

ENFORCEABLE UNDERTAKING

Australian Securities and Investments Commission Act 2001

Section 93AA

The commitments in this Undertaking are offered to the Australian
Securities and Investments Commission (ASIC) by:

Fortrend Securities Australia Pty Ltd
(ACN 055 702 693)

Level 42, 55 Collins Street
Melbourne, Victoria 3000
Australia

(Fortrend)

and

Joseph Burke Forster

Level 42, 55 Collins Street
Melbourne, Victoria 3000
Australia

(Mr Forster)

1. DEFINITIONS

In addition to terms defined elsewhere in this undertaking, the following
definitions are used:

ASIC Act means the *Australian Securities and Investments Commission
Act 2001* (Cth)

AFSL means Australian Financial Services Licence.

Assessment is the process of evaluating the ability or quality of the thing
or person.

Compliance Manual means Fortrend's Compliance Manual as amended
from time to time.

Corporations Act means the *Corporations Act 2001* (Cth)

Regulatory Regime means the Corporations Act, the *Corporations Regulations 2001* (Cth) and the conditions on Fortrend's AFSL.

Reasonable Assurance Engagement has the same meaning as that term is defined in the Standard on Assurance Engagements ASAE 3100 *Compliance Engagements* (June 2008) issued by the Auditing and Assurance Standards Board.

2. BACKGROUND

2.1 ASIC's role

Under section 1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

2.2 Fortrend's business

2.2.1 Fortrend is the holder of AFSL number 247261.

2.2.2 Mr Forster is the sole director of Fortrend, and is also the responsible person for Fortrend's AFSL.

2.2.3 Fortrend's AFSL authorises it to carry on a financial services business to:

- (a) provide financial product advice for certain classes of financial products;
- (b) deal in certain classes of financial products; and
- (c) operate custodial or depository services other than investor directed portfolio services

to retail and wholesale clients.

2.3 ASIC's concerns and actions

2.3.1 In 2004 ASIC wrote to Fortrend regarding its compliance with the financial requirements of its AFSL. Fortrend did not respond to those letters.

2.3.2 In February 2006 ASIC undertook a project to review AFSL holders' compliance with breach notification obligations. ASIC reviewed Fortrend's compliance and formed the view that Fortrend failed to comply with its requirements under the Corporations Act regarding compliance measures, processes and breach reporting.

2.3.3 In July 2006 ASIC commenced an investigation into the operations of Fortrend.

2.3.4 On 22 June 2007 ASIC served a notice pursuant to section 915C of the Corporations Act on Fortrend stating that ASIC was concerned that:

(a) Fortrend may not have complied with its obligations under section 912A of the Corporations Act; and

(b) Fortrend would not comply with its obligations under section 912A of the Corporations Act.

2.3.5 On 22 June 2007 ASIC served a notice pursuant to section 920A of the Corporations Act on Mr Forster stating that ASIC was concerned that he would not comply with a financial services law.

2.3.6 In particular ASIC's concerns under the notices related to:

(a) Training:

(i) Fortrend may not have complied with condition 4 of the AFSL, contrary to section 912A(1)(b) of the Corporations Act;

- (ii) Fortrend may not have complied with condition 5 of the AFSL, contrary to section 912A(1)(b) of the Corporations Act;
 - (iii) Fortrend may not have complied with the condition on the AFSL prescribed by reg 7.6.04(1)(d) contrary to section 912A(1)(b) of the Corporations Act; and
 - (iv) Fortrend may not have ensured that its representatives were adequately trained and competent to provide the financial services provided by Fortrend, contrary to section 912A(1)(f) of the Corporations Act.
- (b) Financial requirements: Fortrend may not have complied with condition 8 of the AFSL, contrary to section 912A(1)(b) of the Corporations Act.
- (c) Audit opinion: Fortrend may not have complied with condition 16 of the AFSL, contrary to section 912A(1)(b) of the Corporations Act.
- (d) Dispute resolution systems: Fortrend may not have had a dispute resolution system complying with section 912A(2) of the Corporations Act, contrary to section 912A(1)(g) of the Corporations Act.
- (e) Providing financial services efficiently, honestly and fairly:
- (i) Fortrend may not have done all things necessary to ensure that the financial services covered by its AFSL were provided efficiently, honestly and fairly, contrary to section 912A(1)(a) of the Corporations Act; and
 - (ii) Fortrend may not have had a breach reporting system complying with section 912D of the Corporations Act.

