



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:

SPRING FINANCIAL GROUP PTY LTD

ACN 146 936 763

AFSL 391655

DEFINITIONS

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

AFS Licence means Australian Financial Services Licence.

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

Commencement Date means the date this enforceable undertaking is accepted by ASIC.

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

Financial Product has the meaning given to it by Division 3 of Part 7.1 of Chapter 7 of the Corporations Act.

Financial Product Advice has the meaning given to that term by s766B of the Corporations Act.

Financial Services has the meaning given to that term by Division 4 of Part 7.1 of Chapter 7 of the Corporations Act.

Financial Services Law has the meaning given to that term by section 761A of the Corporations Act.

Marketing Materials means any written or electronic medium involved in the promotion or advertising of Financial Services.

Representative has the meaning given by s910A of the Corporations Act and includes;

- (i) an authorised representative of Spring Financial; or
- (ii) an employee or director of Spring Financial; or

- (iii) an employee or director of a related body corporate of Spring Financial;
or
- (iv) any other person acting on behalf of Spring Financial.

Royale Capital means Royale Capital Pty Ltd ACN 143 832 053, now ACN 143 832 053 Pty Ltd (ACN 143 832 053)

SMSF means self-managed superannuation fund

Spring Financial means Spring Financial Group Pty Ltd ACN 146 936 763.

Except so far as the contrary intention appears in this undertaking the interpretation provisions in Part 1.2 of the Corporations Act and Part 2 Division 4 of the ASIC Act apply for the purposes of this undertaking as if the provisions of those acts were provisions of this undertaking.

BACKGROUND

ASIC's role

1. 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.

Spring Financial

2. Spring Financial was incorporated on 20 October 2010.
3. Spring Financial is the holder of an AFS Licence (No. 391655). Spring Financial has held its AFS Licence since 4 April 2011.
4. Spring Financial is authorised under its AFS Licence to operate a Financial Services business within the meaning of Chapter 7 of the Corporations Act, to provide Financial Product Advice and deal in a range of Financial Products.
5. On 25 October 2011, Spring Financial appointed Royale Capital as its Representative. Under the terms of its appointment, Royale Capital was authorised to provide general Financial Product Advice only in relation to certain specified classes of Financial Products.
6. On 12 June 2012, Spring Financial revoked Royale Capital's appointment as a Representative.

ASIC's investigation

7. In November 2011, ASIC commenced an investigation concerning the affairs of Royale Capital and its officers, employees and representatives into suspected contraventions of the Corporations Act.
8. On 20 September 2012, the ASIC investigation was widened to consider whether Spring Financial had complied with its obligations under section 912A of the Corporations Act.
9. Based on information and documents obtained during ASIC's investigation, ASIC has found that Royale Capital:
 - 9.1. engaged in cold call marketing;
 - 9.2. made recommendations to prospective investors to establish an SMSF;
 - 9.3. made arrangements for persons to establish SMSFs, including providing prospective investors with application forms to apply for the establishment of SMSFs; and
 - 9.4. engaged in the business of marketing investments and making investment offers, including offers of shares in corporations or interests in other investments vehicles.
10. By reason of the conduct referred to at paragraph 9, Royale Capital may have provided Financial Services outside the terms of its authorisation from Spring Financial.
11. ASIC's investigation further found that Spring Financial:
 - 11.1. failed to take reasonable steps to ensure that Royale Capital complied with the Financial Services Law;
 - 11.2. failed to ensure that Royale Capital received adequate compliance training and education; and
 - 11.3. failed to respond to compliance failures by Royale Capital.

