



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 by:

WealthSure Financial Services Pty Ltd ACN 130 288 578

1. DEFINITIONS

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

AFSL means Australian Financial Services Licence.

ASIC means the Australian Securities and Investments Commission.

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

ASIC's Concerns means the concerns set out in paragraphs 2.21 to 2.27.

Australian Credit Licence means a licence issued under the *National Consumer Credit Protection Act 2009* (Cth) which authorises the licensee to engage in particular credit activities.

CEO means Chief Executive Officer.

Commencement Date means the date the Undertaking is accepted by ASIC.

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

Credit Activity has the meaning given to that term by section 6 of the *National Consumer Credit Protection Act 2009* (Cth).

EU means enforceable undertakings.

Final Report means the report referred to in paragraph 3.27.

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

Financial Product has the meaning given to that term by Chapter 7 of the *Corporations Act*.

Financial Product Advice has the meaning given to that term by 766B of the *Corporations Act*.

Independent Expert means the expert required to be appointed in paragraphs 3.2-3.6.6.

Independent Expert Report means the reports referred to in paragraphs 3.20 and 3.27.

Interim Report means each report referred to in paragraph 3.20.

Licensee Compliance Framework means the program of work and series of systems, procedures, and principals for managing compliance risks applicable to the WealthSure Business and WFS's business and as otherwise required by section 912A of the *Corporations Act* and/or section 47 of the *NCCP Act*.

MD means Managing Director.

NCCP Act means the *National Consumer Credit Protection Act 2009* (Cth).

Remediation Plan means the Wealthsure Group Remediation Plan dated March 2014, approved by ASIC on 21 May 2014.

Representative means a representative of WealthSure and/or WFS within the meaning of section 910A of the *Corporations Act*.

Sentry means Sentry Financial Planning Pty Ltd ACN 099 029 526.

WFS means WealthSure Financial Services Pty Ltd ACN 130 288 578.

WealthSure means WealthSure Pty Ltd ACN 097 405 108.

WealthSure Group means collectively WealthSure and WFS.

WealthSure Business means the Australian Financial Product Advice and related dealing business within the meaning of Chapter 7 of the *Corporations Act*, or any credit activities within the meaning of Part 1-2 of the *NCCP Act* carried on by WealthSure within the meaning of Chapter 7 of the *Corporations Act*.

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

2. BACKGROUND

Summary

- 2.1 Between December 2010 and June 2012 ASIC conducted, pursuant to section 912E of the *Corporations Act*, surveillance checks of WealthSure's business and its compliance with its statutory obligations (**the Surveillance**). Details of the Surveillance are set out in paragraphs 2.14 and 2.20.

- 2.2 Following the Surveillance ASIC identified several areas of concern in relation to WealthSure's business practices and its compliance with its statutory obligations (**ASIC's Concerns**). ASIC's Concerns are set out in paragraphs 2.21 and 2.27.
- 2.3 The WealthSure Group subsequently acknowledged ASIC's Concerns and that they were reasonably held.
- 2.4 On 29 August 2013 the WealthSure Group offered ASIC an EU which ASIC accepted (**the WealthSure Group EU**). A summary of the undertakings under the WealthSure Group EU are set out in paragraph 2.30.
- 2.5 The WealthSure Group has since advised ASIC that the structure and operations of the Group have changed (**the Restructure**). Details of the Restructure are set out in paragraphs 2.33 and 2.34.
- 2.6 As a result of the Restructure, ASIC is of the opinion that WealthSure and WFS should be subject to separate EUs.
- 2.7 WFS have offered this Undertaking to ASIC, set out in paragraphs 3.2 and 3.42.5.
- 2.8 ASIC has accepted the Undertaking and has agreed to enter into this EU.
- 2.9 The Undertaking is to replace WFS's ongoing obligations under the WealthSure Group EU.

ASIC's role

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

WealthSure

- 2.11 Since 15 January 2004, WealthSure has held an AFSL pursuant to Division 4 of Part 7.6 of the *Corporations Act* to provide Financial Product Advice pursuant to section 766B of the *Corporations Act* and to deal in Financial Products pursuant to section 766C of the *Corporations Act*.
- 2.12 Since 11 February 2011 WealthSure also held an Australian Credit Licence pursuant to Division 3 of Part 2.2 of the *NCCP Act* to engage in Credit Activity.