2.3.7 On 23 November 2007 ASIC (through its delegate) handed down its decision in which it found that:

- (a) Fortrend had not fulfilled its training obligations under section 912A(1)(e) and (f) of the Corporations Act;
- (b) Fortrend had not complied with condition 8 of its AFSL (section 912A(1)(b));
- (c) Fortrend's dispute resolution system did not comply with sections 912A(1)(g) and 912A(2) of the Corporations Act;
- (d) Fortrend had not provided financial services efficiently, honestly and fairly (section 912A(1)(a) of the Corporations Act); and
- (e) Mr Forster had failed to ensure that Fortrend had not breached the obligations set out at (a) to (d) above.

2.3.8 On 23 November 2007 ASIC (through its delegate):

- (a) Cancelled Fortrend's AFSL under section 915C of the Corporations Act; and
- (b) Banned Mr Forster from providing financial services for two years pursuant to section 920A of the Corporations Act.

2.3.9 On 23 November 2007 Fortrend and Mr Forster applied to the Administrative Appeals Tribunal for:

- (a) a review of the decision to cancel Fortrend's AFSL;
- (b) a review of the decision to ban Mr Forster from providing financial services for two years; and
- (c) a stay on the implementation of the decisions pending the outcome of the reviews.

2.3.10 On 23 November 2007 the Administrative Appeals Tribunal granted interim stays with further stays being granted on 11 February 2008 pending determination of the reviews.

2.3.11 On 21 November 2008 the Commonwealth Administrative Appeals Tribunal made the following orders by consent of the parties: -

- (a) that the decisions of ASIC (through its delegate) dated 23 November 2007 cancelling Fortrend's AFSL and banning Mr Forster from providing financial services for two years be set aside; and
- (b) that the decisions of ASIC (through its delegate) dated 23 November 2007 be substituted with a written enforceable undertaking from Fortrend and Mr Forster in the form of this enforceable undertaking.

2.4 Admissions by Fortrend and Mr Forster

2.4.1 Fortrend and Mr Forster make the following voluntary admissions:

- (a) Insufficient appropriate training was provided to satisfy the requirements of section 912A of the Corporations Act in that:
 - (i) there was not a compliant training plan for each advisor; and
 - (ii) the training undertaken by representatives of Fortrend was inadequate.
- (b) Training plans and records were not documented to the level required by section 912A of the Corporations Act in that:
 - (i) proper records of training were not kept;
 - (ii) Fortrend's training plans for 2005 and 2006 were not properly documented to the level required by the Regulatory Regime;

- (iii) The training records maintained by Fortrend were not documented to the level required by the Regulatory Regime; and
 - (iv) The records of training undertaken by Fortrend's representatives prior to employment at Fortrend were not maintained at the level required by the Regulatory Regime.
- (c) Fortrend had not properly documented its procedures as required by condition 8 of the AFSL under section 912A of the Corporations Act in that for each of the three month periods commencing August 2004 and November 2004 and for the year ended 30 June 2006, Fortrend did not document the assumptions and explanations relied upon for its cashflow projections.
- (d) Fortrend's dispute resolution system did not fully comply with the requirements of section 912A of the Corporations Act in that Fortrend's internal dispute resolution procedures were not compliant with the Regulatory Regime.
- (e) Fortrend's breach reporting procedure did not comply with section 912A of the Corporations Act in that Fortrend did not have a method to identify and address breaches of the financial services law.
- (f) Fortrend did not have documented procedures to ensure compliance with breach reporting obligations in section 912D of the Corporations Act in that Fortrend did not have a clear, well understood and documented process for reporting breaches of the financial services laws.
- (g) Fortrend and Mr Forster failed to take adequate steps to rectify non-compliance with condition 8 of the AFSL.

