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Ms Xenia Quinn
Lawyer
Financial Advisers
Australian Securities and Investments Commission

By email: Xenia.Quinn@asic.gov.au and ella.cebon@asic.gov.au

Dear Ms Quinn,

AFA Submission – Consultation Paper 247 Review and Remediation Programs

The Association of Financial Advisers Limited (AFA) has served the financial advice industry for 69 years. Our objective is to achieve Great Advice for More Australians and we do this through:

- advocating for appropriate policy settings for financial advice
- enforcing a Code of Ethical Conduct
- investing in consumer-based research
- developing professional development pathways for financial advisers
- connecting key stakeholders within the financial advice community
- educating consumers around the importance of financial advice

The Board of the AFA is elected by the Membership and all Directors are required to be practising financial advisers. This ensures that the policy positions taken by the AFA are framed with practical, workable outcomes in mind, but are also aligned to achieving our vision of having the quality of relationships shared between advisers and their clients understood and valued throughout society. This will play a vital role in helping Australians reach their potential through building, managing and protecting wealth.

Summary of AFA's position

The AFA supports review and remediation programs as a constructive and pro-active form of rectifying compliance failures amongst AFS licensees and their representatives and the AFA welcomes the proposed guidance from ASIC. Providing guidance on when and how review and

remediation programs are to be implemented goes hand in hand with supporting AFS Licensees' ability to increase the professionalism and compliance of their representatives.

The AFA considers that:

1. the majority of ASIC's proposed guidance is reasonable and relevant to licensees who need to design and operate review and remediation programs;
2. 'review and remediation programs' should be defined to cover all participants in the financial services and credit services industries as well as all consumers;
3. The proposed 90-day remediation timeframe after consumer notification is appropriate, subject to timeframes for consumers to provide information being generally limited to 14 days, that both parties can expect reasonable extensions of time given reasonable considerations;
4. the Australian Standard on Complaint Handling could be tied into ASIC's guidance in a substantive and meaningful manner;
5. interest on remediation could be applied to reflect the time value of money;
6. guidance about licensees waiving EDR scheme jurisdictional limits and providing support to consumers should be encouraged but left for licensees to decide on a case-by-case basis subject to their professional indemnity requirements; and
7. the insertion of the words 'reasonable steps' would be a reasonable amendment to the proposed working of Class Order 04/923 to reflect that licensees' responsibilities can be affected by situations beyond their control.

Please **see Appendix A** for a table summarising our responses to ASIC's questions. Further detail about some of ASIC's questions are outlined immediately below.

Feedback on aspects of ASIC's questions

Definition of 'Review and Remediation Programs'

The AFA considers that the proposed definition of 'review and remediation program' is restrictive. Confining review and remediation programs to only where a *systemic issue* has been identified relating to *personal advice* to *retail clients* may result in under-utilisation of this important compliance instrument. We consider that other forms of financial services could also use review and remediation programs to address a broader range of compliance failures.

Restriction to personal advice situations

In the AFA's view, whether a review and remediation program is required should not be contingent on whether the licensee's representatives have (or should have) issued a Statement of Advice to a client. It should be a form of compliance rectification available to all AFS licensees where a systemic issue has been identified, not just restricted to 'advice licensees' who provide personal advice to retail clients.

We recognise that paragraphs 42 to 45 of the Consultation Paper identifies that review and remediation programs could be implemented to remediate clients for non-personal advice situations, such as:

- providing false or misleading statements;
- failure to provide disclosure documents;
- administrative errors;
- misconduct by licensees other than advice providers; or
- misconduct by advice licensees that does not relate to personal advice.

may be conducted by persons other than advice licensees, such as:

- superannuation trustees;
- credit providers; or
- financial product providers.

The AFA agrees with this proposition because personal advice is only one service provided by ASIC's regulated population that can lead to consumer losses.

Past Ongoing Monitoring Programs (OMPs) and Enforceable Undertakings (EUs) have effectively reviewed and rectified more than just personal advice issues in the industry and covered the conduct of representatives who have provided financial services beyond personal advice.