ASIC's CONCERNS

12. As a result of the matters referred to at paragraphs 9 to 11, ASIC is concerned that, during the period 25 October 2011 and 12 June 2012, Spring Financial failed to comply with its obligations under the Corporations Act, specifically:
 - 12.1. s912A(1)(a) of the Corporations Act, which requires a financial services licensee to do all things necessary to ensure that the financial services covered by the licence are provided efficiently, honestly and fairly;
 - 12.2. s912A(1)(ca) of the Corporations Act, which requires a financial services licensee to take reasonable steps to ensure that its representatives comply with the Financial Services Laws;
 - 12.3. s912A(1)(d) of the Corporations Act, which requires a financial services licensee – unless the licensee is a body regulated by APRA – to have available adequate resources (including financial, technological and human resources) to provide the Financial Services covered by the licence and to carry out supervisory arrangements; and
 - 12.4. s912A(1)(f) of the Corporations Act, which requires a financial services licensee to ensure that its representatives are adequately trained.
13. In particular, ASIC is concerned that, during the period 25 October 2011 and 12 June 2012, Spring Financial has had deficiencies in its compliance measures, including:
 - 13.1. insufficient training processes and education of Representatives in relation to compliance obligations;
 - 13.2. insufficient monitoring of content of training requirements;
 - 13.3. inadequate monitoring and supervision of Representatives' activities; and
 - 13.4. inadequate processes to control the recommendation by Representatives of products outside of Spring Financial's approved product list.

14. ASIC is also concerned that, during the period 25 October 2011 and 12 June 2012, Spring Financial failed to comply with condition 4 of its AFS Licence requiring it to '(a) identify the tasks and functions that person performs on behalf of the licensee; and (b) determine the appropriate knowledge and skills requirements required to competently perform those tasks and functions; and (c) implement procedures for continuing training' and failed to comply with its obligations under section 912A(1)(b) of the Corporations Act that requires a financial services licensee to comply with the conditions on its AFS Licence.

ACKNOWLEDGMENT OF CONCERNS

15. Spring Financial acknowledges ASIC's concerns and that they are reasonably held.
16. ASIC notes that Spring Financial has cooperated with ASIC in its investigation.
17. Spring Financial has offered this enforceable undertaking in terms outlined below.

INDEPENDENT EXPERT

18. Where the appointment of an independent expert is required pursuant to any paragraph of this enforceable undertaking, Spring Financial must appoint a person who is independent of Spring Financial and its officers, and has the necessary expertise, experience and operational capacity to review Spring Financial's compliance measures and to complete the terms of engagement (**Independent Expert**) and perform the tasks of the Independent Expert as set out in this enforceable undertaking.
19. All remuneration and costs associated with the Independent Expert must be borne by Spring Financial.
20. Spring Financial must:
 - 20.1. engage the Independent Expert to perform the tasks necessary to fulfil the obligations imposed by this enforceable undertaking;
 - 20.2. permit the Independent Expert, subject to any claim of legal professional privilege, and to the extent that is reasonable having regard to the requirements of this enforceable undertaking, to have access to its books, to interview any past or present employee and

- to consult with ASIC and disclose to ASIC any information obtained by the Independent Expert in the course of carrying out their assessments;
- 20.3. give the Independent Expert, subject to legal professional privilege, any information or explanation reasonably requested by the Independent Expert of any matter in any way connected with the reports required to be prepared by the Independent Expert under this enforceable undertaking (**Expert Reports**); and
 - 20.4. otherwise reasonably assist the Independent Expert in conducting the assessments and producing the Expert Reports.
21. Spring Financial will ensure that the terms of engagement of the Independent Expert include requirements that the Expert Reports will:
- 21.1. set out the steps that the Independent Expert has taken to fulfil their tasks, including but not limited to:
 - 21.1.1. details of the people that have assisted the Independent Expert and the nature of their assistance;
 - 21.1.2. the personnel and/or clients that have been interviewed;
 - 21.1.3. the documents that have been reviewed and assessed including, where appropriate, reference to those documents or extracts of documents that the Independent Expert considers most relevant to matters raised in the Expert Reports;
 - 21.2. any limitation or qualifications to the Expert Reports;
 - 21.3. include a timetable for the production and delivery of the Expert Reports to Spring Financial and ASIC; and
 - 21.4. otherwise comply (to the extent applicable) with the paragraphs of Practice Note CM 7 'Expert Witnesses in Proceedings in the Federal Court of Australia' issued by the Chief Justice of the Federal Court of Australia that fall under the sub-heading 'The Form of the Expert Report.'
22. Paragraphs 20 and 21 apply to every appointment of an Independent Expert by Spring Financial pursuant to the terms of this enforceable undertaking.