2.5 Remedial action

2.5.1 Fortrend and Mr Forster have undertaken significant remedial action to address ASIC's concerns. In particular Fortrend and Mr Forster have:

- (a) engaged Ernst & Young to conduct a review of their compliance with the Regulatory Regime;
- (b) completely overhauled Fortrend's entire compliance regime, including the creation of an entirely new compliance manual and the integration of such a manual into the business operations of Fortrend.
- (c) completely overhauled its training regime, including engaging external consultants to provide training services;
- (d) required Mr Forster to attend further and continued training in respect to his responsible person obligations; and
- (e) engaged Deloitte to conduct a further review of their revised compliance regime and their continued compliance with the Regulatory Regime.

2.5.2 Despite the remedial action set out at paragraph 2.5.1, ASIC remains concerned that some of the compliance measures established by Fortrend and Mr Forster are inadequate, not appropriately tailored to Fortrend's business and have not been implemented as designed. This Undertaking, together with the Remedial Action Plan set out at Annexure B, is designed to address these concerns.

3. UNDERTAKINGS

3.1 Agreement

3.1 Under section 93AA of the ASIC Act, Fortrend and Mr Forster have offered, and ASIC has agreed to accept the following undertakings as an alternative to cancelling Fortrend's AFSL and banning Mr Forster.

3.2 Amendment of Fortrend's compliance approach

3.2.1 Fortrend will create a new position of Compliance Manager and have an appropriately qualified person appointed to and performing that role within 2 months of the date of this undertaking. The Compliance Manager position:

- (a) will be a separate position within Fortrend;
- (b) may be occupied by different individuals from time to time; and
- (c) cannot be occupied by Mr Forster.

3.2.2 The Compliance Manager will be responsible for the duties set out in Annexure C.

3.2.3 Fortrend and Mr Forster will:

- (a) fully implement the Remedial Action Plan set out in Annexure B and
- (b) comply with the Compliance Manual as amended from time to time.

3.3 Assessment by independent expert

3.3.1 Within 30 days of the date of this undertaking Fortrend must appoint a person who has particular expertise in the area of compliance, who is independent of Fortrend and its officers, to

be Fortrend's independent expert for the purposes of conducting a review of Fortrend's compliance procedures pursuant to this undertaking (**Independent Expert**).

3.3.2 The terms of engagement must ensure that:

- (a) the Independent Expert's review is conducted to the level of a Reasonable Assurance Engagement;
- (b) the Independent Expert assesses whether:
 - (i) Fortrend and Mr Forster are complying with Fortrend's Compliance Manual;
 - (ii) Fortrend and Mr Forster have implemented the Remedial Action Plan.
- (c) the Independent Expert provides a written report about the review to Fortrend and ASIC within 4 months after the date of this undertaking (the **Initial Report**).

3.3.3 If the Independent Expert identifies deficiencies in the assessment referred to in paragraph 3.3.2(b), the terms of engagement must ensure the Independent Expert sets out in the Initial Report details of the deficiencies and recommendations on how to rectify the deficiencies and a reasonable time for a rectification program to be commenced and implemented. For the avoidance of doubt, if the Independent Expert identifies deficiencies in the assessment referred to in paragraph 3.3.2(b), such deficiencies will constitute a breach of paragraph 3.2.3 of this Undertaking.

3.3.4 Between 10 and 12 months of delivering the Initial Report to ASIC, Fortrend must appoint an Independent Expert for the purposes of conducting a further review of Fortrend's compliance procedures pursuant to this Undertaking. The Independent Expert may be the same person retained to complete the Initial Report.

3.3.5 The terms of engagement must ensure that:

- (a) the Independent Expert's further review is conducted to the level of a Reasonable Assurance Engagement;
- (b) the Independent Expert conducts an assessment of Fortrend's compliance with its obligations under the Regulatory Regime including:
 - (i) the adequacy of the Compliance Manual (as rectified by the Remedial Action Plan) to ensure, as far as it is reasonably practicable, that Fortrend complies with the provisions of the financial services laws; and
 - (ii) whether Fortrend and Mr Forster are complying with the Compliance Manual (as rectified by the Remedial Action Plan).
- (c) the Independent Expert provides a written report about the review to Fortrend and ASIC (the **Second Report**) within 2 months of being appointed.