Independent Reviewers engaged through to some of these Enforceable Undertakings have also reviewed the compliance of both pre- and post-advisory conduct (and in some examples, non-advisory conduct) that have contributed or caused consumer losses. Further, previous banning orders have also been issued because of consumer losses that involved more than just personal advice.

Please **see Appendix B** for examples of where review and remediation programs have been implemented in the last three years due to non-advisory conduct or due to conduct in relation to non-retail clients.

The results listed in Appendix B highlight that a wider cross section of financial and credit services may benefit from being reviewed independently and all types of consumers that those service providers may come into contact with could be remediated through these types of programs.

In addition to those outlined in Appendix B and personal advice situations, the AFA considers that review and remediation programs could in particular be used very effectively to rectify the conduct of AFS and credit licensees where the following types of systemic issues have been identified:

- Providing misleading information to consumers who contact an AFS licensee through its contact centre that leads to the consumer applying for a financial product;
- Redemption requests not processed within a timely manner or in accordance with the terms of the governing document leading to losses from fluctuations in unit prices;
- Engaging in practices that induced financial advisers to bulk-transfer their clients' insurance policies to a particular insurer;
- Asking clients to sign a general advice waiver when personal advice may actually have been provided, or the scope of advice required by the client was a personal advice service;
- An error stated in a PDS that has been issued and where investors or insured parties have relied upon the incorrect information to apply for the product, potentially exposing them to future losses or restrictions in redeeming their capital;
- Situations where members of super funds have been provided with personal advice without a Statement of Advice;
- Where accountants exceed the scope of their licensed authority;
- Making it contingent upon commencement of a limited recourse loan that the borrower first obtain a signed financial adviser certificate that includes the words 'I have reviewed the trust deed and financial investment strategy, and... I consider the program to be appropriate for the trustee' when the borrowers do not currently have a financial adviser;
- Providing misleading information on a website about the benefits and risks of SMSFs;
- Requiring borrowers under a limited recourse loan (i.e. trustees of an SMSF) to agree to personal guarantees before a such a loan can commence; and
- Issues to do with the conduct of an AFS licensee's representatives in assisting a consumer to complete an application form, regardless of whether personal advice has been provided prior.

Restriction to retail clients

The AFA considers that review and remediation programs would apply to systemic issues beyond those involving retail clients. The Consultation Paper proposes that consumers would have access to a licensee's EDR scheme if they were not satisfied with the outcome of a review and remediation program. In our view, restricting the definition of review and remediation program to only affected *retail* clients could lead to some consumers falling through the gaps.

The Financial Ombudsman Service has discretion to deal with disputes about non-retail clients.¹ The Credit and Investments Ombudsman also can deal with disputes by non-retail clients, but restricts the definition of 'consumer' to financial limits of \$2.5 million net assets or \$250,000 income.²

Notwithstanding EDR scheme limitations, the AFA considers that review and remediation programs could apply to claims that:

- clients or other investors were not notified that they would be categorised as wholesale clients (i.e. the Disclosure Requirement); and
- issues with categorisation of clients, such as disputes about consistency with sections 761G, 761A of the Corporations Act or their associated regulations.

AFA recommendation on definition of 'review and remediation programs'

Taking into account the above, the AFA accordingly recommends that ASIC's guidance on review and remediation programs be:

- titled appropriately to indicate application to all AFS and credit licensees;
- defined to cover the situations described in paragraphs 42 and 43 of the Consultation Paper to avoid misinterpretation by the industry about when the proposed guidance applies; and
- apply to both retail and non-retail clients.

¹ Paragraph 5.2(B) FOS Terms of Reference and page 39 FOS Operational Guidelines, both effective 1 January 2015.

² See page 40 of the 9th edition of the CIO Rules.

Costs, benefits and savings

Immediate impact

Costs, benefits and savings for each review and remediation program will largely depend on the size of the licensee, the complexity of the issues involved, the size of the respective program and availability of records. As these programs need to be appropriately scoped in each individual circumstance, it might be fair to say that no two programs will be identical – if at all alike. The bespoke nature of each program means that savings and benefits will be difficult to realise for each program, but the AFA considers that some savings will apply to some programs and some licensees.