WFS

- 2.13 Since 5 January 2009, WFS has held an AFSL pursuant to Division 4 of Part 7.6 of the *Corporations Act* to provide Financial Product Advice pursuant to section 766B of the *Corporations Act* and to deal in Financial Products pursuant to section 766C of the *Corporations Act*.

ASIC's surveillance

- 2.14 Between December 2010 and June 2012 ASIC conducted, pursuant to section 912E of the *Corporations Act*, surveillance checks of WealthSure's Business and its compliance with its statutory obligations. ASIC's surveillance included reviewing various WealthSure Representatives' client files and its compliance program framework, policies, procedures and controls.
- 2.15 ASIC's surveillance identified a number of concerns regarding WealthSure's compliance program framework, policies, procedures and controls.
- 2.16 ASIC's surveillance also identified a number of concerns regarding WealthSure's Representatives client files.
- 2.17 Based on the issues identified during ASIC's surveillance of WealthSure, ASIC commenced an investigation, pursuant to section 13 of the *ASIC Act*, on 16 December 2011.
- 2.18 On 27 August 2012 WealthSure and ASIC began a series of meetings to discuss ASIC's concerns arising from its surveillance and investigation.
- 2.19 Following these meetings, WealthSure commenced its own review into its compliance program framework, policies, procedures and controls and voluntarily:
 - 2.19.1 commenced a review of its Representatives;
 - 2.19.2 provided external training to its compliance staff;
 - 2.19.3 engaged external compliance consultants to assist in a review of its compliance functions;
 - 2.19.4 appointed new staff into key management roles; and
 - 2.19.5 changed its compliance reporting arrangements.
- 2.20 WealthSure Group fully co-operated with ASIC in relation to its surveillance and investigation.

ASIC's concerns

- 2.21 ASIC was concerned that WealthSure may not have adequately monitored and supervised its Representatives:
 - 2.21.1 in a consistent and appropriate manner, including failing to:
 - 2.21.1.1 regularly and consistently review Representatives' Financial Product Advice;
 - 2.21.1.2 conduct robust investigations into non-compliant behavior;

- 2.21.1.3 subject Representatives with a higher probability of compliance breaches, given their compliance history, associations or business model, to more regular random audits;
 - 2.21.1.4 provide Representatives with robust documented policies and procedures, thereby facilitating breaches by Representatives when providing personal advice, general advice, and execution-only transactions; and
 - 2.21.1.5 provide appropriate assessment of possible breaches, consider remediation options for any breaches, and whether those breaches should have been reported to ASIC.
- 2.21.2 WealthSure's remediation practices have been inadequate, including:
- 2.21.2.1 Representative misconduct has not been dealt with in a consistent and appropriate manner, due to a failure to have documented procedures for dealing with Representative misconduct; and
 - 2.21.2.2 failure to ensure clients are notified, or their position rectified, when inappropriate advice has been identified in audits.
- 2.22 ASIC is concerned that WealthSure may have failed to employ an appropriate compliance risk management program framework, policies, procedures and controls:
- 2.22.1 having regard to the nature, size, and complexity of its business, resulting in:
 - 2.22.1.1 the failure to identify the various risks of its Representatives' business models; and
 - 2.22.1.2 the appointment of Representatives with a higher probability of compliance breaches, given their compliance history, associations or business model;
 - 2.22.2 WealthSure has not adequately identified, recorded, assessed or controlled all material risks; and
 - 2.22.3 WealthSure's responses to risk activities have often been reactive or ad-hoc, rather than pro-active, planned, and preventative.
- 2.23 ASIC is concerned that WealthSure may have failed to adequately identify and address competence and training needs of its Representatives, to ensure they complied with Financial Services laws, including:

- 2.23.1 insufficient face-to-face training and placing an overreliance on online training with little active monitoring of the completion of the online training courses;
 - 2.23.2 lack of adequate consequences for Representatives failing to complete required online training;
 - 2.23.3 insufficient training and education in relation to compliance obligations; and
 - 2.23.4 training plans not adequately tailored to Representatives' development needs or business focus.
- 2.24 ASIC was concerned that WealthSure may have failed to foster and maintain a proper commitment to, and culture of, risk and compliance management within the WealthSure Business as set out below:
- 2.24.1 Failure to address ASIC's concerns:
 - 2.24.1.1 ASIC has conducted several meetings with WealthSure's management since it obtained its AFSL, during which ASIC explained its concerns about WealthSure's compliance program framework, policies, procedures and controls;
 - 2.24.1.2 ASIC has conducted several surveillances of WealthSure since it obtained its AFSL, resulting in ASIC notifying WealthSure about issues with its compliance program framework, policies, procedures and controls; and
 - 2.24.1.3 ASIC has previously imposed conditions on WealthSure's AFSL, requiring external oversight of its compliance function to improve its compliance program framework, policies, procedures and controls.

