit of the Program's design elements, our detailed review of individual cases through the sampling that we undertake provides us with the opportunity to identify issues regarding the Program's design or implementation that could affect the Program's objectives. Comments on the Program design inferred from our case sampling work are set out in Section 5.3 of this Report.

4.1. People

Our previous reports have provided updates about the people resources in the ARp team – the team responsible for implementing both the Bank's remediation processes under the OAR program and remediation activities associated with the varied licence conditions for CFPL and FWL. This Report provides a further update on the ARp team's people resources and related arrangements. It also provides further details regarding the various team structures established within the Program to complete case assessments, including controls in place to mitigate the risk of assessment outcomes being inconsistent with the Program's objectives.

4.1.1. ARp structure and resources

As noted in our Initial Report, the ARp team is structured into a number of "streams" which are responsible for delivering different aspects of the Program. These streams include, *inter alia*, teams dealing specifically with customer engagement and case assessments, information technology (IT), legal issues, risk management and finance.²⁷

As at 14 December 2015, the total number of full-time equivalent (FTE) resources within the ARp team (across all streams) stood at 540 – a 12% reduction in the number of FTE resources that were within the ARp team as at 24 August 2015 (refer to Figure 4.1).²⁸ This reduction was driven largely by a decrease in the number of resources dedicated to the Information Management stream, given the recent completion of much of the Program's file retrieval activities (refer to Section 4.3).

²⁷ Refer to our Initial Report for further details of the various streams in the ARp team, including their roles and responsibilities.

²⁸ Statistics in relation to people resources are compiled prior to each month-end (hence the reference to the number of FTE resources as at 14 December 2015).

Figure 4.1: Total number of FTE resources in ARp

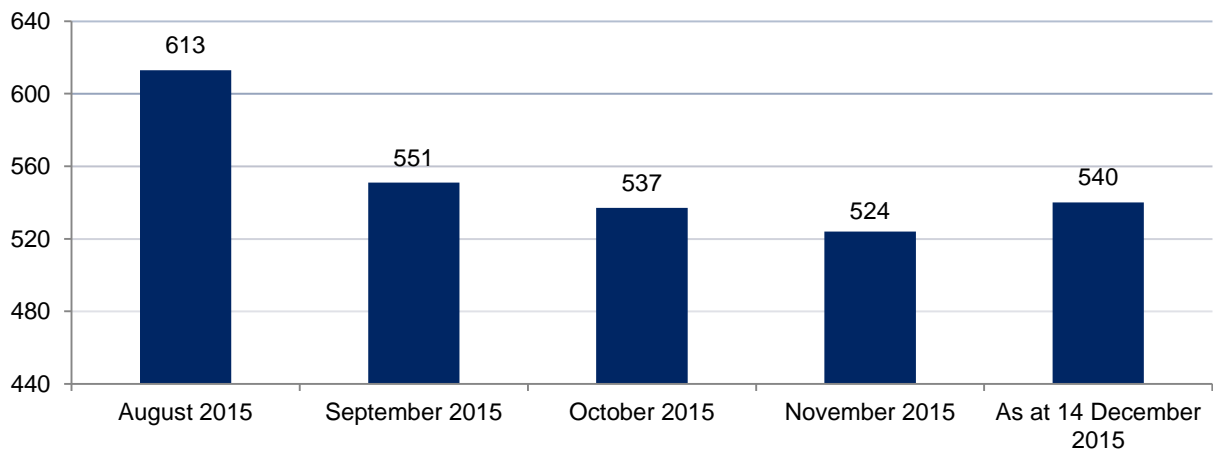
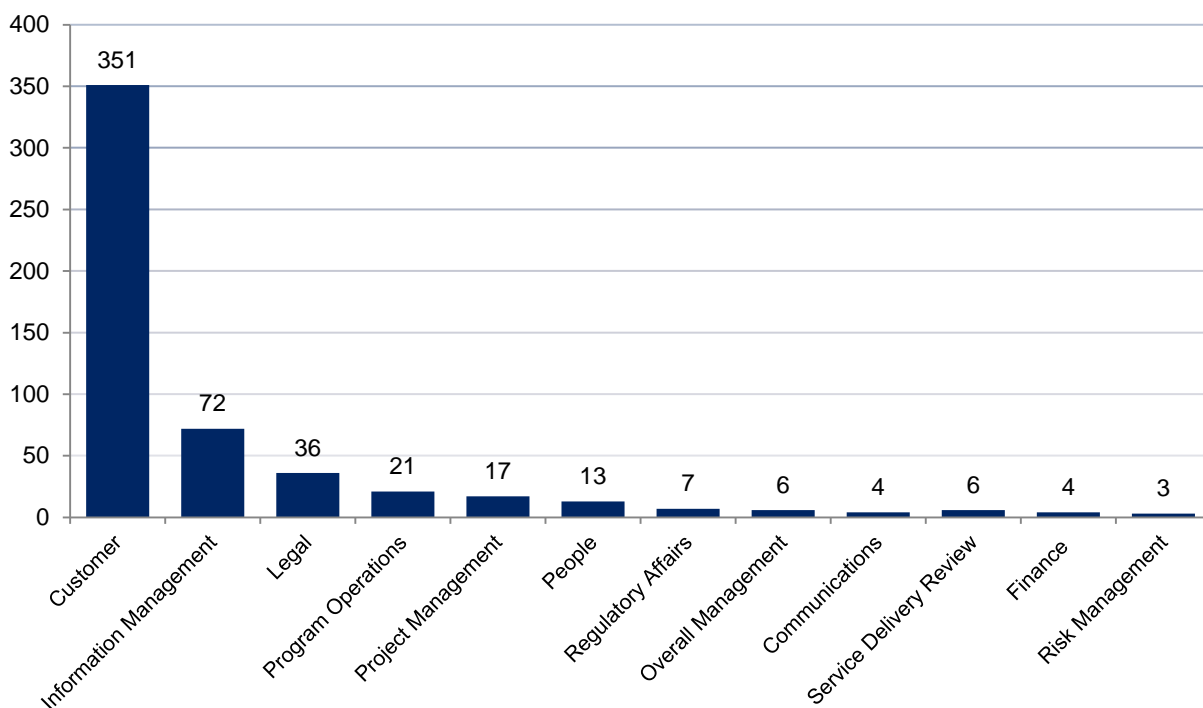


Figure 4.2: Number of FTE resources in each ARp stream (as at 14 December 2015)



As Figure 4.2 illustrates, the majority of people within the ARp team reside in the Customer stream. The Customer stream is responsible for a broad range of activities related to managing customers’ concerns in the Program, including contacting customers to communicate updates and outcomes, preparing customer files prior to assessment, and assessing the advice during the Review Period. Given the breadth of activities undertaken by this stream, the group is further divided into a number of sub-streams. These sub-streams, including their roles and responsibilities, are described in Table 4.1 below.

