

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:

CMH Financial Group Pty Ltd (ACN 131 729 425)

and

Daniel Frederick White

1. Definitions

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

Acceptance Date means the date of acceptance by ASIC of this enforceable undertaking.

AFS Licence means Australian Financial Services Licence.

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

Client means retail client and has the meaning given by sections 761G and 761GA of the Corporations Act.

CMH means CMH Financial Group Pty Ltd (formerly known as Carnegie Morgan Hill Group Pty Limited) ACN 131 729 425.

Corporations Act means the *Corporations Act 2001*.

Daniel White means Daniel Frederick White, sole director/secretary of CMH since 19 June 2008.

Financial Product has the meaning given by Chapter 7 of the Corporations Act.

Financial Product Advice has the meaning given by section 766B of the Corporations Act.

Financial Services has the meaning given by Division 4 of Part 7.1 of the Corporations Act.

Financial Services Business has the meaning given by Chapter 7 of the Corporations Act.

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

Representative has the meaning given by section 910A of the Corporations Act.

Review Period means 1 July 2014 to the date of the Independent Expert's engagement.

SMSF means a self-managed superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

SMSF Advice means Financial Product Advice recommending the establishment or use of an SMSF.

SMSF Establishment Advice means Financial Product Advice recommending the establishment of an SMSF.

2. ASIC's role

- 2.1 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.

3. Background

- 3.1 Since 2 May 2012, CMH has held an AFS Licence (No: 415452) authorising it to carry on a Financial Services Business to provide Financial Product Advice and to deal in Financial Products. Daniel White is the sole director/secretary of CMH and the named key person under CMH's AFS Licence. CMH has appointed certain persons (including Daniel White) as Representatives to provide Financial Product Advice on its behalf.
- 3.2 Since 18 April 2011, CMH has held an Australian Credit Licence (No: 402407) authorising it to engage in credit activities other than as a credit provider. Daniel White is the named key person under CMH's Australian Credit Licence. CMH has appointed certain persons (including Daniel White) as credit representatives to engage in credit activities other than as a credit provider, on its behalf. At the time CMH provides Financial Product Advice, CMH Clients may be referred to CMH's credit representatives.
- 3.3 CMH has a number of related entities who arrange legal services, finance services, superannuation services, taxation services, accounting services and real property services. Daniel White is the sole director/secretary of these related entities. At the time CMH provides Financial Product Advice, CMH Clients may also be referred to one or more of CMH's related entities.
- 3.4 ASIC conducted a surveillance of CMH to monitor its compliance with certain Financial Services Laws when SMSF Advice was provided by or on behalf of CMH. As part of the surveillance, ASIC requested a number of CMH Client files. In September 2014, CMH provided a sample of most recent Client files which recommended the establishment of an SMSF; and in January 2015, CMH provided a further sample of SMSF Advice Client files (together the *SMSF Files*).
- 3.5 Within the SMSF Files, ASIC found numerous instances where in ASIC's view, SMSF Advice provided by CMH Representatives included: inappropriate gearing strategies; SMSF establishment recommendations for Clients who did not appear to benefit from such a structure; and product replacement comparisons which were confusing and potentially misleading.
- 3.6 Accordingly, ASIC considers that CMH Representatives did not comply with their obligations and thereby contravened certain provisions of the Corporations Act and ASIC Act, by failing to:
- (a) act in the best interests of the Client in relation to the Financial Product Advice provided (in contravention of section 961B of the Corporations Act);

- (b) provide Financial Product Advice appropriate to the Client (in contravention of section 961G of the Corporations Act);
 - (c) give priority to the Client's interests when providing the Financial Product Advice (in contravention of section 961J of the Corporations Act);
 - (d) provide adequate Financial Product Advice when recommending replacement of one Financial Product with another (in contravention of section 947D of the Corporations Act); and
 - (e) ensure the Financial Product Advice provided to Clients did not contain false or misleading statements inducing them to deal in a Financial Product (in contravention of sections 1041E and 1041F of the Corporations Act and section 12DB of the ASIC Act).
- 3.7 At the Acceptance Date of this enforceable undertaking, of the Representatives of CMH, Daniel White was the sole Representative providing Financial Product Advice on behalf of CMH.