Despite these interventions, ASIC's concerns as described in paragraphs 2.21 to 2.27, remained.

- 2.24.2 Failure to adequately resource and provide support to achieve effective compliance:
 - 2.24.2.1 WealthSure has ignored or overruled recommendations by its compliance staff regarding key compliance issues and risks;
 - 2.24.2.2 WealthSure has failed to adequately fund its internal compliance functions;
 - 2.24.2.3 WealthSure has failed to adequately resource its internal compliance functions; and

- 2.24.2.4 WealthSure has failed to ensure its compliance staff received adequate compliance training and education, resulting in:
 - 2.24.2.4.1 the failure to create an adequate compliance framework and reporting system;
 - 2.24.2.4.2 technical errors in compliance records;
 - 2.24.2.4.3 problems in the timely identification of, and dealing with, complex compliance issues; and
 - 2.24.2.4.4 poor decision making and procedures in key compliance areas.
- 2.25 ASIC considers WealthSure may not have complied with certain obligations under the *Corporations Act*, being:
 - 2.25.1 Section 912A(1)(a) of the *Corporations Act* that requires a Financial Services licensee to 'do all things necessary to ensure that the Financial Services covered by the license are provided efficiently, honestly and fairly';
 - 2.25.2 Section 912A(1)(b) of the *Corporations Act* that requires a Financial Services licensee to 'comply with the conditions on the licence';
 - 2.25.3 Section 912A(1)(c) of the *Corporations Act* that requires a Financial Services licensee to 'comply with the Financial Services laws';
 - 2.25.4 Section 912A(1)(ca) of the *Corporations Act* that requires a Financial Services licensee to 'take reasonable steps to ensure its representatives comply with the Financial Services laws';
 - 2.25.5 Section 912A(1)(d) of the *Corporations Act* that requires a Financial Services licensee to 'have available adequate resources (including financial, technical and human resources) to provide the Financial Services covered by the licence and to carry out supervisory arrangements';
 - 2.25.6 Section 912A(1)(e) of the *Corporations Act* that requires a Financial Services licensee to 'maintain the competence to provide those Financial Services';
 - 2.25.7 Section 912A(1)(f) of the *Corporations Act* that requires a Financial Services licensee to 'ensure that its representatives are adequately trained, and are competent, to provide those Financial Services';
 - 2.25.8 Section 912A(1)(h) of the *Corporations Act* that requires a Financial Services licensee to 'have adequate risk management systems'; and
 - 2.25.9 Section 912D of the *Corporations Act* that requires a Financial Services licensee to notify ASIC of certain matters.

2.26 ASIC is concerned WealthSure may not have complied with condition 4 of its AFSL requiring it to *'establish and maintain compliance measures that ensure, as far as is reasonably practicable, that the licensee complies with the provisions of the financial services laws'*.

2.27 By virtue of the fact that WealthSure shared its premises, staff, policies and procedures with WFS, ASIC is concerned that WFS may also have had the same inadequacies as identified above.

Acknowledgement of ASIC's Concerns

2.28 The WealthSure Group acknowledged ASIC's Concerns and that they were reasonably held.

The WealthSure Group EU

2.29 The WealthSure Group offered the WealthSure Group EU which ASIC accepted on 29 August 2013.

2.30 The WealthSure Group's EU required the WealthSure Group to:

2.30.1 appoint a compliance consultant to conduct a detailed review of its compliance framework;

2.30.2 develop a draft remediation plan;

2.30.3 appoint an independent expert to provide its opinion on the compliance consultant's assessment and the WealthSure Group's draft remediation plan;

2.30.4 finalise and implement its draft remediation plan;

2.30.5 restructure its board;

2.30.6 report specified matters to ASIC;

2.30.7 ensure its management and compliance staff undertake additional training; and

2.30.8 cease to provide financial services if specified conditions of the WealthSure Group EU were not met.