Table 4.1: Customer sub-streams

Customer sub-stream	Description
Advice Assessment	<ul style="list-style-type: none"> The Advice Assessment team is responsible for performing case assessments in accordance with the Program's case assessment framework and documented processes. The team includes case assessors with varying degrees of experience, including Assessment Officers (e.g., recent graduates with relevant degrees and qualifications in law, finance or a related field), Assessment Managers (e.g., more experienced case assessors with relevant qualifications, including former financial advisers), and senior team leaders/managers. Members of the Advice Assessment team are not responsible for directly contacting customers to communicate outcomes or to obtain additional information. Instead, a separate team of Review Managers (see below) is responsible for undertaking these activities. This separation of duties between members of the Advice Assessment and Review Manager teams allows for greater efficiencies and independence in the assessment process.²⁹ The Advice Assessment sub-stream accounts for 54% of FTE resources in the Customer stream (191 headcount).
Review Managers	<ul style="list-style-type: none"> Review Managers are responsible for communicating and guiding customers through their assessment outcomes. Review Managers are assigned to a case once the case progresses to the Program's Assessment stage, and provide a consistent contact point for customers throughout their assessment. Review Managers have specific experience in customer relationship management and are provided with specialist training in customer communications. Review Managers are required to have a detailed understanding of each case they are assigned, and work with the relevant Assessment Officer/Manager on a case where information is required to be obtained from the customer. The Review Management sub-stream accounts for 8% of FTE resources in the Customer stream (28 headcount).
Forensic Accounting	<ul style="list-style-type: none"> The Forensic Accounting team is responsible for undertaking calculations of compensation offers in accordance with the Program's compensation methodology.³⁰

²⁹ Greater efficiencies are introduced as case assessors (i.e., Assessment Officers or Assessment Managers) do not have to spend considerable time taking numerous phone calls that may come from customers (which could also impact on the quality of assessments). Greater independence is introduced as the person who assessed the advice does not discuss the assessment outcome with the affected customer and therefore cannot influence the customer's decision with respect to their acceptance or non-acceptance of the assessment outcome.

³⁰ For clarity, only members of the Forensic Accounting team conduct calculations regarding the financial impact that results from an assessment. Members of the Advice Assessment team do not perform these calculations. This helps prevent customer financial impact being a factor in a case assessor's review of a case.

Commonwealth Bank Open Advice Review program

Fourth Report

2 February 2016

Customer sub-stream	Description
Forensic Accounting (continued)	<ul style="list-style-type: none"> The Forensic Accounting team also performs other calculations as requested by the Advice Assessment team, such as calculations of financial gains and losses made by a customer on their investment portfolios. The Forensic Accounting sub-stream accounts for approximately 7% of FTE resources in the Customer stream (25 headcount).
Advice Technical Support	<ul style="list-style-type: none"> The Advice Technical Support team provides technical advice on specific or complex issues that may arise during a case assessment. The team also provides coaching and mentoring to members of the Advice Assessment team. The Advice Technical Support team consists of members with broad experience in financial advice/compliance, and also includes members of the SMAT, who are responsible for assessing possible concerns of fraud, forgery or other types of adviser misconduct in a case (refer to Section 4.7.1 for further details). The Advice Technical Support sub-stream accounts for 3% of FTE resources in the Customer stream (9 headcount).
Operations	<ul style="list-style-type: none"> The Operations team is responsible for providing support and assistance to the other Customer sub-streams, including the compilation and preparation of advice files prior to assessment. The Operations team is also responsible for all payments to customers where compensation is payable. The Operations sub-stream accounts for 11% of FTE resources in the Customer stream (39 headcount).
Contact Centre	<ul style="list-style-type: none"> The Contact Centre includes all call centre staff who are responsible for making and receiving calls from customers in the Program whose cases have yet to be assigned to a Review Manager. Each team member has prior experience in customer relationship management. The Contact Centre sub-stream accounts for 3% of FTE resources in the Customer Stream (11 headcount).
Other sub-streams	<ul style="list-style-type: none"> The remainder of the Customer stream is made up of team members responsible for process governance, quality assurance, customer engagement and general management/administration. Separate sub-streams that deal specifically with the Bank's business-as-usual advice remediation activities and licence conditions requirements for CFPL and FWL also reside within the Customer Stream. The other sub-streams account for 14% of FTE resources (48 headcount).

As Table 4.1 sets out, most members of the Customer stream are part of the Advice Assessment team. Within the Advice Assessment team, 43% of members are Assessment Officers (83 headcount), 43% are

Assessment Managers (83 headcount) and 12% are senior team leaders/managers (23 headcount).³¹ To mitigate the risk of inconsistent assessment outcomes between members of the Advice Assessment team who are Assessment Officers and those who have greater experience, the Program includes a number of controls. These controls include:

- the application of a structured and auditable Case Assessment Tool (CAT) that the Bank developed after the Program's Pilot to facilitate more consistent and transparent assessment outcomes;³²
- the multiple layers of independence embedded within the Program's design, including the involvement of the ICAs and Promontory's ongoing sample review of cases assessed through the Program;
- the application and monitoring of various training requirements for members of the Advice Assessment team (refer to Section 4.1.2 below); and
- the implementation of appropriate governance arrangements and case approval structures to internally review all assessment outcomes completed (refer to Section 4.2.3 below).

4.1.2. Training

As noted in our previous reports, all member of the ARp team responsible for case assessments (i.e., Assessment Officers and Assessment Managers) are subject to minimum training and accreditation requirements. These requirements have remained unchanged since our previous report. All Assessment Officers and Assessment Managers in the ARp team are required to comply with RG 146 requirements related to the provision of personal advice. Once accredited, these ARp team members are required to meet mandatory continuing professional development requirements to keep their accreditation current.³³ Customer stream members are also required, where relevant, to attend training courses related to any changes to the Program's assessment processes.

The nature and duration of training courses undertaken by ARp team members varies according to the members undertaking the training. For example, courses relating to RG 146 accreditation for Assessment Officers involve a full-time study program that runs for up to seven weeks. Courses provided to more experienced Assessment Managers may involve only several days (typically undertaken on a part-time basis), targeted at closing gaps in an individual manager's accreditation status. Other courses run internally by the Bank (e.g., on new systems or processes) usually run for less than a day.

³¹ The remaining 2% of members in the Advice Assessment team (two headcount) work in administrative roles.

³² As noted in our Second Report, we believe that the refinements made through the CAT significantly increased our ability to gain assurance that cases were being assessed in accordance with the Program's documented processes. We also believe that the CAT reduced the level of judgement and discretion left to individual case assessors to determine outcomes, which would help in facilitating more consistent assessments in the Program.

³³ The ARp team's People stream regularly monitors and tracks compliance with minimum training and accreditation requirements. As at 30 November 2015, 96% of Assessment Officers and Assessment Managers had completed their necessary RG 146 requirements. The remaining 4% were working towards completion of their RG 146 requirements.

During the Current Period, over 20 different types of training courses were conducted for various members of the ARp team, covering areas such as:

- induction for new starters;
- RG 146 courses for Assessment Officers and Assessment Managers;
- specific training on updated assessment processes adopted by the Program (e.g., new releases of the CAT); and
- leadership development and cultural initiatives for the Program's management group.

Training courses will continue to be implemented by the Bank in line with the development needs of the ARp team.

4.1.3. Incentive structures

Most CBA employees working on the ARp team are subject to the Bank's performance management framework and are eligible to receive annual short-term incentive (STI) payments (e.g., bonuses) for their performance.³⁴ For those CBA employees eligible for an STI payment, individual outcomes are based on an assessment of their performance, capabilities and behaviours, as well as risk management and compliance.

The performance of individuals eligible for an STI payment is assessed using Key Performance Indicators (KPIs) developed and set by the Bank during the first quarter of its financial year.³⁵ The Bank applies different KPIs to different streams and sub-streams within the ARp team.

For those team members in the Customer stream with responsibility for case assessments, KPIs are set with respect to quality and timeliness of case assessment against the Program's case assessment framework. The KPIs for quality and timeliness are assessed equally, with the Bank providing team managers with discretion to prioritise quality outcomes for customers over timeliness, where relevant. KPIs in relation to productivity and people management are also assessed, although with a lower weighting.

Individuals' behaviours are assessed against the Bank's group-wide people capability framework. This framework assesses how individuals have demonstrated capabilities in relation to customer management, teamwork, culture, continuous improvement, communication and results. This people capability assessment is tailored to the specific role and level of the individual.

The final determination of an individual's STI payment for the relevant performance period is derived by combining the results from the individual's performance and capability assessment.³⁶ If an individual has been

³⁴ Members of the ARp team who are contractors or are sourced from external professional services firms fall outside the scope of the Bank's performance management framework.