3.3.6 If the Independent Expert identifies deficiencies in Fortrend's compliance with its obligations under the Regulatory Regime, the terms of engagement must ensure the Independent Expert sets out in the Second Report details of the deficiencies and recommendations on how to rectify the deficiencies and a reasonable time for the rectification program to be commenced and implemented and a suggested time at which the assessment the subject of the Third Report (as defined in paragraph 3.3.10(c) below) should be carried out.

3.3.7 If the Second Report identifies deficiencies, Fortrend must consider the recommendations made by the Independent Expert to remedy those deficiencies and then provide to the Independent Expert and ASIC a plan (**Second Remedial Action**

Plan) setting out the action it proposes to take to rectify those deficiencies and specifying the reasonable time in which this action will be taken. Fortrend must provide this plan to the Independent Expert and ASIC within one month of the date that the Second Report was received by ASIC. The terms of engagement of the Independent Expert must require the Independent Expert to consider whether any reasonable modifications to the Second Remedial Action plan are required. If the Independent Expert or ASIC requires any reasonable modifications to the Second Remedial Action Plan, Fortrend must implement the Second Remedial Action Plan as modified. For the avoidance of doubt, if the Independent Expert identifies deficiencies in the assessment referred to in paragraph 3.3.5(b)(ii), such deficiencies will constitute a breach of paragraph 3.2.3 of this Undertaking.

- 3.3.8 Fortrend must implement the Second Remedial Action Plan within the time specified by the Independent Expert.
- 3.3.9 If Fortrend is required to implement a Second Remedial Action Plan, Fortrend must appoint an Independent Expert for the purposes of conducting a further review of Fortrend's compliance procedures pursuant to this Undertaking. The Independent Expert may be the same person retained to complete the Initial Report or the Second Report.
- 3.3.10 The terms of engagement must ensure that:
 - (a) the Independent Expert's further review is conducted to the level of a Reasonable Assurance Engagement;
 - (b) the Independent Expert conducts an assessment of Fortrend's compliance with its obligations under the Regulatory Regime including:
 - (i) whether Fortrend and Mr Forster have complied with the Second Remedial Action Plan; and

- (ii) whether Fortrend and Mr Forster are complying with the Compliance Manual (as rectified by the Second Remedial Action Plan).
- (c) the Independent Expert provides a written report about the review to Fortrend and ASIC no later than two months after the date on which the Independent Expert suggested the assessment be carried out (the **Third Report**).

3.3.11 If the Independent Expert identifies deficiencies in the Third Report, the terms of engagement must ensure the Independent Expert sets out in the Third Report details of the deficiencies and recommendations on how to rectify the deficiencies and a reasonable time for a rectification program to be commenced and implemented. For the avoidance of doubt, if the Independent Expert identifies deficiencies in the assessment referred to in paragraph 3.3.10(b), such deficiencies will constitute a breach of paragraph 3.2.3 of this Undertaking.

3.3.12 Fortrend must:

- (a) permit the Independent Experts, to the extent that is reasonable having regard to the requirements of this undertaking, to have access to its books, to interview any present employee and to consult with ASIC and disclose to ASIC any information obtained by the Independent Experts in the course of carrying out their reviews;
- (b) give the Independent Experts any information or explanation reasonably requested by the Independent Experts of any matter in any way connected with the reports required to be prepared by the Independent Experts under this undertaking (**Expert Reports**);
- (c) otherwise reasonably assist the Independent Experts in conducting the reviews and producing the Expert Reports.

3.3.13 Fortrend will ensure that the terms of engagement of the relevant Independent Experts will include a requirement that the Expert Reports will:

- (a) set out the steps that the Independent Expert has taken to fulfil his or her task, including but not limited to:
 - (i) the people that have assisted the Independent Expert and in what way;
 - (ii) the personnel that have been interviewed; and
 - (iii) the documents that have been assessed;
- (b) set out any limitations or qualifications to the Expert Reports;
- (c) list those documents or extracts of documents most relevant (in the view of the Independent Expert) in producing the Expert Reports;
- (d) otherwise comply (to the extent applicable) with those paragraphs of the Federal Court of Australia Practice Direction 'Guidelines for Expert Witnesses in proceedings in the Federal Court of Australia', that fall under the sub-heading 'The form of the expert evidence' (see Annexure A);
- (e) set out any amendments that were made, by Fortrend, to the Compliance Manual during the course of the Independent Experts' assessment of the Compliance Manual, and the reason for those amendments.