2.31 ASIC acknowledges that the WealthSure Group has worked proactively and constructively with its compliance consultant, independent expert and ASIC to improve its compliance framework since entering into the WealthSure Group EU. ASIC notes the WealthSure Group has:

2.31.1 introduced new personnel, procedures and systems to work towards resolving ASIC's concerns;

- 2.31.2 established a new Audit and Risk Management Committee that is independently chaired;
 - 2.31.3 appointed non-executive independent representation to its Board;
 - 2.31.4 completed a risk review of all of its representatives;
 - 2.31.5 implemented a technology based risk and compliance management system;
 - 2.31.6 undertaken additional training for its management and compliance staff;
 - 2.31.7 implemented an Adviser Academy to assist representatives develop better businesses and improve the quality of their advice;
 - 2.31.8 developed a remediation plan that incorporated feedback from an independent expert.
 - 2.31.9 commenced implementing the remediation plan with work being tested by the independent expert and findings provided to ASIC.
- 2.32 ASIC is satisfied with the Wealthsure Group's progress in addressing ASIC's concerns.

The Restructure of the WealthSure Group

- 2.33 The WealthSure Group has advised ASIC that its structure and operations have changed. The WealthSure Group will continue to provide financial services through WFS. However, WealthSure will within 14 days of the Commencement Date cease to provide financial services and request that ASIC cancel its AFSL.
- 2.34 In all the circumstances ASIC is of the opinion that WealthSure and WFS should be subject to separate EUs relevant to their new business activities.
- 2.35 Subject to WFS's compliance with the new Undertaking ASIC will not take nor cause to be taken any other action against WFS in relation to the subject matter of ASIC's Concerns.

3. UNDERTAKINGS

Acceptance of Enforceable Undertaking

- 3.1 Under section 93AA of the *ASIC Act* WFS has offered the Undertakings set out in paragraphs 3.2 to 3.42.5, and ASIC has agreed to accept the Undertakings as an alternative to ASIC commencing civil proceedings or pursuing administrative action.

Appointment of Independent Expert

- 3.2 Under the WealthSure Group's EU, WFS appointed an Independent Expert.
- 3.3 WFS will maintain the appointment of an Independent Expert.
- 3.4 The Independent Expert must have expertise in the area of Financial Services and Credit Activity compliance and be able to perform the tasks necessary to fulfil the obligations imposed by the Undertaking.
- 3.5 The Independent Expert must be independent of WFS and its related bodies corporate and officers and at all material times be capable of exercising objective and impartial judgment.
- 3.6 WFS is to ensure the terms of engagement of the Independent Expert include:
 - 3.6.1 a timetable for the production and delivery of the Independent Expert Reports;
 - 3.6.2 a condition that ASIC may meet with the Independent Expert and share information, independently of WFS;
 - 3.6.3 a requirement to comply (to the extent applicable) with those paragraphs of the Practice Note CM 7 issued by the Chief Justice of the Federal Court of Australia '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);
 - 3.6.4 a requirement that the Independent Expert review a random sample of Authorised Representative Audit Reports until 16 October 2015. The Independent Expert is to report its findings in the Interim Reports as set out by paragraph 3.21 of the Undertaking;
 - 3.6.5 a requirement that the Independent Expert notify WFS and ASIC immediately if the Independent Expert or the Independent Expert's staff become aware of information that adversely affects their ability to exercise objective and impartial judgment in relation to this engagement. This includes, but is not limited to, circumstances where the Independent Expert or the Independent Expert's staff:
 - 3.6.5.1 begin to have a material business relationship with WFS;
 - 3.6.5.2 could directly or indirectly benefit from a financial interest in WFS (where "financial interest" refers to an interest in any equity or other security, debenture, loan, or other debt instrument of WealthSure);
 - 3.6.5.3 become aware of any conduct of WFS, or its past or present directors, officers or employees involving action to exert undue

influence on the Independent Expert or staff of the Independent Expert; or

3.6.5.4 become aware of past or current circumstances, the existence of which places the Independent Expert in breach, or in potential breach, of any of the warranties contained in the Undertaking.

3.6.6 a requirement that the Independent Expert provide a summary of all reports required to be provided to ASIC pursuant to the Undertakings, for ASIC to make publically available on its website unless paragraph 3.36 applies.