³⁵ KPIs were first introduced for ARp team members for the Bank's 2015/16 financial year.

³⁶ The performance ratings guide the range of STI outcomes to apply to an individual, while the capability rating guides where in the range an individual's STI payment will fall.

the subject of a material risk issue or compliance breach, the STI payment for that individual may be reduced or forfeited.

4.2. Governance

4.2.1. Program oversight

The OAR program continues to be overseen by a number of executive committees and boards at the highest levels of the Bank. As noted in our previous reports, overall oversight and strategic direction in relation to the implementation of the Program is performed by the boards of CBA, CFPL and FWL, as well as the Program Steering Group (PSG) and the Executive Steering Group (ESG).³⁷

No major changes to this oversight structure occurred in the four-month period to 31 December 2015, although a change was made to the head of the ARp team (i.e., the Program Sponsor) in December 2015. The PSG, ESG and boards of CBA, CFPL and FWL continue to be regularly updated as to developments in the Program, and monitor issues that arise.

During the Current Period, the PSG convened three times to discuss matters related to the Program, while the ESG convened on five occasions. The parent CBA board was also informed of developments in relation to the Program on three occasions during the Current Period.³⁸ The CFPL and FWL boards have each met twice during the Current Period, where they continue to be updated as to developments in relation to the Program.

4.2.2. Risk management and audit

To provide an additional layer of governance and review over the Program's systems and controls, the activities of the ARp team are subject to the Bank's internal audit program and group-wide risk management framework. As noted in our Third Report, issues and risks associated with the Program identified by the Bank's risk management teams are escalated to the Program's senior management according to the Bank's risk management framework.

The Bank's internal audit department has conducted reviews of the Program, focussing on key suppliers, data loss prevention and the design of key business processes (including Program governance, risk management, staff on-boarding and case assessment). Based on reviews conducted to date, management action plans have been agreed by the ARp's senior management to address the findings identified by internal audit.

In the first half of 2015, the Bank's risk management teams (i.e., risk teams within the ARp team and at the CBA group level) have conducted a series of controls testing procedures consistent with the requirements of the Bank's risk management framework. Controls tested include those related to procedures adopted in the Customer, Information Management, Program Operations and support functions. Reviews of certain procedures adopted by the ARp team (e.g., procedures to manage conflicts of interest) were also undertaken by risk management, with findings from these reviews escalated to the ARp's senior management for action.

³⁷ The PSG and ESG are the main executive committees responsible for oversight of the Program. Refer to our Initial Report for further details about the composition of each committee.

³⁸ The Bank's financial planning board oversight committee also convened once in the Current Period.

As at 31 December 2015, management actions that were suggested by risk management had been completed, or were on track to be completed by the first quarter of 2016.

4.2.3. Case approval structures and controls

While the executive committees and boards noted in Section 4.2.1 provide overall oversight and strategic direction for the Program, the Program also includes internal review processes and governance structures to test the accuracy and quality of individual case assessments. These internal review structures and controls include:

- the requirement for all cases assessed to be “peer reviewed” by another member of the Advice Assessment team to validate the facts and findings identified by the initial case assessor;
- a structured approvals process that requires each case assessment outcome to be approved by a designated member of the ARp team who has the appropriate delegated authority;³⁹
- the establishment of the Advice Technical Support team, and an Advice Technical Forum, to provide guidance and mentoring to members of the Advice Assessment team where complex or technical issues arise in a case (including instances where existing guidelines or processes developed by the Bank do not sufficiently cater for the circumstances of an individual case); and
- a Decision Review Committee to review and approve cases referred to it by the Advice Assessment team because of their complex nature or where they were related to inappropriate advice.⁴⁰

These internal review structures and controls aim to mitigate the risk of assessment outcomes being inconsistent with the Program’s objectives. They also aim to minimise the risk that individual case assessments are undertaken inconsistently with the Program’s documented processes.

4.3. Customer file retrieval

In our Third Report, we noted that the Program’s file retrieval initiatives had seen the cataloguing of over 930,000 files of customers of CFPL, with the Bank then focussing its attention on the collection and scanning of all (hard-copy) advice files for customers in the Bank’s advice remediation programs. We also noted that the Bank was continuing its effort to retrieve files of FWL customers in the Program, where there were numerous additional challenges faced by the Bank (e.g., obtaining the contact details of advisers who were no longer at a FWL practice).

³⁹ The Bank designates certain members of the ARp team as “approvers” or “case sponsors” (generally senior managers and high-performing case assessors that have been identified through data metrics and qualitative feedback from other team members). These members of the team are assigned delegated authority to approve assessment outcomes for certain case types (excluding cases that may be outside an individual’s RG 146 qualifications). The scope and authorities of approvers and case sponsors remains subject to ongoing refinement by the Bank.

⁴⁰ This committee is chaired by a member of the ARp team with experience in customer remediation and complaints processes. The committee also includes other members of the Program’s Advice Technical Support team.

During the Current Period, the Bank was able to complete its cataloguing initiatives of hard-copy advice files across various branches, offices and other document archiving sites around the country. In total, the Program's file retrieval initiatives saw the cataloguing of over 970,000 advice files, covering over 640,000 customers of CFPL.

The Current Period also saw the Bank largely complete its collection, scanning and reconciliation of all hard-copy advice files of customers in the Program. As at 27 November 2015, hard-copy advice files had been scanned for over 16,000 expressions of interest and registered cases in the Program, including cases involving customers advised by CFPL and FWL advisers.

The main area where the Bank continues to undertake initiatives in relation to file retrieval is in relation to customers registered in the Program who were advised by advisers of FWL. For cases involving customers of *current* FWL advisers, the Bank has largely completed its contact with each relevant adviser to obtain the necessary files, with all but two registered cases having files retrieved as at 31 December 2015. For cases involving customers of *former* FWL advisers, the Bank has adopted two approaches to collecting these files – with the approach depending on the size of the entity with which the adviser is now associated. For former FWL advisers that currently practice in larger third-party advice entities, the Bank commenced contacting the relevant third-party entities to inform them of the need for the Bank to contact their advisers. The Bank has then been working through a central contact point at the third-party entities to obtain the necessary customer files of each adviser. For all other former FWL advisers (not working in a large third-party advice entity), the Bank plans to contact these advisers directly on an individual basis from February 2016.

Based on all file retrieval efforts completed to 31 December 2015, the Bank had retrieved a hard-copy advice file for approximately 6,600 cases registered in the OAR program. Further searches on the Bank's systems were also able to recover electronic copies of advice files for approximately 1,300 cases where a hard-copy file was not located. Consequently, the number of registered cases in the Program where the Bank had been unable to retrieve any advice file (hard-copy or electronic) from its systems or sites stood at slightly over 1,400 cases as at 31 December 2015. In approximately 350 of these cases, the Bank has identified that the customer has subsequently exited the Program, leaving the remaining number of cases where a file is not available for assessment in the Program at approximately 1,050 as at 31 December 2015.

While there is the possibility that the Bank may be able to reduce this number to some extent in coming months (e.g., for cases involving FWL advisers where the collection of advice files is still ongoing), it is more than likely that a material number of cases where no advice file is found will remain. The Bank has therefore needed to develop a range of new processes to deal with these cases where there is no (or very limited) advice documentation available. These processes are detailed further in Section 4.7.2 below.

4.4. IT systems

The main IT systems and databases used in the Program are now at a stage of sufficient maturity that significant investments or upgrades to these systems have not been required. Consequently, the initiatives undertaken in relation to the Program's IT infrastructure during the Current Period were limited. These initiatives focused on improving the efficiency of existing databases and applications, such as the transfer of some data from the Program's main database to other databases, and the addition of new functionality to some of the Program's case assessment applications to assist with workflow.