3.3.14 Fortrend must provide reasonable access and assistance and take all reasonable steps to allow the Independent Experts to be able to fulfil the terms of their appointment.

- 3.3.15 All remuneration and costs associated with the Independent Experts must be borne by Fortrend and paid in accordance with the terms of engagement of the relevant Independent Experts.

3.4 Completion of undertaking

- 3.4.1 Fortrend undertakes that it will pay the costs of its compliance with this Undertaking including all costs associated with the Independent Experts and all assessments, reviews and reports to be conducted and/or prepared as referred to in this Undertaking.
- 3.4.2 Fortrend will provide all documents and information requested by ASIC from time to time for the purpose of assessing Fortrend's compliance with the terms of this Undertaking.
- 3.4.3 ASIC, Fortrend and Mr Forster acknowledge that this Undertaking ends on:
- (i) the delivery of the Second Report, provided there are no deficiencies mentioned in that report; or
 - (ii) the delivery of the Third Report provided there are no deficiencies mentioned in that report; or
 - (iii) by agreement between the parties.
- 3.4.4 The address for providing ASIC with any document, including but not limited to any plan or report, which this undertaking requires to be provided to ASIC is:

The Senior Manager

Financial Planners

ASIC

Level 24, 120 Collins Street

MELBOURNE VIC. 3000

4. ACKNOWLEDGMENTS

4.1 Fortrend and Mr Forster acknowledge that ASIC:

- 4.1.1 may issue a media release on execution of this Undertaking referring to its terms and to the concerns of ASIC which led to its execution;
- 4.1.2 may from time to time publicly refer to this Undertaking; and
- 4.1.3 will make this Undertaking available for public inspection.

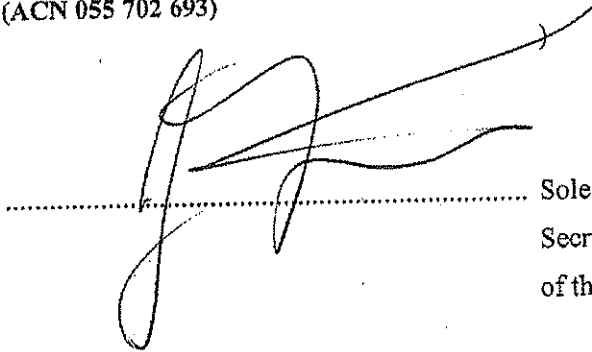
4.2 Further, Fortrend and Mr Forster acknowledge that:

- 4.2.1 ASIC's acceptance of this Undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of the background section of this Undertaking or arising from future conduct;
- 4.2.2 this Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this Undertaking or arising from future conduct.

4.3 Fortrend and Mr Forster acknowledge that ASIC had reason to be concerned about the matters set out in paragraphs 2.3 and 2.4 and has offered an enforceable undertaking in the terms of Section 3 above.

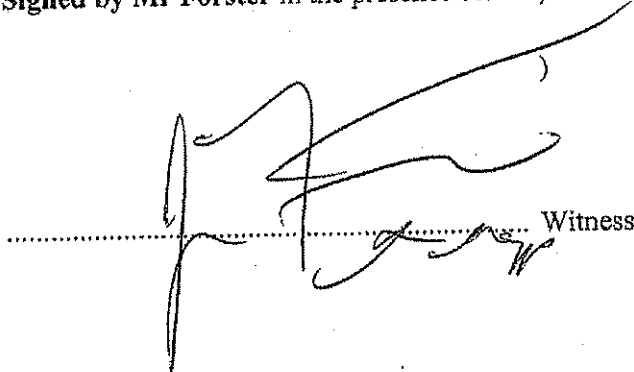
4.4 Fortrend and Mr Forster acknowledge that this Undertaking has no operative force until accepted by ASIC, and Fortrend, Mr Forster and ASIC acknowledge that the date of the enforceable undertaking is the date on which it is accepted by ASIC.