4. ASIC's concerns

- 4.1 In light of paragraph 3.6 of this enforceable undertaking, ASIC has concerns regarding:
- (a) deficient SMSF Advice provided by CMH through its Representatives;
 - (b) CMH's management of conflicts of interests; and
 - (c) CMH's measures for monitoring and supervising (including training) of its Representatives.
- 4.2 Accordingly, with respect to the SMSF Files, ASIC considers that CMH may not have complied with its obligations and thereby may have contravened certain provisions of the Corporations Act, by failing to:
- (a) comply with the Financial Services Laws and take reasonable steps to ensure its Representatives do the same (in contravention of paragraphs 912A(1)(c) and 912A(1)(ca) of the Corporations Act);
 - (b) have in place adequate arrangements for the management of conflicts of interest (in contravention of paragraph 912A(1)(aa) of the Corporations Act);
 - (c) ensure its Representatives are adequately trained and competent to provide Financial Services (in contravention of paragraph 912A(1)(f) of the Corporations Act); and
 - (d) comply with the conditions on the AFS Licence (in contravention of paragraph 912A(1)(b) of the Corporations Act), by failing to comply with condition 3 on its AFS Licence requiring CMH to establish and maintain compliance measures that ensure, as far as is reasonably practicable, that CMH complies with the provisions of the Financial Services Laws.

5. Acknowledgements

- 5.1 CMH and Daniel White severally acknowledge that:
- (a) ASIC's concerns set out in paragraph 4 of this enforceable undertaking are reasonably held; and
 - (b) the remedial steps set out in this enforceable undertaking are necessary to address ASIC's concerns and to ensure compliance with the Corporations Act.
- 5.2 ASIC acknowledges that CMH and Daniel White have co-operated with ASIC.

6. Undertakings

Acceptance of the enforceable undertaking

- 6.1 Under section 93AA of the ASIC Act, CMH and Daniel White have severally offered the respective undertakings in this enforceable undertaking, and ASIC has agreed to accept those undertakings as an alternative to ASIC commencing civil proceedings or taking administrative action against CMH in relation to ASIC's concerns set out in paragraphs 4.1 and 4.2 of this enforceable undertaking.

Engagement of the Independent Expert

- 6.2 Within one month of the Acceptance Date (or such longer period as approved in writing by ASIC), CMH undertakes to request ASIC to approve:
- (a) the engagement of a person (*Independent Expert*) that meets the criteria in paragraph 6.4 of this enforceable undertaking; and
 - (b) draft terms of engagement for that Independent Expert that meet the requirements of this enforceable undertaking.
- 6.3 If ASIC approves the draft terms of engagement and the Independent Expert following a request by CMH under paragraph 6.2 of this enforceable undertaking, CMH undertakes to engage the approved Independent Expert on the terms approved by ASIC, within 14 days of receiving ASIC's approval (or such longer period as approved in writing by ASIC).
- 6.4 CMH undertakes to nominate, under subparagraph 6.2(a) of this enforceable undertaking, an Independent Expert who:
- (a) has the necessary expertise, experience and operational capacity to perform the role contemplated by this enforceable undertaking; and
 - (b) is independent of CMH, its officers, its Representatives, and its related entities at the time of engagement, and who will at all material times be capable of exercising objective and impartial judgement.

- 6.5 If the engagement is terminated for any reason whatsoever including because of an actual or potential conflict of interest of the Independent Expert that arises during the engagement, within one month after that termination (or such longer period as approved in writing by ASIC), CMH undertakes to request ASIC to approve pursuant to paragraphs 6.2 and 6.3 of this enforceable undertaking, the engagement of another person to perform the role of Independent Expert for the remaining duration of this enforceable undertaking.