23. The Independent Expert and the Independent Expert's terms of engagement must be approved in writing by ASIC before the Independent Expert is engaged. Spring Financial must advise ASIC of the expertise and any prior association of the proposed Independent Expert with Spring Financial and its related bodies corporate and officers at the time approval is sought from ASIC. ASIC must be given the draft terms of engagement within 14 days of the Commencement Date.
24. Spring Financial will engage the Independent Expert within 30 days of the Commencement Date.
25. Spring Financial must not without written approval from ASIC vary the terms of engagement of the Independent Expert once those terms of engagement have been approved by ASIC in accordance with paragraph 23.

UNDERTAKINGS

26. Under section 93AA of the ASIC Act, Spring Financial has offered, and ASIC has agreed to accept as an alternative to commencing civil proceedings or pursuing administrative action, the undertakings as set out in paragraphs 27 to 50 inclusive.
27. Spring Financial undertakes it will pay the costs of its compliance with this enforceable undertaking, including the remuneration and costs associated with the engagement of any Independent Expert.
28. Spring Financial undertakes that it will not seek reimbursement of, contribution towards or otherwise directly or indirectly pass on its costs of compliance with this enforceable undertaking or any proportion of those to its clients.
29. Spring Financial will, within 14 days (unless otherwise agreed) provide all documents and information requested by ASIC from time to time for the purpose of assessing Spring Financial's compliance with this enforceable undertaking. For the avoidance of doubt, Spring Financial is not required to provide ASIC with documents or information that is the subject of legal professional privilege.

Assessment by an Independent Expert

First Expert Report

30. Within 90 days of the Commencement Date, the Independent Expert must:
 - 30.1. review and assess the knowledge and expertise of Spring Financial's responsible managers and compliance staff;
 - 30.2. review and assess the adequacy and effectiveness of Spring Financial's compliance measures against its obligations as a financial services licensee under the Corporations Act and its AFS Licence, including:
 - 30.2.1. recruitment, appointment, induction, training and education of Representatives;
 - 30.2.2. procedures for supervision and monitoring of Representatives; and
 - 30.2.3. compliance resources and responsibilities to monitor and supervise Representatives to ensure compliance with the Financial Services Law.
 - 30.3. conduct an assessment of each of Spring Financial's Representative's competency in relation to the provision of Financial Services. This includes testing each Representative's level of knowledge, skills and understanding of:
 - 30.3.1. the laws and regulatory guidance in relation to the provision of Financial Services; and
 - 30.3.2. AFS Licence authorisations and conditions.
 - 30.4. examine Spring Financial's procedures for the review and approval of Marketing Materials used by Representatives;
 - 30.5. review Spring Financial's policies and processes for assessing and dealing with client complaints;
 - 30.6. review and assess Spring Financial's breach identification and reporting practices;

- 30.7. identify deficiencies from the assessments referred to in paragraphs 30.1 to 30.6; and
- 30.8. provide a written report to Spring Financial and to ASIC (**First Expert Report**) that sets out:
 - 30.8.1. details of its findings in respect of matters referred to in paragraphs 30.1 to 30.6;
 - 30.8.2. details of deficiencies identified in paragraph 30.7;
 - 30.8.3. recommendations on how to rectify the deficiencies; and
 - 30.8.4. a reasonable time for rectification to be completed.

First Remedial Action Plan

31. Within 30 days of receipt of the First Expert Report, Spring Financial must consider the First Expert Report and provide to ASIC and to the Independent Expert a plan (**First Remedial Action Plan**) setting out the action Spring Financial proposes to take to rectify the deficiencies identified in the First Expert Report, within such time as the Independent Expert determines is reasonable for the plan to be implemented.
32. If ASIC or the Independent Expert requires any reasonable modifications to the First Remedial Action Plan, ASIC or the Independent Expert must notify Spring Financial in writing within 14 days of receipt of the First Remedial Action Plan. Spring Financial must make such modifications to the First Remedial Action Plan and provide a copy of the modified First Remedial Action Plan to both ASIC and the Independent Expert within 14 days of receipt of such notification.
33. Spring Financial must implement the First Remedial Action Plan within the reasonable time specified in the First Expert Report.