Fortrend Securities Australia Pty Ltd)
 (ACN 055 702 693)



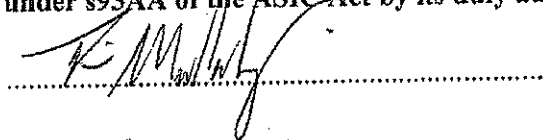
Sole Director and Sole Company
 Secretary pursuant to section 127(1)(c)
 of the Corporations Act 2001 (Cth)

Signed by Mr Forster in the presence of:)



Witness

Accepted by the Australian Securities and Investments Commission
 under s93AA of the ASIC Act by its duly authorised delegate:



[name] *TIMOTHY MULVANEY*

Delegate of Australian Securities and Investments Commission

[date] *2nd November 2008*

Annexure A: The form of the expert evidence note

This is an extract from the Federal Court of Australia Practice Direction 'Guidelines for Expert Witnesses in proceedings in the Federal Court of Australia'.

Note: See also rule 35.10 Civil Procedure Rules (UK) and Practice Direction 35—Experts and Assessors (UK); *HG v the Queen* (1999) 197 CLR 414 per Gleeson CJ at [39]–[43]; *Ocean Marine Mutual Insurance Association (Europe) OV v Jetopay Pty Ltd* [2000] FCA 1463 (FC) at [17]–[23].

- 1 An expert's written report must give details of the expert's qualifications, and of the literature or other material used in making the report.
- 2 All assumptions of fact made by the expert should be clearly and fully stated.
- 3 The report should identify who carried out any tests or experiments upon which the expert relied in compiling the report, and state the qualifications of the person who carried out any such test or experiment.
- 4 Where several opinions are provided in the report, the expert should summarise them.
- 5 The expert should give reasons for each opinion.
- 6 At the end of the report the expert should declare that '[the expert] has made all the inquiries which [the expert] believes are desirable and appropriate and that no matters of significance which [the expert] regards as relevant have, to [the expert's] knowledge, been withheld from the Court.'
- 7 There should be included in or attached to the report (i) a statement of the questions or issues that the expert was asked to address; (ii) the factual premises upon which the report proceeds; and (iii) the documents and other materials which the expert has been instructed to consider.
- 8 If, after exchange of reports or at any other stage, an expert witness changes a material opinion, having read another expert's report or for any other reason, the change should be communicated in a timely manner (through legal

representatives) to each party to whom the expert witness's report has been provided and, when appropriate, to the Court.¹

- 9 If an expert's opinion is not fully researched because the expert considers that insufficient data are available, or for any other reason, this must be stated with an indication that the opinion is no more than a provisional one. Where an expert witness who has prepared a report believes that it may be incomplete or inaccurate without some qualification, that qualification must be stated in the report.¹
- 10 The expert should make it clear when a particular question or issue falls outside the relevant field of expertise.
- 11 Where an expert's report refers to photographs, plans, calculations, analyses, measurements, survey reports or other extrinsic matter, these must be provided to the opposite party at the same time as the exchange of reports.²

¹ *The "Ikarian Reefer"* [1993] 20 FSR 563 at 565.

² *The "Ikarian Reefer"* [1993] 20 FSR 563 at 565-566; and *Ormrod "Scientific Evidence in Court"* [1968] Crim L.R. 240.

Annexure B: The Remedial Action Plan

1. Fortrend is to make the following amendments to its Compliance Manual:
 - (a) Specify the position of Compliance Manager in its corporate structure as a separate and independent position;
 - (b) Specify that the position of Compliance Manager is to be based in Fortrend's Offices in Australia;
 - (c) Specify that the position of Compliance Manager cannot be occupied by the Responsible Person;
 - (d) Specify the actual duties and responsibilities of the Compliance Manager, including, but not limited to:
 - i. conducting regular reviews of representatives' advice for compliance with the financial services laws or to sit in on client interviews conducted by advisers; and
 - ii. assessing the adequacy of staff resources dedicated to compliance and to ensure that client accounts are managed during staff absences;
 - (e) Insert a new section which warns staff that despite being authorised by its AFSL to provide non-IDPS custodial services:
 - i. Fortrend does not presently provide those services; and
 - ii. Fortrend staff and representatives are not presently permitted to offer those services.