Terms of engagement

- 6.6 CMH undertakes to ensure the terms of the Independent Expert's engagement provided to ASIC for approval under subparagraph 6.2(b) of this enforceable undertaking:
- (a) require the Independent Expert to perform the role described in this enforceable undertaking;
 - (b) include a timetable for the performance of the Independent Expert's role consistent with this enforceable undertaking;
 - (c) provide that all remuneration and costs associated with the Independent Expert are to be paid by CMH and/or Daniel White;
 - (d) include a statement acknowledging that:
 - (i) the Independent Expert's role is being performed for CMH and ASIC;
 - (ii) an opinion by the Independent Expert which considers CMH has materially breached this enforceable undertaking in accordance with paragraph 6.27 of this enforceable undertaking will result in CMH and Daniel White severally undertaking to cease providing Financial Services in accordance with paragraph 6.28 of this enforceable undertaking;
 - (iii) ASIC is relying on the work of the Independent Expert;
 - (iv) the scope of the Independent Expert's role does not prevent the Independent Expert from raising any other issues that the Independent Expert in its opinion considers ought to be brought to the attention of ASIC and CMH; and
 - (v) ASIC may issue media releases, publicly refer to or make available for public inspection, this enforceable undertaking or any aspect of the Independent Expert's role including any reviews and reports;
 - (e) provide that once the terms of engagement have been approved in writing by ASIC, they may only be varied with the written agreement of ASIC;
 - (f) provide for circumstances where an actual or potential conflict of interest arises in relation to the Independent Expert, including a requirement to:
 - (i) as soon as possible after becoming aware of an actual or potential conflict of interest that arises during the engagement, inform CMH and ASIC;

- (ii) follow the reasonable directions from ASIC to effectively manage the actual or potential conflict of interest; and
- (iii) if the actual or potential conflict of interest cannot be effectively managed, follow the reasonable directions from ASIC to terminate the engagement;
- (g) permit the Independent Expert, to the extent that it is reasonable having regard to the requirements of this enforceable undertaking, to have access to CMH's books, to interview past and/or present Clients, employees, contractors, agents and/or consultants and to consult with ASIC and disclose to ASIC any further information obtained by the Independent Expert in the course of performing its role;
- (h) require CMH and Daniel White to give the Independent Expert any information, document, or explanation reasonably requested by the Independent Expert in relation to any matter in any way connected with the Independent Expert's role under this enforceable undertaking;
- (i) require CMH and Daniel White to otherwise reasonably assist the Independent Expert with its role;
- (j) provide that ASIC may seek by written request from the Independent Expert, an update or information of any relevant matter the subject of this enforceable undertaking; and
- (k) require CMH and Daniel White to consent to the Independent Expert and ASIC discussing, on a confidential basis, any relevant matter the subject of this enforceable undertaking.

Role of the Independent Expert

6.7 CMH undertakes to engage the Independent Expert to:

- (a) conduct and complete a review (**First Review**) of compliance with certain provisions of the Corporations Act and ASIC Act during the Review Period, in accordance with Annexure 1 and otherwise in accordance with the requirements of this enforceable undertaking;
- (b) deliver a report (**First Report**) in relation to the conduct and completion of the First Review to CMH and ASIC, in accordance with Annexure 1 and otherwise in accordance with the requirements of this enforceable undertaking;
- (c) conduct and complete a review (**Second Review**) of the implementation and effectiveness of a remedial action plan required to address the First Report, in accordance with Annexure 2 and otherwise in accordance with the requirements of this enforceable undertaking; and
- (d) deliver a report (**Second Report**) in relation to the Second Review to CMH and ASIC, in accordance with Annexure 2 and otherwise in accordance with the requirements of this enforceable undertaking.

Remedial actions

- 6.8 CMH undertakes to consider the recommendations made by the Independent Expert in the First Report and develop a plan (*Remedial Action Plan*) to:
- (a) rectify any deficiencies; and
 - (b) implement any remediation for Clients.
- 6.9 CMH undertakes to provide ASIC and the Independent Expert with a copy of the Remedial Action Plan within one month after the receipt of the First Report.
- 6.10 CMH undertakes to make any reasonable modifications to finalise the Remedial Action Plan as requested by ASIC within 14 days after receiving a request from ASIC to do so, provided ASIC has made such a request within one month after ASIC was provided with a copy of the Remedial Action Plan.
- 6.11 CMH undertakes to include in the Remedial Action Plan:
- (a) the action CMH proposes to take to rectify any deficiencies and implement any remediation for Clients, identified in the First Report; and
 - (b) that such action is to be taken to implement these actions by no later than three months (or such longer period as approved in writing by ASIC) after the date of the finalised Remedial Action Plan.
- 6.12 As part of the Remedial Action Plan, CMH undertakes to establish and implement any required Client remediation program in accordance with:
- (a) ASIC guidance (including any published ASIC consultation papers on Client review and remediation programs); and
 - (b) the Independent Expert's recommendations in the First Report;
- 6.13 CMH undertakes to implement the Remedial Action Plan, and within seven days after the deadline for implementing the actions required under the Remedial Action Plan, provide written notice to ASIC (copying the Independent Expert) as to whether or not the Remedial Action Plan is fully implemented and, if not, why not.
- 6.14 In regard to any required rectification program the subject of subparagraph 2(c) of Annexure 2 and the Second Report, CMH undertakes to implement such rectification program:
- (a) in accordance with the Independent Expert's recommendations, including how CMH should rectify the deficiencies identified; and
 - (b) within one month after the delivery of the Second Report (or such longer period as approved in writing by ASIC), and within seven days after the deadline for implementing such rectification program, provide written notice to ASIC as to