4.5. Communications and awareness

Since the Program closed to new expressions of interest from 3 July 2015, the Program has ceased undertaking any new marketing activities to raise awareness.⁴¹ The Program's website was updated in July 2015 to reflect this closure to new expressions of interest. In November 2015, the Bank made further amendments to the OAR program website to provide updates to customers in the Program.

4.6. Pilot cases

In November 2014, the Bank initiated a Pilot to test and refine the Program's assessment processes prior to their full implementation to all cases in the Program. The Pilot involved 60 cases jointly selected by CBA and the ICAs, and involved Promontory overseeing the Bank's assessment of these cases.

In our previous reports, we noted our review of the Pilot cases found it difficult to verify whether all aspects of the Bank's documented assessment processes had been adhered to in all cases. This finding reflected some of the limitations we identified with the assessment processes used in the Pilot, which the Bank subsequently addressed. In response to our findings, the Bank agreed to undertake further reviews of the Pilot cases where we had difficulty verifying adherence to processes.

In our Third Report, we indicated that the Bank's further reviews of the cases that we identified as requiring re-assessment had sufficiently addressed our previous findings in all but a small number of cases. For the small number of cases that were still outstanding at the time of our previous report ("outstanding cases"), the Bank indicated that it was still in the process of finalising its position on whether there would be any impact on customers' case assessment outcomes.

Since our Third Report, the Bank has provided us with additional information on the assessments it has conducted to review the outstanding cases (using the Program's current assessment processes). The Bank has also shared with us some of the comments and responses that have been made by the ICAs in relation to the cases that remained outstanding from our perspective.

Based on our review of the additional information that has been provided to us since our Third Report (including the additional assessments that have been conducted by the Bank), we have no residual concerns with the Bank's assessment of the Pilot cases. All cases that were outstanding as at the time of our Third Report have been addressed, with the Bank amending its assessment outcomes in one case that we identified for re-assessment. For this case, the Bank has indicated it will communicate the change in its assessment outcome (and offer of compensation) as part of its counter-assessment response to the customer's ICA.

Given the further work that the Bank has undertaken during this Current Period, and the safeguards that were introduced for Pilot participants, we are now satisfied that Pilot participants were not disadvantaged by their involvement in the exercise.

⁴¹ Our previous reports provide details of the different types of marketing the Bank had undertaken prior to the close of new expressions of interest into the Program.

4.7. Assessment processes

This section provides an update on developments in relation to a number of assessment processes recently implemented, enhanced or introduced by the Bank. It also provides an update on the assessment of certain advice service fees whose assessment was placed on hold in the Program due to further investigations being conducted by the Bank.

4.7.1. Dealing with potential fraud and other improper adviser conduct

In our Third Report, we provided an overview of developments in relation to the Bank's processes for dealing with cases involving potential fraud, forgery and other improper conduct by advisers within the Program. This overview included the steps taken by the Bank to formalise a Fraud Protocol with the Program's Independent Forensic Expert (IFE), McGrathNicol Forensic, and the Bank's processes for escalating concerns about fraud or other improper conduct to its internal team of forensic specialists (SMAT).⁴²

With the release of the revised version of the CAT in September 2015, the Bank commenced implementing its procedures in relation to issues of potential fraud and other improper conduct. Cases with possible indicators of fraud, document tampering/manipulation, forgery or other potential misconduct identified by case assessors would be referred to the SMAT for further investigation.⁴³ Where a claim of fraud, forgery or other adviser misconduct was raised by a customer to the Bank, the case could also be referred by the SMAT to the IFE.⁴⁴ The IFE then conducts its investigations based on the processes and guidelines that are defined under its Fraud Protocol with the Bank.

During the Current Period, the IFE had been engaged for one case (in addition to the three cases that had been referred to it as at 31 August 2015). As at 31 December 2015, the IFE had yet to sample any cases that had been referred to SMAT and not subsequently referred to the IFE.

Other matters that may be escalated to the SMAT include cases involving potentially "high-risk" advisers identified by the Bank, which require additional processes to be undertaken as part of the assessment (e.g., where there are known issues about adviser misconduct in relation to a case, the case may be referred to the SMAT and any known adviser themes must be factored into the assessor's review of the case). Potentially high-risk advisers include advisers reviewed under previous Bank remediation programs, those who are the subject of the Bank's current business-as-usual advice remediation processes, those who have previously been referred to CBA's Group Security department or to the police, as well as any other high-risk advisers identified by the SMAT. Advisers who are classified as potentially high-risk for the purposes of the Program are regularly reviewed by the Bank, with new advisers potentially being added for new information gathered during the Program and/or the Bank's other advice review/remediation activities.

⁴² The SMAT forms part of the ARp's Advice Technical Support team. Members of the SMAT have prior experience dealing in forensic or other investigations, including document verification and determining document authenticity.

⁴³ Prior to the implementation of these procedures, the Bank had put these cases on hold until the relevant processes to deal with these issues had been finalised.

⁴⁴ As noted in our Third Report, to prevent the risk of the Bank failing to appropriately refer cases to the IFE where concerns of fraud or improper conduct are raised, the IFE will review a sample of cases that have been investigated by SMAT but not referred to the IFE.

4.7.2. Dealing with cases with limited or no documentation

With the Program’s customer file retrieval initiatives now nearing completion, the Bank has recently been able to gain a better understanding of the completeness of each registered customer’s advice file. As noted in Section 4.3 above, it is likely that a material number of cases in the Program will have very limited or no advice documentation to assess, meaning that a different process will need to be applied by the Bank to complete an assessment. To address this issue, the Bank has recently developed a number of new processes for dealing with these cases where there is insufficient information.

At a high level, the process that will apply to a case with insufficient information will depend on the extent to which the Bank has been able to find any evidence of advice, including whether any advice documents were able to be retrieved. The three broad approaches that are available for assessing a case with insufficient information are summarised in Table 4.2 below.

Table 4.2: Approaches to dealing with cases with limited or no documentation

Approach	When it applies?	Overview of process
1. “Insufficient Information” Assessment approach	<ul style="list-style-type: none"> When the Bank has been able to identify at least one “critical advice document” that can be assessed through the Program’s standard procedures but, at the same time, the Bank has identified indicators of additional advice where the Bank does not have the relevant critical advice documents for assessment;⁴⁵ or When the Bank has identified a FNA document in relation to the case, but does not have the critical advice document (i.e., SOA or ROA) associated with the FNA. 	<ul style="list-style-type: none"> The Bank identifies all potential indicators of advice using any (non-critical) advice documents retrieved and other information available in Bank systems. Where there is sufficient evidence that an indicator of advice is a possible instance of advice, the Bank performs a set of standard procedures to gather additional information from the customer. The procedures involve a Review Manager contacting the customer to answer a series of questions that help the Bank determine whether the indicator of advice is an instance of advice, as well as to obtain the relevant facts and circumstances relevant to the indicator of advice.⁴⁶ The Bank then makes an assessment of the case using the information gathered, and communicates to the customer its assessment outcome. The customer retains the right to provide a counter-assessment, submit additional information and/or obtain assistance from an ICA.

⁴⁵ The Bank defines a “critical advice document” to be a Statement of Advice (SOA) or a Record of Advice (ROA) that is accompanied by another supporting advice document such as a Financial Needs Analysis (FNA) document.

⁴⁶ These questions effectively seek to understand, *inter alia*, the customer’s personal circumstances, goals, objectives and risk tolerance at the time advice was provided. The information requested is the minimum information required to make an assessment of the case.