3.7 WFS must:

3.7.1 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 the Undertaking, to have access to their books, to interview any past or present employee and to consult with ASIC and disclose to ASIC any further information obtained by the Independent Expert in the course of carrying out their assessments;

3.7.2 give the Independent Expert 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 the Undertaking; and

3.7.3 otherwise reasonably assist the Independent Expert in conducting the assessments and producing the Independent Expert Reports.

3.8 If the terms set out in paragraph 3.6 have not been included in the Independent Expert's engagement, ASIC requires WFS to write to the Independent Expert advising of ASIC's requirements.

3.9 The Independent Expert and the terms of the Independent Expert's engagement are subject to approval by ASIC. The Independent Expert is not to be engaged until such time as ASIC has agreed to and approved the Independent Expert and the terms of the Independent Expert's engagement.

3.10 The terms of engagement of the Independent Expert may only be varied with the agreement of ASIC. ASIC may instruct WFS, in writing, to vary the terms of engagement with the Independent Expert at any time.

3.11 All remuneration and costs associated with the Independent Expert must be borne by WFS.

3.12 If, for whatever reason, the Independent Expert is unable to act for WFS, WFS must engage a new Independent Expert within 21 days, or within such further time as agreed with ASIC.

3.13 Paragraphs 3.2 to 3.12 applies to every appointment of an Independent Expert by WFS required pursuant to the Undertaking.

WFS's Implementation of the Remediation Plan

- 3.14 As a consequence of the WealthSure Group EU, a Remediation Plan was developed by the WealthSure Group.
- 3.15 WFS will implement the improvements to the Licensee Compliance Framework in accordance with the Remediation Plan.
- 3.16 The Remediation Plan may be amended to take into account changes in the Licensee Compliance Framework. Proposed changes to the Remediation Plan will not take effect until agreed with ASIC in writing. Once the terms of any amendment to the Remediation Plan are agreed with ASIC, the amendment will become part of the Remediation Plan.
- 3.17 WFS will meet with ASIC once each month for three (3) months, or at times otherwise agreed by ASIC, from the Commencement Date (**Remediation Review Meetings**).
- 3.18 The purpose of the Remediation Review Meetings is to provide an opportunity for regular updates and reporting by WFS on the progress and implementation of the Remediation Plan.
- 3.19 The agenda of the Remediation Review Meetings are to include the following items:
- 3.19.1 update on any outstanding issues discussed in the previous Remediation Review Meeting(s);
 - 3.19.2 a report on the progress of the Remediation Plan;
 - 3.19.3 any requests for amendments to the Remediation Plan; and
 - 3.19.4 any other request by ASIC or WFS.

Independent Expert's Assessment of the Remediation Plan Implementation

- 3.20 The implementation of the proposed improvements to the Licensee Compliance Framework, in accordance with the Remediation Plan, will be assessed by the Independent Expert, who will be required to provide the reports referred to in paragraph 3.21 to WFS (**Interim Reports**).

Independent Expert Interim Reports

- 3.21 The Independent Expert is to provide Interim Reports to WFS, by:
- 3.21.1 **17 April 2015;**
 - 3.21.2 **16 October 2015;**

3.21.3 **15 April 2016;**

3.21.4 **14 October 2016;** and

3.21.5 **20 October 2017,**

or within such further time as is agreed with ASIC.

3.22 The Interim Reports will include the following:

3.22.1 an assessment of the completeness of WFS's actions under the Remediation Plan including itemised independent testing that the actions to address deficiencies, as set out in the Remediation Plan, have been implemented;

3.22.2 confirmation that the new business systems, policies, procedures, and controls are an accurate reflection of the actions described in the Remediation Plan. Where changes have been made that are not described in the Remediation Plan, a description of those changes and the reasons for those changes;

3.22.3 an assessment of the operational effectiveness of the completed actions including itemised independent testing that the actions adequately control key compliance risks;

3.22.4 comments on any matters identified requiring WFS to amend the Remediation Plan;

3.22.5 the status of all issues discussed in any previous Remediation Review Meeting and the remedial action completed or outstanding on those issues; and

3.22.6 a summary of its findings, from its Authorised Representative Audit Report reviews, undertaken pursuant to paragraph 3.6.4 of the Undertaking.

3.23 The Independent Expert will provide recommendations to WFS, in its Interim Reports, to address any issue identified pursuant to paragraph 3.22 of the Undertaking, with specified timeframes.