whether or not such rectification program is fully implemented and, if not, why not.

Pre-vetting of SMSF Advice

- 6.15 Subject to paragraph 6.16 of this enforceable undertaking, CMH undertakes to implement any pre-vetting recommendations of the Independent Expert (referred to in subparagraph 1(e) of Annexure 1 and subparagraph 1(d) of Annexure 2) before providing the respective SMSF Advice to the respective CMH Client.
- 6.16 If CMH materially disagrees with the Independent Expert's pre-vetting recommendations the subject of paragraph 6.15 of this enforceable undertaking, CMH will document the reasons for materially disagreeing and notify ASIC in writing before the respective SMSF Advice is provided to the respective CMH Client.

Training of Representatives

- 6.17 CMH undertakes to ensure that in regard to existing Representatives:
- (a) within one month of the Acceptance Date (or such longer period as approved in writing by ASIC) those Representatives enrol in an SMSF specialist training course (as approved in writing by ASIC prior to enrolment) and any other training necessary to be competent to provide Financial Services on behalf of CMH; and
 - (b) any of those Representatives who have not successfully completed an approved SMSF specialist training course after three months of enrolment (or such longer period as approved in writing by ASIC), do not provide SMSF Advice until such course is successfully completed.
- 6.18 CMH undertakes to ensure that in regard to any future Representative appointed during the term of this enforceable undertaking:
- (a) that Representative enrol in an SMSF specialist training course (as approved in writing by ASIC prior to enrolment) and any other training necessary to be competent to provide Financial Services on behalf of CMH (unless that Representative had already completed such training before being appointed as Representative of CMH); and
 - (b) that Representative does not provide SMSF Advice until an approved SMSF specialist training course is successfully completed.
- 6.19 CMH undertakes to review, update and conduct any training necessary to ensure its Representatives understand any amended compliance arrangements.
- 6.20 As soon as practicable following the completion of an SMSF specialist training course by a CMH Representative, CMH undertakes to provide ASIC with documents substantiating successful completion of that SMSF specialist training course.

Other

- 6.21 Daniel White undertakes to only provide Financial Product Advice or deal in a Financial Product under CMH's AFS Licence and be solely authorised by CMH for the period of time that CMH is subject to this enforceable undertaking.
- 6.22 CMH and Daniel White severally undertake to immediately notify ASIC in writing, on becoming aware of any failure by them to comply with this enforceable undertaking.
- 6.23 CMH and Daniel White severally undertake that they will pay the costs of their compliance with this enforceable undertaking, including the remuneration and costs associated with the engagement of the Independent Expert.
- 6.24 CMH and Daniel White severally undertake that they will not seek reimbursement of, contribution towards or otherwise directly or indirectly pass on their costs of compliance with this enforceable undertaking, to any third party (including to Clients).
- 6.25 CMH and Daniel White severally undertake to provide all reasonable assistance to the Independent Expert in the performance of its role.
- 6.26 CMH and Daniel White severally undertake to, within 14 days of receiving a written request from ASIC, provide all documents and information requested by ASIC from time to time for the purpose of assessing their compliance with the terms of this enforceable undertaking, including any correspondence with the Independent Expert, subject to legal professional privilege.