Approach	When it applies?	Overview of process
<p>2. “No Evidence of Advice” Assessment approach</p>	<ul style="list-style-type: none"> When the Bank has been unable to retrieve any critical advice documents for the case; and There is no evidence in the Bank’s systems that the customer ever received advice from CFPL or FWL during the Review Period. 	<ul style="list-style-type: none"> The Bank writes to the customer informing him/her that the Bank found no evidence of advice as part of its assessment. The Bank’s assessment outcome letter responds to any specific concerns raised by the customer in his/her <i>You and Your Advice</i> form, and invites the customer to provide any additional information that may be available for the Bank to assess. The customer retains the right to access an ICA to assist with his/her case.
<p>3. “Targeted” Assessment approach</p>	<ul style="list-style-type: none"> When the Bank has been unable to retrieve any critical advice documents for the case; but There is evidence available to the Bank from searches of its systems that the customer may have received advice from CFPL or FWL during the Review Period (e.g., the Bank’s systems indicate that advice revenue, such as from fees or commissions, were allocated to a CFPL or FWL adviser from the customer’s investments). 	<ul style="list-style-type: none"> The Bank uses data analytics on transactions data from the customer’s accounts to scan for potential instances of advice.⁴⁷ For each potential instance of advice identified, the Bank applies a standard set of rules and criteria to determine an assessment outcome of “likely inappropriate” advice or “no evidence of inappropriateness”. The rules and criteria for determining the assessment outcome is based on information that is available to the Bank about the customer’s age, investment holdings and asset allocation around the time of each potential instance of advice (e.g., the proportion of the customer’s investment holdings in growth assets).⁴⁸ The Bank writes to the customer setting out its assessment outcome and its approach to determining this outcome. The letter invites the customer to respond with any additional information that may be relevant for assessment. The letter also provides the customer the opportunity to provide a counter-assessment if he/she disagrees with the Bank’s assessment, as well as the offer of assistance from an ICA.

⁴⁷ Where the results from performing this data analytics suggests that there are no potential instances of advice throughout the Review Period, the Bank is likely to assess the case using one of the other approaches for cases with limited or no documentation.

⁴⁸ The complete set of rules and criteria for the Targeted Assessment approach has yet to be finalised by the Bank. Currently, only cases involving pension, superannuation and investment products held by customers in Colonial First State products during the Review Period are within the scope of the Targeted Assessment approach, although other products and types of cases are being considered for inclusion. We will provide additional details on this approach once the complete set of rules and criteria has been finalised.

As described in Table 4.2, the second and third approaches for dealing with cases with limited or no advice documentation (i.e., the No Evidence of Advice Assessment and Targeted Assessment approaches) typically involve the Bank determining an assessment outcome without first contacting the customer for further information. This position was taken after the Bank identified a number of significant challenges associated with adopting the more detailed Insufficient Information Assessment approach set out in Table 4.2.

In particular, based on a trial application of the Insufficient Information Assessment approach to a number of cases that are within the scope of the Bank's advice remediation programs, the Bank found that requesting the information required from the customer to assess any advice that may have been given via its "insufficient information questionnaire" was protracted. The Bank also found that applying this approach did not always provide the details necessary for it to complete an assessment of the customer's case. For example, in many instances, customers could not recall the details of the advice they were provided (e.g., due to the passage of time since advice was received), or could not distinguish between advice received versus transactions that were not the subject of advice.

The Bank therefore determined that the second and third approaches described in Table 4.2 would likely result in more active and expedited outcomes for those customers with limited or no advice documentation. These approaches would also provide transparency to customers in relation to potential instances of advice the Bank identified through its data analytics (such as significant transactions and/or products switches in the case of the Targeted Assessment approach) – allowing customers to make a more informed response to the Bank's assessment. Importantly, to ensure these customers would be treated fairly under the Program, customers assessed under the No Evidence of Advice Assessment and Targeted Assessment approaches would continue to have access to an ICA, and have the opportunity to submit additional information to the Bank for assessment.

As noted in Section 3.4, as at 31 December 2015, the Bank had completed 28 assessments of cases where it found no evidence of advice. As at 31 December 2015, 12 cases had been issued an assessment outcome under the Targeted Assessment approach.

As part of our ongoing sample review of cases, we will test whether the Bank's assessment of these cases adheres to the relevant documented processes, and is consistent with the Program's objectives.

4.7.3. Service fee assessments

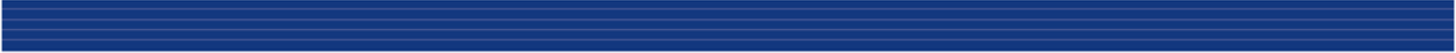
Some customers who received advice during the Review Period may have paid certain ongoing adviser service fees which entitled them to additional services. As noted in our Second Report, the Bank identified that certain customers within CBA's advice business may have been charged an ongoing adviser service fee but may not have received all of the services they paid for. The Bank has established a separate work stream to deal specifically with this issue.

Measures to address potential issues regarding adviser service fees remain subject to finalisation, and no customers in the Program to date have received an assessment of whether fee refunds are payable for service delivery issues. Fee refunds that have been paid to date under the Program relate only to instances

Commonwealth Bank Open Advice Review program

Fourth Report

2 February 2016



where a customer was charged a fee that was not properly disclosed, or exceeded the set maximum amount at the time of the advice.⁴⁹

The Bank has advised us that customers in the Program who have had their cases assessed and have been potentially affected by the issue of service delivery have been notified in their assessment outcome letters that an investigation is currently underway, and that they will be contacted if they have been affected by this issue.

⁴⁹ To be clear, any adviser service fees paid by customers that were above those disclosed to customers have been assessed in the Program. Only the service delivery component of the assessment has yet to be completed.

5. Sample case reviews

Promontory's role in the Program requires us to review a sample of cases at different stages of the Program to determine if customers have had their cases assessed in a manner that is consistent with the Program's documented processes. In undertaking this review, Promontory not only considers whether adherence to the Program's documented processes has occurred, but also:

- whether cases have been dealt with in a manner that is consistent with the Program's objectives; and
- whether it was reasonable and practicable in the circumstances to follow the Program's documented processes.

5.1. Scope of sampling

Our sampling of cases for this Current Period involved a review of cases progressed through the Assessment stage of the Program, and cases that exited the Program prior to having an assessment outcome issued by the Bank. Our review sample for this period incorporated:

- **A review of 206 cases progressed through the Program's Assessment stage** – This review was in addition to the 52 cases we reviewed from this population in previous periods, and the 60 cases we reviewed as part of the Pilot. The total number of Assessment stage cases that we have sampled from the Program's commencement to 31 December 2015 is 258 (excluding the 60 cases in the Pilot), which represents 14% of the relevant population.⁵⁰
- **A review of 26 cases of customer withdrawals** (i.e., cases where the customer had opted out of the Program) – This review was in addition to the 481 cases we reviewed from this population in previous periods.⁵¹ The total number of customer withdrawal cases that we have sampled from the Program's commencement to 31 December 2015 is 507, which represents 38% of the relevant population.
- **A review of 205 cases removed from the Program on administrative grounds ("administrative exits")** – This review was in addition to the 40 cases we reviewed from this population in previous periods.⁵² The total number of administrative exit cases that we have sampled from the Program's commencement to 31 December 2015 is 245, which represents 16% of the population.

Table 5.1 below provides a summary of the case populations in each category above as at 31 December 2015, and the total number of cases we have reviewed in our sample to date.

⁵⁰ With the inclusion of the 60 Pilot cases, we have sampled a total of 318 cases progressed through the Program's Assessment stage since the Program's commencement. This figure represents 16% of the relevant population.

⁵¹ We had reviewed 504 customer withdrawal cases in previous periods, however, 23 of these cases have since been reclassified into other categories by the Bank (e.g., into the Program's Assessment stage where a customer has requested to be re-instated into the Program). We have adjusted the figures sampled in this category for previous periods (from 504 to 481) to account for this change.