The scale of larger dealer groups means they will likely have resources readily available to implement programs promptly and more cost effectively. This is because much of the expense of designing and operating a program will be able to be factored in by larger licensees into current fixed costs, such as labour and overheads previously allocated to the compliance or complaints handling functions of the business. At the practice level, we expect that these dealer groups will incur some variable and unallocated costs through lost productivity and information gathering, the costs of which will be higher where records are not centralised. The feedback we have received from AFA members is that these variable costs are likely to be passed onto (or attempted to be passed on) by the licensee to individual advisers or corporate authorised representatives.

Smaller licensees will likely wear a proportionately greater financial effect from a review and remediation program, especially if an external reviewer will need to be hired as we expect self-licensed, sole practitioner advisers will. The same principle would likely apply to smaller product providers who have a sole compliance manager, small credit licensees such as mortgage brokers and accountants operating under limited AFS licences.

The savings and benefits that licensees can realise will depend again on minimising lost productivity and avoiding extraordinary information gathering costs. Accordingly, we expect that benefits and savings will be realised where the licensee has:

- more centralised records or more stream-lined information gathering systems;
- existing staff dedicated to a compliance function;
- previous experience with a review and remediation program (or similar project); and/or
- the ability to apportion program expenses over other functions of the business.

Larger licensees are therefore better placed to realise savings and benefits when required to implement larger review and remediation programs, unless a smaller licensee has had the foresight

to invest into software, record keeping infrastructure and align themselves with external compliance providers.

As in the case of some consumer complaints, some costs borne by licensees from implementing review and remediation programs could actually be an allocation of current costs previously avoided, not allocated or due to lower than scale past compliance or monitoring costs. Again, it will depend on the licensee and the extent to which a review and remediation program addresses a systemic compliance breach that could have been identified earlier.

When it comes to complaints lodged with an EDR scheme during or prior to a review and remediation program, assistance could be given to licensees by requiring EDR schemes to deal with complaints through the scheme's systemic issues or 'fast track' processes. If individual complaints that relate to a systemic issue are dealt with through a scheme's normal investigation process, it would be expected that the licensee's cost of operating the review and remediation program will escalate through scheme fees and lost productivity from dealing with individual investigations. Where a systemic issue has been identified and the scheme is aware that a review and remediation program is operating, the scheme can assist the licensee by recognising the commonalities between the cases and allocating resources in an efficient manner, such as by allocating a systemic issues case manager to deal with all identified cases.

Ongoing effects

Once a review and remediation program is implemented, there will likely be an effect on a professional indemnity insurer's assessment of the risks involved with the licensee and/or any representatives. This in turn can lead to higher insurance premiums for those licensees who aren't able to self-insure. As financial services businesses are intended to run as profitable enterprises, this will lead to the higher costs for consumers as increased costs and overheads are apportioned over the licensee's customer base.

The AFA expects that some savings and benefits could be found over time as processes and systems are improved by licensees, whether they be compliance or monitoring improvements, training or recruitment measures, lower future complaints costs or other operational efficiencies. However, those are unlikely to have sufficient immediate effect to mitigate the effect of short term cost increases for consumers.

A final ongoing or longer term effect may involve any reputational issues arising from implementing a program. This can work both ways. Prompt identification of systemic issues and good customer

satisfaction from remediation can lead to a positive perception of a responsible licensee. This will likely depend though on:

- the size of financial losses incurred;
- the complexity of the issues;
- whether public reports preceded the program; and
- the licensee's ability to control communication and response timeframes.

On the other hand, many licensees are likely to say that they expect to incur adverse reputational issues from implementing a review and remediation program because they:

- lack the ability to control review outcomes and public reports from affected customers/clients;
- are required by the terms of their insurance policies to defer to professional indemnity insurers;
- have a disproportionate level of regulatory obligation compared to product providers when faced with product failure; and
- are working in an environment where public perception is generally adverse to financial services providers.

Again, larger licensees are better placed to weather ongoing issues due to scale.

Conclusion

Consumer needs will best be met by a vibrant and responsible market place that is strongly focused upon delivering the best possible consumer outcomes.

The AFA supports ASIC's initiative to provide guidance to the industry on how licensees can effectively design and operate review and remediation programs. The majority of the proposed guidance is sound in our view and represents good industry practice that can apply beyond review and remediation programs.