Material breach

- 6.27 A material breach of this enforceable undertaking includes but is not limited to:
- (a) in the Independent Expert's or ASIC's opinion, CMH failing to meet a material component of any remedial requirement under this enforceable undertaking (including but not limited to any failure to rectify any deficiencies and implement any remediation for Clients identified by the Independent Expert in the First Report or Second Report); and/or
 - (b) a finding by the Independent Expert in the First Report or Second Report that CMH has had repeated failed results regarding material components of pre-vetted Client files (each a **Material Breach**).
- 6.28 In the event of a Material Breach, CMH and Daniel White severally undertake that for a period of two years from the date of the Material Breach, they will not:
- (a) do any act or engage in any conduct as an AFS Licensee or as a Representative of an AFS Licensee;
 - (b) hold themselves out as an AFS Licensee or as a Representative of an AFS Licensee;

- (c) provide a Financial Service whether on their own behalf or on behalf of another person who carries on a Financial Services Business;
- (d) be involved in the provision of Financial Services or Financial Products;
- (e) carry on a business either directly or indirectly, in relation to Financial Products or Financial Services;
- (f) hold out that they are in any way authorised to provide particular Financial Services or that they are in any way authorised to provide Financial Services generally; and
- (g) apply to ASIC under section 913A of the Corporations Act for an AFS Licence.

7. Acknowledgements as to the operation of this enforceable undertaking

7.1 CMH and Daniel White severally acknowledge that ASIC:

- (a) 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;
- (b) may from time to time publicly refer to this enforceable undertaking; and
- (c) will make this enforceable undertaking available for public inspection.

7.2 CMH and Daniel White severally acknowledge that, in relation to the First Report and Second Report, ASIC:

- (a) may issue a media release referring to the content of and compliance with the First Report and/or the Second Report;
- (b) may from time to time publicly refer to the First Report and/or the Second Report;
- (c) may make available for public inspection a summary of the First Report and/or the Second Report; and
- (d) may make available for public inspection a statement that refers to the content of the First Report and/or the Second Report.

7.3 ASIC acknowledges that, in relation to paragraph 7.2, it will delete, remove or not refer to any information if:

- (a) requested to do so by CMH and/or Daniel White; and
- (b) ASIC is satisfied:
 - (i) it would unreasonably affect the business, commercial or financial affairs of CMH and/or Daniel White; or

- (ii) otherwise should not be disclosed because it would not be in the public interest to do so.

7.4 CMH and Daniel White further severally acknowledge that:

- (a) ASIC's acceptance of this enforceable 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 ASIC's concerns in this enforceable undertaking or arising from future conduct;
- (b) this enforceable undertaking in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this enforceable undertaking or arising from future conduct;
- (c) this enforceable undertaking has no operative force until accepted by ASIC; and
- (d) the date of commencement of this enforceable undertaking is the Acceptance Date.

7.5 This enforceable undertaking constitutes two separate undertakings:

- (a) an undertaking given by CMH to ASIC; and
- (b) an undertaking given by Daniel White to ASIC.

8. Provision of documents

8.1 The address for providing ASIC with any document which this enforceable undertaking requires to be provided to ASIC is:

Senior Manager
Financial Advisers
Australian Securities and Investments Commission
Level 7, 120 Collins Street
Melbourne VIC 3000

8.2 The address for providing CMH and/or Daniel White with any document which this enforceable undertaking requires to be provided to CMH and/or Daniel White is:

Daniel White
CMH Financial Group Pty Ltd
Level 9, 120 Sussex Street
Sydney NSW 2000

Executed by CMH Financial Group Pty Ltd)
in accordance with section 127 of the)
Corporations Act 2001)



Daniel Frederick White

Director/Company Secretary

Date: 23 March 2016

Executed by Daniel Frederick White)

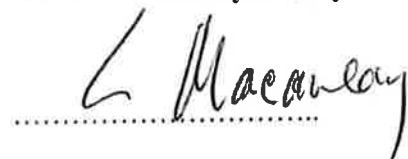
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Daniel Frederick White

Date: 23 March 2016

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



Louise Macaulay

Delegate of Australian Securities and Investments Commission

Date accepted by ASIC: 23/3/16

ANNEXURE 1 – First Review and First Report

1. The Independent Expert is required to conduct the First Review within four months after the date of the engagement of the Independent Expert. The First Review is required to include:

Review of SMSF Establishment Advice

- (a) reviewing the compliance with sections 946A, 947C, 947D, 961B, 961G, 961J, 1041E and 1041F of the Corporations Act and section 12DB of the ASIC Act (*Relevant Financial Services Laws*) of SMSF Establishment Advice provided to CMH Clients by CMH Representatives during the Review Period;
- (b) assessing each Client file of each respective CMH Client to determine if, in the opinion of the Independent Expert, the SMSF Establishment Advice was compliant with the Relevant Financial Services Laws. The assessment of each respective Client file is required to include consideration of statements of advice that included a recommendation to establish an SMSF and any supporting information or documents to that advice including, but not limited to:
 - (i) working papers and economic projections relating to and/or supporting Financial Product Advice;
 - (ii) documents that record Client circumstances, needs and objectives;
 - (iii) documents that record reasonable inquiries about the Client's requirements and objectives in the Client's financial situation, and documents that record any reasonable steps taken to verify the Client's financial situation;
 - (iv) risk profile questionnaires and any documents that record the Client's risk tolerance;
 - (v) correspondence, emails, file notes in relation to advice or other records of advice communications; and
 - (vi) any disclosure documents or educational materials given to Clients;
- (c) using a Client review template agreed to by ASIC, CMH and the Independent Expert prior to the commencement of the Independent Expert;
- (d) recommending whether and how each respective CMH Client, should be remediated for any financial loss or other detriment suffered as a result of SMSF Establishment Advice provided by CMH Representatives during the Review Period that is considered, in the opinion of the Independent Expert, not compliant with the Relevant Financial Services Laws;

Pre-vetting of SMSF Advice

- (e) pre-vetting for compliance with the Relevant Financial Services Laws the SMSF Advice proposed to be provided to CMH Clients by CMH Representatives from the date of the Independent Expert's engagement to the date of the First Report, including:
 - (i) pre-vetting each of the first 10 CMH Client files that involve SMSF Advice before that advice is provided to the respective CMH Client; and
 - (ii) in the event that deficiencies are identified, the Independent Expert is to set out in writing the deficiencies identified and make recommendations on how those deficiencies should be rectified, with a copy of that written record to be given to CMH before the respective SMSF Advice is provided to the respective CMH Client;
- (f) in regard to subparagraph 1(e) of this Annexure 1, the pre-vetting is to be conducted by assessing each Client file of each respective CMH Client to determine if, in the opinion of the Independent Expert, the SMSF Advice was compliant with the Relevant Financial Services Laws. The assessment of each respective Client file is required to include consideration of statements of advice that included a recommendation to establish or use an SMSF and any supporting information or documents to that advice including, but not limited to the items set out in subparagraphs 1(b)(i) to 1(b)(vi) of this Annexure 1; and be in accordance with subparagraph 1(c) of this Annexure 1;

Review of conflicts management

- (g) reviewing and assessing the adequacy of CMH's arrangements for managing conflicts of interest that may arise in connection with the provision of Financial Product Advice by CMH and its Representatives to ensure compliance by CMH and its Representatives with paragraph 912A(1)(aa) and section 961J of the Corporations Act;
- (h) reviewing and assessing CMH's compliance with its arrangements for managing conflicts of interest;

Review of monitoring and supervision measures

- (i) reviewing and assessing the adequacy of CMH's measures for monitoring and supervising its Representatives to ensure its Representatives comply with the Relevant Financial Services Laws (paragraph 912A(1)(ca) of the Corporations Act) and for ensuring its Representatives are adequately trained and competent to provide Financial Services on behalf of CMH (paragraph 912A(1)(f) of the Corporations Act);

- (j) reviewing and assessing CMH's compliance with its monitoring and supervision measures;

Review of internal policies and procedures

- (k) reviewing and assessing the effectiveness of CMH's current and relevant internal policies and procedures including:
 - (i) the statement of advice template;
 - (ii) any other documents relevant to Financial Product Advice that a Client replace one Financial Product with another;
 - (iii) risk profiling methods;
 - (iv) risk management systems; and
 - (v) any other policies and procedures as appropriate to address ASIC's concerns or reflect recommendations by the Independent Expert.
2. The Independent Expert is required to deliver the First Report to CMH and ASIC within four months after the date of the engagement of the Independent Expert. The First Report is required to be in a form agreed to by ASIC prior to delivery of the First Report. The First Report is also required to include:
- (a) the Independent Expert's findings and recommendations in respect of each of the matters described in paragraph 1 of this Annexure 1;
 - (b) details of any deficiencies and recommendations on how to rectify the deficiencies, and a reasonable timeframe for a remedial program to be commenced and implemented;
 - (c) in regard to subparagraph 1(b) of this Annexure 1, if in the Independent Expert's opinion, the SMSF Establishment Advice was not compliant, the reasons why the Independent Expert has formed the view that the SMSF Advice failed to meet the relevant requirements;
 - (d) in regard to subparagraph 1(d) of this Annexure 1, whether the Independent Expert considers any of the respective CMH Clients have suffered financial detriment as a result of the respective SMSF Establishment Advice and if so, a reasonable estimate of the dollar amount of that detriment;
 - (e) whether any of the respective CMH Clients should be remediated in any other way, including but not limited to, the provision of further Financial Product Advice by CMH;