⁵² Two of the cases we had previously reviewed in this category have since been re-instated into the Program (i.e., no longer exits). We have therefore adjusted the figures sampled in this category for previous periods (from 42 to 40) to account for this change.

Table 5.1: Number of cases sampled in relevant case populations

Case category	Number sampled in prior periods	Number sampled in Current Period	Number sampled as at 31/12/2015	Overall population as at 31/12/2015	Percentage sampled as at 31/12/2015
Cases progressed through the Assessment stage (excluding 60 Pilot cases)	52	206	258	1,877	14%
Customer withdrawals	481	26	507	1,317	38%
Administrative exits	40	205	245	1,513	16%

The percentage of cases that we will ultimately sample in each category will depend on a number of factors, including:

- the final number of cases that fall within each category, taking into account that additional cases will be allocated to each of the categories as the Bank progresses more cases through the Program;
- the number of exceptions that we find in our sample review of cases during each reporting period (i.e., cases where we identify issues with the Bank’s implementation of its documented processes); and
- our application of appropriate statistical tests to enable us to draw conclusions about the various populations based on the rate of exceptions we find in the relevant case category.

5.2. Approach to sampling

5.2.1. Cases progressed through the Assessment stage

We commenced the implementation of a risk-based sampling methodology in this Current Period for cases that had progressed through the Assessment stage. In particular, our sample of 206 cases focused mainly on those cases that we classified as being potentially “higher risk”. We defined higher-risk cases as those cases where a failure by the Bank to adhere to the Program’s documented processes could have a greater impact on the customer’s outcome and hence undermine the success or effectiveness of the Program.

In order to implement this risk-based sampling methodology, we requested a number of “case attributes” for the population of cases where assessment outcomes had been issued by the Bank. The case attributes were characteristics of a case that could assist us in identifying higher-risk cases, and included those related to the customer, the adviser, and the complexity of advice provided (e.g., whether the advice involved gearing or complex products).

Due to a number of limitations associated with the Bank’s ability to extract data from systems used earlier in the Program, case attributes were available to us for 81% of the cases that had been issued an assessment

outcome as at 31 December 2015 (1,577 cases).⁵³ Of these 1,577 cases with attributes, 163 of them qualified as higher-risk. We sampled 92 cases in this Current Period from the population of cases that we classified as higher-risk, which represented 56% of all higher-risk cases where case attributes were available (and 45% of our total sample for the Current Period). The remainder of the cases we sampled were those for which the Bank was unable to obtain attributes (9 cases), and cases that did not meet our classification of higher-risk (105 cases).

The cases that we classified as higher-risk for this Current Period included those with one or more of the following attributes:⁵⁴

- cases where the customer was advised by an adviser identified as potentially “high-risk” by the Bank (see Section 4.7.1 for further details regarding the types of advisers classified as potentially high-risk within the Program);
- cases that were accelerated by the Program due to a customer’s special circumstances, such as cases involving a “vulnerable” customer (e.g., customers with an intellectual impairment, mental disorder or language difficulty that potentially made it difficult for them to understand the risks involved); and
- cases that involved a customer beyond a certain age (i.e., 65 years or older at the time they first received advice during the Program’s Review Period) and where the advice provided indicated the customer had a “growth” or “aggressive” risk profile.

For each of the 206 cases that formed part of our sample for this Current Period, we reviewed the Bank’s records of assessment against the Program’s documented processes that applied at the time of the Bank’s assessment. In particular, our review involved tracing through the various facts, analysis and conclusions that were recorded by the Bank’s assessment team to determine an assessment outcome (including verification of these facts as recorded in the customer’s advice file), and sought to verify that the Program’s documented processes were adhered to.

Our findings in relation to our sample review of these cases are set out in Section 5.3.1 and 5.3.2 below.

5.2.2. Customer withdrawals

The percentage of customer withdrawal cases we reviewed in our sampling for this Current Period reduced significantly from earlier periods given our previous findings. In particular, we noted that the nature of the few exceptions we had found in our sampling from previous periods gave us no reason to conclude that the Bank was deviating materially from its documented processes. We therefore believed that the highly conservative requirement to sample 100% of cases from this category was no longer warranted.

⁵³ We are continuing to engage with the Bank on measures to resolve the data extraction issues, and expect to be able to reduce the number of cases where case attributes are not available.

⁵⁴ We note that we may continue to refine our definition of “higher-risk case” as additional cases are assessed in the Program and as limitations with the Bank’s data extraction capabilities are addressed.

For the 26 cases that we reviewed in our sampling for this Current Period, we followed the same approach as that used previously. Namely, our review of customer withdrawal cases involved:

- reviewing the relevant correspondence between the Bank and the customer (including written correspondence, call logs and other customer files on the Bank's advice remediation system) to evidence a customer's request to withdraw from the Program; and
- confirming that the Bank wrote to the customer to confirm their exit from the Program (whenever practicable and reasonable).

Our findings in relation to our sample review of these cases are set out in Section 5.3.3 below.

5.2.3. Administrative exits

The Current Period saw a further increase in cases that were removed by the Bank due to administrative reasons (refer to Section 3.3.2). This category of cases included customers who had not returned a *You and Your Advice* form within 12 months from initial registration or expression of interest into the Program, as well as other "non-genuine" cases identified by the Bank.

For this Report, we sampled an additional 51 cases that were removed due to the customer not submitting a *You and Your Advice* form within 12 months of registration/expression of interest in the Program (from a population of 565 cases). We also completed an initial sample review of 154 cases that were identified by the Bank as non-genuine (from a population of 948 cases).⁵⁵

Our approach to reviewing these administrative exit cases involved seeking confirmation that the process in which the customer was removed from the Program adhered to the Program's documented processes. For cases assessed as non-genuine by the Bank, we also reviewed the facts and evidence used by the Bank to classify these cases as non-genuine to gain assurance that there were valid reasons for removing them from the Program.

Our findings in relation to our sample review of these cases are set out in Section 5.3.4 below.

5.3. Sample findings

The large number of cases we have sampled in this Current Period across the various categories of cases has allowed us to further test the Bank's implementation of the Program, and whether the Program is meeting its objectives.

Based on our review of cases in our sampling this period, we believe that the Bank is continuing to apply the Program's processes in a manner that is materially consistent with the Program's objectives. While there were

⁵⁵ This was the first reporting period in which we sample reviewed "non-genuine" cases identified by the Bank. Our review of the cases identified as non-genuine included three cases where the Bank assessed that the person never genuinely intended to register for the Program, and 151 cases where the Bank indicated that the expression of interest or registration was made by a person (other than the customer) without the customer's consent, with one of the following conditions also applying: i) the customer had informed the Bank that they did not want to participate in the Program; ii) the customer had not responded to the Bank's invitation to participate in the Program; or iii) the Bank had no contact details for the customer.

a number of cases (10) we identified in this Current Period where the Bank's assessment did not fully adhere to the Program's documented processes, none of these exceptions, in our opinion, represented serious or intentional failings to assess poor advice. In particular, 7 out of the 10 exceptions we identified related to issues with the Bank's assessment of incorrect advice implementation or the over-charging of fees, rather than the Bank's assessment of whether poor advice was provided to the customer. The specific nature of the exceptions we found in our sampling for this Current Period are set out in further detail in Section 5.3.1 below.

In addition to the procedural exceptions we identified, our review of sample cases during this Current Period identified a number of areas of the Program's assessment processes that we believed could be strengthened. The main area in which we identified a need for strengthening was the Program's assessment of particular one-off fees associated with implementing advice. Specifically, we found during our sampling for this Current Period that the Program was not assessing product entry fees.⁵⁶ We believe such an omission could result in inconsistent outcomes in the Program. We also identified opportunities for refinement in the Program's (recently introduced) assessment processes for dealing with cases with limited or no advice documentation. Further details of our findings in relation to these issues are set out in Section 5.3.2 below.