- (f) Insert a new section providing guidance on dealing with the absence of the Responsible Person from Fortrend's offices which stipulates that:
 - i. The Responsible Person is to provide advance notice to the Compliance Manager of any scheduled absence from Fortrend's offices that is likely to be longer than one working day;
 - ii. Provided advance notice is given under (f)(i) the Compliance Manager must be present in Fortrend's offices while the Responsible Person is absent;
 - iii. In providing notice to the Compliance Officer under (f)(i), the Responsible Person must provide the Compliance Manager with telephone and email contact details for the Responsible Person;
 - iv. During a scheduled absence from Fortrend's offices, the Responsible Person must respond to any contact from the Compliance Manager within 24 hours.
- (g) Insert a new section on how to identify and manage conflicts of interest;
- (h) Insert a new section to provide guidance for the Promotional Materials Manager in assessing whether promotional material may be misleading or deceptive;
- (i) Insert a new section to provide guidance on the provision of ongoing and additional advice including:
 - i. When ongoing or additional advice should be provided;

- ii. That ongoing or additional advice is to be provided in writing in a specified template; and
 - iii. How records of ongoing or additional advice are to be kept.
- (j) Insert a new section to provide guidance on cold-calling and hawking, including the circumstances in which cold-calling and hawking are prohibited.
- (k) Insert a new section to provide guidance on the use of para-planners by Fortrend staff and representatives.
- (l) Insert a new section to provide guidance on:
- i. Any notifications required to made to the professional indemnity insurer;
 - ii. any other actions necessary to preserve Fortrend's ability to make a claim on the professional indemnity policy;
- (m) Revise the Compliance Manual to ensure that:
- i. the dates stated in the yearly compliance diary for the renewal of professional indemnity insurance and membership of an external dispute resolution match the actual anniversary dates for the insurance and the scheme;
 - ii. The fact that the training of Fortrend's representatives is outsourced to Kaplan is properly recorded;
 - iii. It is the Responsible Person or the Compliance Manager who checks all FSGs and SOAs before they are sent to clients;

- iv. Any inconsistencies between the duties of designated positions are removed; and
 - v. Any references to designated positions or departments that are no longer used are removed.
2. Fortrend is to continue to ensure that all relevant employees (including the Compliance Manager) and Mr Forster:
- (a) Complete training courses at an appropriate level that are or have been listed on the ASIC training register and are relevant to their functions and tasks;
 - (b) Are individually assessed as competent as part of the training program; and
 - (c) Are provided with remedial training in the event that they are found not to understand their obligations.
3. Fortrend is to ensure and continue to ensure that the position of Compliance Manager is held by a person who is appropriately qualified for the position.

Annexure C: Duties of Compliance Manager

The Compliance Manager will be responsible for:

- Monitoring Fortrend's compliance with its statutory obligations under the *Corporations Act 2001* (Cth) and the *Australian Securities and Investments Commission Act 2001* (Cth);
- Monitoring Fortrend's compliance with its obligations under its Australian financial services licence;
- Monitoring Fortrend's compliance with its existing compliance procedures.
- Reporting to Fortrend management and ASIC (where required) any breaches by Fortrend in its compliance obligations;
- Identifying and implementing any necessary changes to either rectify an identified breach or to prevent possible breaches;
- Assessing Fortrend's compliance procedures and documentation (including the compliance manual) to ensure that they remain up to date and appropriate in relation to Fortrend's compliance obligations;
- Liaise with ASIC in respect to compliance issues;
- Monitoring regulatory changes that may impact on Fortrend's operations and providing information and advice on such issues to Fortrend's management in a timely manner;
- Ensuring that Fortrend staff are properly informed about their and Fortrend's compliance obligations;
- Providing advice to Fortrend's Responsible Officer/s and staff on compliance obligations and issues;
- Participating in complaint handling and dispute resolution;
- Being a point of first contact in Australia for Fortrend's clients and stakeholders if the Responsible Officer is unavailable;
- Preparation of management reports in relation to compliance issues;
- Liaise with external compliance services providers or lawyers in respect to compliance issues (if necessary);

- Reviewing Fortrend's outsourcing arrangements for compliance; and
- Any other tasks/responsibilities allocated to the Compliance Manager under the Compliance Manual.