- (f) whether the Independent Expert considers any other Clients, or a class of Clients, of CMH, should have their SMSF Advice reviewed and assessed for remediation;
- (g) in regard to subparagraph 1(e) of this Annexure 1:
 - (i) the total number of CMH Client files pre-vetted;
 - (ii) the overall findings of the CMH Client files pre-vetted including the pass-rate and reasons why any pre-vetted CMH Client files, in the opinion of the Independent Expert, were not compliant with the Relevant Financial Services Laws;
 - (iii) for each respective CMH Client file pre-vetted, the advice provider's name, the Client's name, the date the pre-vet was conducted, the Independent Expert's assessment on whether the SMSF Advice complies with Relevant Financial Services Laws, any changes recommended by the Independent Expert to be made to that advice, and whether CMH made the Independent Expert's recommended changes before that advice was provided to the respective CMH Client; and
 - (iv) any other comment the Independent Expert considers relevant.

ANNEXURE 2 – Second Review and Second Report

1. The Independent Expert is required to conduct the Second Review within one month after the date the written notice referred to in paragraph 6.13 of this enforceable undertaking is provided (or such longer period as approved in writing by ASIC), save for subparagraph 1(d) of this Annexure 2. The Second Review is required to include:
 - (a) assessing remedial actions implemented by CMH following the implementation of the Remedial Action Plan;
 - (b) testing the effectiveness of the implementation of the recommendations and the actions arising from the First Report;
 - (c) considering potential remaining gaps in CMH's internal controls to ensure compliance with Relevant Financial Services Laws and provide further recommendations as appropriate;
 - (d) reviewing any matters set out in Annexure 1 that were not addressed in the First Review, including subparagraph 1(e) of Annexure 1 regarding the pre-vetting of each of the first 10 CMH Client files that involve SMSF Advice before that advice is provided to the respective CMH Client. For the avoidance of doubt, these matters ought to be continually reviewed from the First Review as required (or as otherwise approved in writing by ASIC).

2. The Independent Expert is required to deliver the Second Report to CMH and ASIC within two months after the date of commencement of the Second Review. The Second Report is required to be in a form agreed to by ASIC prior to delivery of the Second Report. The Second Report is also required to include:
 - (a) the Independent Expert's opinion on the effectiveness of CMH's implementation of the Remedial Action Plan;
 - (b) the Independent Expert's findings, any deficiencies identified and recommendations following its review of CMH's implementation of the Remedial Action Plan;
 - (c) any aspects of the Remedial Action Plan that the Independent Expert considers have not been effectively implemented and the Independent Expert's recommendations on how CMH should rectify the deficiencies including a reasonable timeframe (consistent with subparagraph 6.14(b) of this enforceable undertaking) for the rectification program to be commenced and implemented;
 - (d) in regard to subparagraph 1(d) of this Annexure 2:
 - (i) the total number of CMH Client files pre-vetted;

- (ii) the overall findings of the CMH Client files pre-vetted including the pass-rate and reasons why any pre-vetted CMH Client files, in the opinion of the Independent Expert, were not compliant with the Relevant Financial Services Laws;
 - (iii) for each respective CMH Client file pre-vetted, the advice provider's name, the Client's name, the date the pre-vet was conducted, the Independent Expert's assessment on whether the SMSF Advice complies with Relevant Financial Services Laws, any changes recommended by the Independent Expert to be made to that advice, and whether CMH made the Independent Expert's recommended changes before that advice was provided to the respective CMH Client; and
 - (iv) any other comment the Independent Expert considers relevant;
- (e) the Independent Expert's opinion on the effectiveness of CMH's implementation and adherence to the other undertakings in this enforceable undertaking.