3.24 The MD/CEO(s) of WFS is to certify each Independent Expert Interim Report, acknowledging its receipt and confirming that WFS is satisfied it has complied/will comply by a specified date with any recommendation contained therein, or providing reasons why the recommendation is not supported. WFS must submit a certified copy of the Independent Expert Interim Report within seven (7) days of receiving it from the Independent Expert, or within such further time as agreed with ASIC.

3.25 WFS must implement each of the recommendations made by the Independent Expert in full, and within the time specified in the Interim Report, or seek advance written approval from ASIC for any variation.

3.26 The MD/CEO(s) of WFS is to certify that WFS has complied with the Undertakings given to ASIC that are applicable at that time. This certification is to be provided to ASIC and accompany the certified Independent Expert Interim Report provided for the purpose of paragraph 3.24.

Independent Expert Final Report

3.27 The Independent Expert is to conduct an assessment and test of WFS's Compliance Framework and submit a report of its findings to WFS, by **22 October 2018**, or within such further time as is agreed with ASIC (**Final Report**). The Final Report is to include the following topics:

- 3.27.1 the steps taken by the Independent Expert to fulfil their task, including but not limited to:
 - 3.27.1.1 the people who have assisted the Independent Expert and the nature of the assistance provided;
 - 3.27.1.2 the personnel who have been interviewed; and
 - 3.27.1.3 the documents, processes and procedures that have been assessed and tested.
- 3.27.2 those documents or extracts of documents most relevant (in the view of the Independent Expert) to producing the Final Report;
- 3.27.3 any limitations or qualifications to the Final Report;
- 3.27.4 whether WFS's Licensee Compliance Framework adequately identifies, analyses and controls compliance risks. Specific focus should be given to whether:
 - 3.27.4.1 WFS's implemented Compliance Framework adheres to generally accepted compliance program standards (currently ISO 19600-2014), considering the nature, size and complexity of WFS's business;
 - 3.27.4.2 WFS's Compliance Framework is adequate to control compliance risks, in accordance with its obligations specified in s912A(1)(h) of the *Corporations Act* and section 47(1)(l)(ii) of the *NCCP Act*, considering the nature, size and complexity of WFS's business; and
 - 3.27.4.3 each of ASIC's Concerns, detailed in paragraphs 2.21 to 2.27, have been resolved;
- 3.27.5 an assessment of WFS's Licensee Compliance Framework as it will operate thereafter;

- 3.27.6 any other matter the Independent Expert wishes to bring to ASIC's attention regarding WFS's Licensee Compliance Framework; and
- 3.27.7 recommendations to WFS, to address any issue identified pursuant to paragraph 3.27.4 of the Undertaking, with specified timeframes.
- 3.28 The MD/CEO(s) of WFS is to certify the Final Report, acknowledging its receipt and confirming WFS is satisfied it has complied, or will comply by a specified date with any recommendation contained therein, or providing reasons why the recommendation is not supported. WFS must submit a certified copy of the Final Report, to ASIC, within fourteen (14) days of receiving it from the Independent Expert, or within such further time as agreed with ASIC.
- 3.29 WFS must implement each of the recommendations made by the Independent Expert in full, and within the time specified in the Final Report, or seek advance written approval from ASIC for any variation.
- 3.30 The MD/CEO(s) of WFS is to certify that WFS has complied with the Undertakings given to ASIC. This certification is to be provided to ASIC and accompany the certified Final Report provided for the purpose of paragraph 3.28.

Transfer of Authorised Representatives

- 3.31 WFS must not transfer any more than seven (7) authorised representatives to Sentry or its related bodies corporate within a calendar year without ASIC's prior consent.