Second Expert Report

34. Within 12 months after the Commencement Date, the Independent Expert must:
 - 34.1. assess the effectiveness of the implementation of the recommendations and actions arising from the First Expert Report and First Remedial Action Plan;

- 34.2. assess whether Spring Financial's Representatives including any that have been engaged since the date of the First Expert Report are appropriately trained;
- 34.3. identify any deficiencies arising from the assessments referred to at paragraphs 34.1 and 34.2; and
- 34.4. prepare and provide a written report to Spring Financial and ASIC (**Second Expert Report**) within 30 days from the start date of the Independent Expert's assessment that sets out:
 - 34.4.1. details of its findings in respect of the matters referred to in paragraphs 34.1 and 34.2;
 - 34.4.2. details of any deficiencies identified in paragraph 34.3;
 - 34.4.3. recommendations on how to rectify those deficiencies; and
 - 34.4.4. a reasonable time frame for rectification to be completed.

Second Remedial Action Plan

35. Within 21 days of receipt of the Second Expert Report, Spring Financial must consider the Second Expert Report and provide to ASIC and to the Independent Expert a plan (**Second Remedial Action Plan**) setting out the action Spring Financial proposes to take to address any deficiencies identified in the Second Expert Report, within such time as the Independent Expert determines is reasonable for the plan to be implemented.
36. If ASIC or the Independent Expert requires any reasonable modifications to the Second Remedial Action Plan, ASIC or the Independent Expert must notify Spring Financial in writing within 14 days of receipt of the Second Remedial Action Plan and Spring Financial must make such modifications to the Second Remedial Plan and provide a copy of the modified Second Remedial Plan to both ASIC and the Independent Expert within 14 days of receipt of such notification.
37. Spring Financial must implement the Second Remedial Action Plan within the reasonable time specified in the Second Expert Report.

38. For the avoidance of doubt, paragraphs 35 to 37 do not apply unless the Second Expert Report identifies deficiencies as set out in paragraph 34.3.

Final Assessment

39. In the event ASIC considers that a further assessment should be conducted by the Independent Expert, ASIC must notify Spring Financial and the Independent Expert within 14 days of receipt of the Second Remedial Action Plan.
40. In the event that notice is provided by ASIC pursuant to paragraph 39, Spring Financial will engage the Independent Expert on the basis that within 90 days of the date of that notice the Independent Expert must:
- 40.1. assess the effectiveness of the Second Remedial Action Plan;
 - 40.2. assess whether Spring Financial's Representatives including any that have been engaged since the date of the Second Expert Report are appropriately trained;
 - 40.3. identify any deficiencies arising from assessments referred to at paragraphs 40.1 and 40.2; and
 - 40.4. provide a written report to Spring Financial and to ASIC (**Final Expert Report**) that sets out:
 - 40.4.1. details of its findings in respect of the matters referred to in paragraphs 40.1 and 40.2;
 - 40.4.2. details of deficiencies identified in paragraph 40.3;
 - 40.4.3. recommendations on how to rectify those deficiencies; and
 - 40.4.4. a reasonable time frame for rectification to be completed.
41. Spring Financial must implement the recommendations within the reasonable time specified in the Final Expert Report.