In relation to our review of sample cases in other categories for this Current Period – namely, customer withdrawal and administrative exit cases – we found only one exception with the Bank's assessment of these cases. The one exception we identified related to a case that was removed on administrative grounds, where the Bank has subsequently rectified the exception by making further contact with the customer who confirmed that he/she did not wish to participate in the Program. Based on our most recent sampling of these cases, we believe that the processes that have been applied to deal with cases that have exited the Program without an assessment outcome continue to be implemented in accordance with the Program's documented processes and objectives.

5.3.1. Cases progressed through the Assessment stage

In our Third Report, we identified three cases that had progressed through the Assessment stage of the Program where the Bank had not adhered to the Program's documented processes. Since our Third Report, the Bank has contacted the customers in all three of these cases to notify them of the changes in their assessment outcomes, including offers of compensation.⁵⁷

⁵⁶ These product entry fees include, *inter alia*, contribution, establishment and portfolio implementation fees that a customer may have paid to implement advice. For clarity, the issue of service delivery noted in Section 4.7.3 of this Report does not apply to these entry fees.

⁵⁷ For clarity, not all cases where we identify exceptions will result in a change in assessment outcome or offer of compensation for the affected customer.

In relation to the 206 cases that we reviewed in our sample for the Current Period, we found that the Bank had adhered to the Program's documented processes in all but 10 cases.⁵⁸ The 10 cases where we found exceptions for this Current Period related to:

- five cases where the Bank did not identify, in its assessment, advice that was incorrectly implemented ("implementation exceptions");
- two cases where the Bank did not identify, in its assessment, a fee that was charged in excess of the amount disclosed to the customer at the time advice was given ("fee exceptions"); and
- three cases where the Bank did not adhere to its processes for assessing the appropriateness of advice provided to customers ("advice exception").

In the five cases where we identified an implementation exception, our review found that the Bank's assessment did not identify differences between the product actually purchased by the customer, and the product that was recommended in the customer's SOA. In all five of these cases, the mismatched products had similar names, which suggests to us that the exceptions were likely to have been caused by a case assessor's oversight rather than any intentional failure by the Bank to address issues of incorrect implementation.⁵⁹

The five implementation exceptions we found in this Current Period are in addition to two implementation exceptions found in our sampling for the Third Report. This brings the total number of implementation exceptions we have found from our sampling to 31 December 2015 to seven cases (out of a sample population of 258). Given the overall frequency of implementation exceptions that we have found to date, the Bank has agreed to take steps to strengthen its controls relating to the assessment of advice implementation (e.g., by adding specific steps in the Bank's peer review processes to look at the issue of mismatched product names). The Bank has also advised us that, as with the previous exceptions we identified, it will perform an analysis for the five implementation exceptions identified in the Current Period to determine whether the customer has suffered loss as a result of the incorrect advice implementation, and will offer any relevant compensation due.

The two cases where we found fee exceptions involved cases where the Bank's assessment did not identify discrepancies between the fees disclosed to the customer in the SOA, and the fees ultimately paid by the customer following implementation of the recommended advice. In one of these cases, the fees disclosed in the SOA included a tax credit where we found no evidence of the credit having been given to the customer (i.e., there was no evidence that the customer received the benefit of the disclosed tax credit via a reduced fee). The Bank has suggested that, as such tax credits are applied by the fund manager rather than the advice licensee, they are not within the scope of the Program's assessment. Our view, however, remains that

⁵⁸ We also identified three cases where there was insufficient evidence that steps in the assessment process had been performed, but we were satisfied that the steps not evidenced were not material to the cases concerned (i.e., the performance of the steps missed would not have changed either the assessment outcomes or the amount of any relevant compensation due). In one of these cases, we have requested that the Bank fully document its analysis and judgements (using the Program's current processes) given the complexity involved with the case.

⁵⁹ This view is supported by the fact that there were other cases we found in our sampling where the Bank had correctly identified instances of incorrect advice implementation.

because the fees paid by the customer were greater than the fees disclosed in the SOA (once the disclosed tax credits are taken into account), the Bank's assessment should have assessed this discrepancy.

In the other case where we found a fee exception, the Bank accepted that the customer was over-charged a fee for one of the investments that the adviser had recommended, which was not picked up in its assessment. The Bank has indicated that it will increase its offer of compensation for this case (having already made an initial offer of compensation to the customer) and notify this change in offer to the customer's ICA.

In two of the three cases where we identified an advice exception, we found that the Bank had not assessed advice that was documented in a ROA. In both these cases, the advice given was "subsequent advice" (i.e., advice that was given to the customer subsequent to earlier advice), where the recommendation was for the customer to maintain (or "hold") their existing investments in line with earlier recommendations. The Bank's assessment did not consider whether the "hold advice" was appropriate for the customers in both cases (i.e., it did not consider whether the customer's existing portfolio and asset allocation at the time the hold advice was given was in line with their risk profile, goals and objectives). These exceptions were due to a misinterpretation by some of the Bank's assessors who had incorrectly understood that hold advice was not assessable, since no change to investments was recommended to the customer.⁶⁰

In response to these exceptions, the Bank has indicated it will conduct further analysis where hold advice may have been given to a customer (including the two cases where we identified exceptions) to ensure any misinterpretations were isolated. The Bank has also noted that the revised version of the CAT implemented in September 2015, as well as additional guidance it provided to its Advice Assessment team in October 2015, would prevent the risk of incorrect assessments of hold advice from having occurred after September 2015. Based on our review of the revised CAT and the guidance issued in October 2015, we agree with the Bank's view that any misinterpretations were likely to have been limited to those cases assessed using earlier versions of the Program's CAT. We have therefore suggested to the Bank to focus on those cases as part of its analysis, and will provide an update on the Bank's actions in our next report.

In the other case where we identified an advice exception, the Bank's assessment did not identify the correct allowable asset allocation exposure limits that should have applied to the case assessment (i.e., the percentage exposure limits applied for this case did not adhere to the limits required under the Program's processes). Our overall sampling of cases to date, however, suggests that this appears to be an isolated case (i.e., there have been no other instances where we found the Bank to have incorrectly applied the exposure limits to be used in a case assessment from the cases we have reviewed to date). For this case, the Bank has agreed that it will re-assess its assessment outcome to ensure it remains appropriate. Where the assessment outcome requires change, the Bank will communicate this to the customer and offer any compensation due.

Finally, we note that, of the 206 cases we sampled in this category during the Current Period, two of the cases were ones where the Bank had found no evidence of advice being provided to the customer.⁶¹ We had no

⁶⁰ To provide further context, the scope of the OAR program does not extend to reviewing advice that was not implemented by a customer (unless specific concerns about the advice were expressed by the customer when registering for the Program, which led to non-implementation). As hold advice requires no changes to a customer's investment portfolio, some assessors incorrectly interpreted the Program's processes by assuming that hold advice was advice that was not implemented, and therefore required no assessment. To mitigate the risk of this possible misinterpretation, the Bank developed further guidance for its Advice Assessment team in October 2015 to clarify the need for hold advice to be assessed.

⁶¹ As set out in Section 3.4 of this Report, there were 28 cases with this assessment outcome as at 31 December 2015.

concerns with the Bank's assessment of these cases. We note that in one of the cases, the available evidence suggested that the advice provided to the customer was provided by an adviser group outside of CBA. The other case related to the provision of advice from a CFPL adviser outside the Review Period.