Other Undertakings

- 3.32 WFS undertakes that it will pay the costs of compliance with the Undertaking.
- 3.33 WFS undertakes that it will not seek reimbursement from its clients or pass onto its clients the costs incurred in complying with the Undertaking.
- 3.34 WFS also undertakes that all WFS managers and compliance staff will complete ongoing annual training on compliance and regulatory obligations.
- 3.35 WFS acknowledges that in relation to any report provided to ASIC by the Independent Expert under the Undertaking, ASIC:
- 3.35.1 may issue a media release referring to the content of the report;
- 3.35.2 may from time to time publicly refer to the content of the report; and
- 3.35.3 will make available for public inspection a summary of the content of the report, or a statement that refers to the content of the report.
- 3.36 ASIC acknowledges that in relation to any media release or other document referring to the content of any of the Independent Expert's report, ASIC will not refer to any information:

3.36.1 that WFS has asked it not to release; and

3.36.2 ASIC is satisfied:

3.36.2.1 it would be unreasonable to release because the release of the information would unreasonably affect the business, commercial or financial affairs of WFS, otherwise than in a way that arises from the execution, implementation and reporting of the outcomes of the Undertaking;

3.36.2.2 otherwise should not be released because it would be against the public interest to do so; or

3.36.2.3 consists of personal information of an identified natural person whose acts or omissions are not subject of, or a concern mentioned in the Undertaking.

WFS Reporting Obligations to ASIC

3.37 WFS must advise ASIC in writing if:

3.37.1 it believes:

- a. WFS is in breach of the Undertaking; or
- b. WFS may potentially fail to comply with its obligations under the Undertaking.

3.37.2 WFS's:

- a. shareholders may be in any way impeding, or attempting to impede efforts to comply with WFS's obligations under the Undertaking;
- b. current managers or officers may be in any way impeding, or attempting to impede efforts to comply with WFS's obligations under the Undertaking; or
- c. former managers or officers may be in any way impeding, or attempting to impede efforts to comply with WFS's obligations under the Undertaking.

Non-Compliance Notice

3.38 WFS must submit to ASIC, a written non-compliance notice (**Non-compliance Notice**), as soon as practicable, and in any case within 10 days of becoming aware of its failure to:

3.38.1 comply with any or all of the matters contained in:

- 3.38.1.1 paragraphs 3.2 to 3.19;
 - 3.38.1.2 paragraphs 3.24 to 3.26;
 - 3.38.1.3 paragraphs 3.28 to 3.30; and
 - 3.38.1.4 paragraph 3.31.
- 3.38.2 have a senior, suitably qualified and experienced Financial Services MD/CEO, with at least, the formal qualifications as set out in ASIC Regulatory Guide RG 105, Table 1, page 14 (whilst it holds an AFSL) at any time after the Commencement Date.
- 3.38.3 conduct an annual audit of any Representative within 12 months after the later of:
- 3.38.3.1 the Commencement Date;
 - 3.38.3.2 the last annual Representative audit; or
 - 3.38.3.3 the date of appointment as a Representative.
- 3.39 For the avoidance of any doubt, the reporting requirement contained in paragraph 3.38 starts on the day when a person responsible for compliance becomes aware of the breach.
- 3.40 WFS will have seven (7) days after providing ASIC with a Non-compliance Notice as detailed in paragraph 3.38, to rectify to the satisfaction of ASIC all matters specified within the Non-compliance Notice.
- 3.41 A WFS Non-compliance Notice must:
- 3.41.1 be in writing;
 - 3.41.2 provide the relevant contact details of the person ASIC can speak to in relation to the matters contained in the Non-compliance Notice;
 - 3.41.3 specify the details of the breach or potential failure to comply;
 - 3.41.4 identify how the breach or potential failure was identified;
 - 3.41.5 specify how the breach or potential failure to comply occurred;
 - 3.41.6 specify what has been done to remedy the breach or potential failure to comply;
 - 3.41.7 specify what will be done to ensure a similar breach or potential failure to comply does not occur in the future;

- 3.41.8 specify when WFS expects to have the necessary systems and procedures in place to ensure a similar breach or potential failure to comply does not occur in the future; and
- 3.42 If WFS provides ASIC with a Non-compliance Notice and it has failed to rectify to the satisfaction of ASIC all matters specified within the Non-compliance Notice, within the time period specified in 3.40, it will:
- 3.42.1 as soon as is reasonably practical, notify all of its Representatives they are to immediately cease providing financial services;
 - 3.42.2 take all reasonable measures to ensure its Representatives do not provide financial services after WFS issues the non-compliance notice;
 - 3.42.3 cease to carry on a Financial Services business until such time as WFS satisfies ASIC it has rectified the concerns contained in the non-compliance notice and ASIC has notified WFS in writing that it may resume providing financial services;
 - 3.42.4 notify ASIC immediately if any financial services are provided during the period from after it submits the non-compliance notice up to ASIC informing WFS that it may resume providing financial services; and
 - 3.42.5 within a reasonable time after receiving a request by ASIC, provide all documents and information requested by ASIC regarding the matters contained in paragraph 3.41, subject to legal professional privilege.