Client Contact

42. Within 30 days from the Commencement Date, Spring Financial will send to each client of Royale Capital who became a client of Royale Capital between 25 October 2011 and 12 June 2012, a letter (**Client Contact Letter**) in terms approved by ASIC, annexing a copy of this enforceable undertaking.
43. The Client Contact Letter will invite any client who believes they have been adversely impacted by Financial Product Advice provided to them by Royale Capital, to request a review by Spring Financial to ensure the information and advice provided to the client by Royale Capital was accurate, complete and appropriate. Where it is found that Royale Capital provided Financial Product Advice that was not accurate, complete and appropriate, Spring Financial will follow its internal complaints resolution procedures and in the event that the complaint is not resolved, will provide the client with information regarding the process for referring the matter to Spring Financial's external dispute resolution scheme.
44. The Client Contact Letter must be approved in writing by ASIC before it is sent to the clients. ASIC must be given the draft Client Contact Letter at least seven days prior to the due date of the Client Contact Letter being sent to the clients.
45. Spring Financial undertakes to provide to ASIC at the time it provides each of the First and Second Remedial Action Plan details of each request for review received, the nature of the complaint and what, if any remedial action has been taken by Spring Financial. Where no remedial action has been taken by Spring Financial, Spring Financial is to provide ASIC with the reasons and confirmation that the client has been provided with information regarding the process for referring the matter to Spring Financial's external dispute resolution scheme.

Professional indemnity insurance

46. Within 14 days from the Commencement Date, Spring Financial will send a letter to its professional indemnity insurer outlining the matters referred to at paragraphs 42 to 45 above, and annexing a copy of this enforceable undertaking.
47. At the same time, Spring Financial will provide its professional indemnity insurer with a list of each client of Royale Capital who became a client of Royale Capital between 25 October 2011 and 12 June 2012.

Spring Financial undertakes to act in good faith

48. Spring Financial will do all acts reasonably necessary to ensure compliance with this undertaking and refrain from doing any acts which are inconsistent with the terms and objectives of this undertaking.
49. Spring Financial will take all practicable steps to ensure that its subsidiaries, associates, related parties, representatives, contractors, employees, servants and agents, and any other persons acting on the instructions of Spring Financial do all acts reasonably necessary to ensure compliance with this undertaking and refrain from doing any acts which are inconsistent with the terms and objectives of this undertaking.
50. Without limiting the generality of the previous paragraph, a reference to acts which are inconsistent with the terms and objectives of this undertaking includes publishing or making any statement which is derogatory or denigrates or trivialises the terms, objectives or any other aspect of this undertaking.

ACKNOWLEDGMENTS

51. Spring Financial acknowledges that ASIC:
 - 51.1. may issue a media release on execution of this enforceable undertaking referring to its terms and to the concerns of ASIC which led to its execution;
 - 51.2. may from time to time publicly refer to this enforceable undertaking; and
 - 51.3. will make this undertaking available for public inspection.
52. Further, Spring Financial acknowledges that:
 - 52.1. ASIC's acceptance of this undertaking does not affect ASIC's power to investigate, conduct surveillances or pursue a criminal prosecution or its power to lay charges, or seek a pecuniary civil order in relation to any contraventions not the subject of the background section of this enforceable undertaking or arising from future conduct;
 - 52.2. 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.

53. Spring Financial acknowledges that this undertaking has no operative force until accepted by ASIC, and Spring Financial acknowledges that the date of the enforceable undertaking is the date on which it is accepted by ASIC.

NOTIFICATION

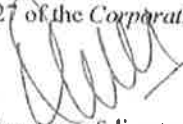
54. The address for providing ASIC with any document or notification required by the enforceable undertaking is:

The Senior Manager
Financial Advisers
Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3001

55. The address for providing Spring Financial with any document or notification required by the enforceable undertaking is:


Keith Cullen
Managing Director
Spring Financial Group Pty Ltd
Level 4, 99 Bathurst Street
Sydney NSW 2000

Executed by Spring Financial Group Pty Ltd
ACN 146 936 763 in accordance with section
127 of the *Corporations Act* 2001 (Cth)


Signature of director

Keith Robert Cullen

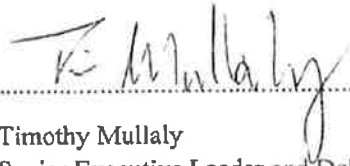
Full Name


Signature of director

Christos Kelecis

Full Name

Accepted by the Australian Securities and Investments Commission under
section 93AA of the *Australian Securities and Investments Commission Act 2001*
(Cth) by its duly authorised delegate:



Timothy Mullaly
Senior Executive Leader and Delegate of Australian Securities and Investments Commission

18... September 2013