5.3.2. Other findings from our review of cases assessed

As noted earlier, our review of cases in this Current Period identified certain aspects of the Program's assessment process that we believe could be strengthened. The main area in which we identified a need for strengthening related to the Program's assessment of one-off fees that may be paid by a customer to implement advice.⁶² Specifically, the Bank has included one-off advisory service fees within the scope of its assessment process, while excluding the assessment of one-off product entry fees.⁶³ Our sampling revealed a small number of instances where the one-off fees paid by a customer were disclosed using different terms by the adviser. In these instances, there is the potential that some of the fees paid by the customer may have been excluded from the assessment when they should have been included.⁶⁴ This raises the possibility that excluding product entry fees from the assessment process could result in inconsistent outcomes in the Program.

The Bank has indicated that it will undertake a thorough review of the scope of one-off fees (including product entry fees) that should be included in the Program's assessment. The Bank has agreed to communicate with us over the coming months the outcomes of its review, including its proposed course of action to address our findings. We will provide an update on the actions the Bank has taken to address our findings in our next report.

The other area of the Program's assessment process where we have identified some opportunity for further refinement relates to the Bank's assessment of cases where there may be indicators of advice, but where the relevant critical advice documents are not available for the Bank to assess. As we noted in Section 4.7.2, a new "Insufficient Information Assessment" approach has recently been adopted by the Bank to deal with such cases. This approach currently relies on the Bank identifying indicators of advice from other (non-critical) advice documents or files retrieved from the Bank's systems, and contacting customers to confirm any advice received (particularly details of the advice they received). The approach does not currently involve a review of transactions data (such as significant withdrawals or contributions in a customer's investment account) to identify potential instances of advice.

Having considered the work undertaken by the Bank to develop its Targeted Assessment approach (discussed in Section 4.7.2) for dealing with other types of cases with limited or no documentation, we believe there is merit in looking at transactions data to identify possible instances of advice for cases where only

⁶² The Program's assessment processes also require a review of *ongoing* advice fees paid to CFPL or FWL (which are different to one-off fees that may be paid by a customer).

⁶³ The one-off fees being assessed by the Program for potential over-charging are SOA fees, ROA fees, one-off adviser service fees and certain "Transaction Without Advice" fees. These are one-off fees that are directly associated with services provided by an adviser and/or the relevant advice licensee at the time advice was given. Product entry fees excluded from the assessment include entry, contribution and establishment fees that may be paid by a customer on implementation of advice.

⁶⁴ For example, an adviser disclosing an "entry fee" when preparing the SOA may subsequently refer to this fee as a "one-off adviser service fee" when filling out the customer's product application form to implement the advice. The fee paid in this example may not be assessed because it was initially disclosed as an entry fee.

some (but not all) critical advice documents are available. This would assist in ensuring greater consistency in the way that cases with insufficient information are dealt with in the Program.

Based on our review of cases in the Current Period, we also noted that there was a small number of cases that we believed had possible indicators of advice based on transactions or non-critical advice documents evidenced in the customer's file. In each of these instances, the case was assessed by the Bank using an earlier version of the Program's CAT, where cases with possible instances of advice (without the relevant advice documentation) were meant to be placed on hold pending finalisation of the Insufficient Information Assessment process. In light of our identification of these cases, the Bank has agreed to undertake a further assessment of the cases we identified with possible indicators of advice using the Program's current Insufficient Information Assessment process. This further assessment would help ensure that the possible indicators of advice we identified are assessed appropriately and that the customers' assessment outcomes for these cases remained appropriate.

5.3.3. Customer withdrawals

As noted earlier, we have undertaken a smaller sampling percentage for customer withdrawal cases in this Current Period given the Bank's previously demonstrated adherence to the Program's documented processes for these cases.

Of the 26 cases that we reviewed in our sample for this Current Period, we found no material exceptions in relation to the Bank's treatment of these cases against the Program's documented processes. For each case, we found evidence from the information we reviewed that the person who was recorded as having registered or expressed interest in the Program advised the Bank of his/her request to withdraw from the Program.

Our review of the 26 customer withdrawal cases also found that, in all cases, the Bank had sent written confirmation of the customer's decision to opt out of the Program as required under the Bank's processes.

5.3.4. Cases removed from the Program on administrative grounds

From our review of the 51 cases that had been removed from the Program on administrative grounds due to the customer having not returned a *You and Your Advice* form within 12 months from the initial registration or expression of interest, we found one procedural exception with the Bank's adherence to its documented process. In all but one of these cases, the information we reviewed found:

- evidence that the customer had registered interest in the Program more than 12 months prior to the date when the customer was removed from the Program;
- evidence that the Bank had attempted to reach the customer at least twice, to request the information needed for the case to proceed in the Program; and
- no evidence to suggest that the customer responded to the Bank's request for information.

The one case where we found an exception involved a customer who the Bank had attempted to contact only once before removing the customer from the Program on administrative grounds. The Bank has subsequently contacted this customer who confirmed that he/she did not want to participate in the Program.

From our review of 154 cases that had been classified as "non-genuine" and removed from the Program by the Bank, we found no material exceptions with the Bank's adherence to its documented process in all cases

we reviewed. As this was the first period in which we sample reviewed cases in this category, we will continue to undertake further sampling of non-genuine (and other administrative exit cases) for our next report.

5.4. Future sampling

Our sampling for the Current Period (as well as the previous period) focused largely on those cases that had progressed through the Program's Assessment stage, as well as other types of cases that had exited the Program prior to receiving an assessment outcome from the Bank.

While our sampling of cases that have exited the Program's Assessment stage will remain the focus of our efforts throughout this Program, we anticipate adding cases that have progressed through the Program's Consideration of Assessment Outcome stage (that have subsequently exited the Program) to our next sample review. In reviewing these cases, our focus will be on testing whether the Bank's communications and responses to customers who have received their assessment outcomes are in line with the Program's documented processes and objectives. We do not intend to review the Bank's assessments for these cases, as we are already conducting separate sampling of the Bank's implementation of these processes.

The other category of cases for which we will commence sampling in our next report are those that have been assessed by the Bank using the recently developed Targeted Assessment approach. As this approach had only recently been developed, we had yet to conduct any sampling of cases in this category at the time of writing this Report.

Appendix 1: Program stages

The following table sets out a description of each stage of the Program. These descriptions form the basis on which the statistics presented in this Report have been presented.

Program stages	Description
Expression of Interest	Refers to cases where the customer had notified the Bank of his/her interest to participate in the Program on or after 23 January 2015. Prior to this date, all cases that had registered interest to participate in the Program were classified as "registrations".
Registration	Refers to cases where the customer had: <ul style="list-style-type: none"> Notified the Bank of his/her interest to participate in the Program prior to 23 January 2015; or Expressed interest in the Program on or after 23 January 2015, where the customer had returned a <i>You and Your Advice</i> form to the Bank. At the Registration stage, the Bank undertakes an assessment of a customer's eligibility to participate in the Program.
Assessment	Refers to cases that had been confirmed as eligible for the Program by the Bank and where case assessment had commenced.
Consideration of Assessment Outcome	Refers to cases where an assessment outcome had been issued by the Bank and where that assessment outcome was under consideration by the customer.
Independent Panel Review	Refers to cases where the Bank's final assessment outcome had been rejected by the customer and the case had been escalated to the Independent Panel.

The following table describes the broad categories of exits that occur at different stages of the Program:

Exit stage	Description
Prior to Registration stage	Refers to expressions of interest in the Program that had withdrawn from the Program, or been removed or deemed ineligible for the Program by the Bank.
Exits at Registration and Assessment stage	Refers to registered cases that had withdrawn from the Program prior to an assessment outcome being issued by the Bank. This category also includes registered cases that had been removed or deemed ineligible for the Program by the Bank, prior to an assessment outcome being issued.
Exits after assessment outcome issued	Refers to cases that had withdrawn from the Program after an assessment outcome had been issued by the Bank. This category includes customers who had accepted an offer of compensation, or otherwise withdrawn from the Program without seeking a further assessment from the Independent Panel.



Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com