4. ACKNOWLEDGEMENTS

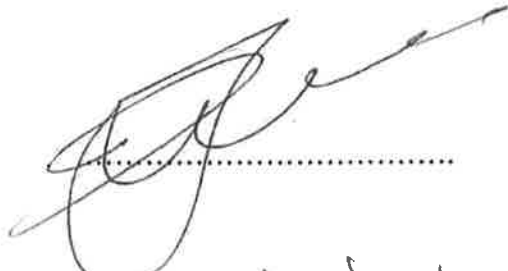
- 4.1 WFS acknowledges that ASIC:
- 4.1.1 may issue a media release on execution of the Undertaking referring to its terms and to the concerns of ASIC which led to its execution;
 - 4.1.2 may from time to time publically refer to the Undertaking;
 - 4.1.3 may from time to time publically comment on the compliance/non-compliance with the Undertaking; and
 - 4.1.4 will make the Undertaking available for public inspection.
- 4.2 Further WFS acknowledges:
- 4.2.1 ASIC's acceptance of the Undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue criminal prosecution or its power to lay charges or seek a pecuniary civil order in relation to any contravention not the subject of ASIC's concerns in the Undertaking or arising from future conduct;

- 4.2.2 the Undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in the Undertaking or arising from future conduct; and
- 4.2.3 the Undertaking in no way derogates from WFS's obligation to report significant breaches in accordance with section 912D of the *Corporations Act* and its AFSL as it becomes aware of any such breach, whether or not such breach occurred before ASIC signed the Undertaking.
- 4.3 The address for providing ASIC with any document, including but not limited to any Independent Expert Report, the Undertaking requires to be provided is:
- Senior Manager
Financial Advisers
Australian Securities and Investments Commission
GPO Box 9827
PERTH WA 6001
- 4.4 Nothing contained in the Undertaking constitutes an admission by WFS.
- 4.5 ASIC and WFS acknowledge the Undertaking ends on acceptance by ASIC of the Final Report, or on notification by the WFS of compliance with outstanding recommendations, if any, in the Final Report, whichever is the later.
- 4.6 WFS will, within a reasonable time after receiving a request by ASIC, provide all documents and information requested by ASIC from time to time for the purpose of assessing compliance with the Undertaking subject to legal professional privilege.

Executed by
WealthSure Financial Services Pty Ltd (ACN 130 288 578)
In accordance with section 127 of the *Corporations Act*:



Name **MURRAY HILLS**
Director /Secretary
WealthSure Financial Services Pty Ltd
(ACN 130 288 578)



Name **DAVID JOHNSTON**
Director /Secretary
WealthSure Financial Services Pty Ltd
(ACN 130 288 578)

Accepted by the Australian Securities and Investments Commission
Under section 93AA of the ASIC Act by its duly authorized delegate:



Delegate of the Australian Securities and Investments Commission

.....**29/4/15**.....
Date

Annexure A

The Form of the Independent Expert Reports

1. The Independent Expert Reports 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 Independent Expert should be clearly and fully stated.
3. The Independent Expert Reports 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 Independent Expert Report, the expert should summarise them.
5. The expert should give reasons for each opinion.
6. At the end of the Independent Expert Report the Independent Expert should declare '*[the expert] has made all the enquiries which [the expert] believes are desirable and appropriate and no matters of significance which [the expert] regards as relevant have, to [the expert's] knowledge, been withheld.*
7. There should be included in or attached to the Independent Expert's Report:
 - (a) A statement of the questions or issues the expert was asked to address;
 - (b) The factual premises upon which the Independent Expert Report proceeds;
 - (c) The documents and other materials which the Independent Expert has been instructed to consider.
8. If the Independent Expert's opinion is not fully researched because the Independent Expert considers that insufficient data was available, or for any other reason, this must be stated with an indication the opinion is no more than a provisional one. Where an expert witness who has prepared a report believes it may be incomplete or inaccurate without some qualification, that qualification must be stated.
9. The Independent Expert should make it clear when a particular question or issue falls outside their relevant field of expertise.
10. Where the Independent Expert's report refers to calculations, analyses, measurements, or other extrinsic matter, these must be provided as annexures to the expert's report.