The AFA considers that some aspects require further consideration to ensure that advice licensees are not the only financial services to benefit from this important compliance tool. Review and remediation programs should be available to all licensees within the financial and credit service industries as a means by which to engage meaningfully with their customers, support their value propositions, support their compliance and monitoring functions and strengthen their customer feedback systems.

The AFA encourages ASIC to consider in particular how the costs and benefits that smaller licensees will experience when implementing a review and remediation program are likely to affect their ongoing viability, sustainability, and the contingent impact on their customers. Smaller licensees will benefit from review and remediation programs as much as large dealer groups. Due to the scale of their businesses though, small businesses are likely to feel greater effects if the requirements of a program are inflexible or impractical in their application.

Some examples of how ASIC could do this are to:

- empower both licensees and consumers to request and expect reasonable extensions of time;
- insert the words 'reasonable steps' into the proposed amendment to the Class Order that recognises some access to records may be beyond a licensee's ability to control; and
- include some of the practical guidance from the Australian Standard on Complaints Handling into ASIC's guidance on these programs.

Smaller licensees play an important role in the financial services industry. They play a part in maintaining a diverse and competitive community of licensees, which is in the best interest of Australian consumers. Smaller licensees can often deliver their services more efficiently and effectively to consumers and at lower cost, but their scale exposes them to significant effect when faced with regulatory issues. The AFA encourages ASIC to provide guidance that is less likely to result in unwarranted consequences for smaller licensees and therefore better facilitate competitiveness of the industry.

If you require clarification of anything in this submission, please contact us on 02 9267 4003.

Yours sincerely,

Brad Fox
Chief Executive Officer
Association of Financial Advisers Ltd

Appendix A – Summary of AFA position on each ASIC question

B1Q1	Please see our detailed submission under the heading ‘ Definition of Review and Remediation Programs ’.
B2Q1	Yes. Largely consistent with RG139 & FOS Terms of Reference and Operational Guidelines.
B3Q1	See our detailed submission under the heading ‘ Definition of Review and Remediation Programs ’ – the AFA considers that the proposed guidance should encompass a broader range of systemic issues across all participants in the financial services and credit services industry.
B3Q2	Agree, as set out in our detailed submission under the heading ‘ Definition of Review and Remediation Programs ’.
B3Q3	Yes, where the consumers affected have all been identified and remediated satisfactorily.
C1Q1	Aside from our comments about expanding the threshold beyond personal advice, we agree that the threshold stated at paragraph 48 is appropriate.
C1Q2	Please see our detailed submission under the heading ‘ Definition of Review and Remediation Programs ’.
C1Q3	Please see our detailed submission under the heading ‘ Definition of Review and Remediation Programs ’.
C1Q4	Please see our detailed submission under the heading ‘ Costs, benefits and savings ’.
C2Q1	Yes.
C2Q2	Only in so far as licensees will have different timeframes to apply (45 day timeframes with complaints already lodged with EDR schemes and 90 day timeframes with other clients).
C2Q3	Please see our detailed submission under the heading ‘ Costs, benefits and savings ’.
C3Q1	Yes
C3Q2	Please see our detailed submission under the heading ‘ Costs, benefits and savings ’.
C3Q3	Reasonable alterations to the 90-day timeframe could assist licensees to meet the dual obligations under the program terms as well as comply with their insurer’s expectations.
C4Q1	Aside from the issues and detail in our submission, No.
D1Q1	The AFA agrees with the examples identified in paragraphs 79-89.
D1Q2	Yes, agree.
D1Q3	Yes, advice licensees are required to retain records for a minimum of seven years which the AFA considers an appropriate timeframe for all AFS licensees.
D1Q4	Testing the scope will depend on the circumstances of each individual program.
D1Q5	Those who have not incurred a financial loss due to a systemic issue.
D1Q6	Yes, please see our detailed submission under the heading ‘ Definition of Review and Remediation Programs ’.
D1Q7	Please see our detailed submission under the heading ‘ Costs, benefits and savings ’.
D2Q1	Yes, the AFA agrees with paragraphs 90-92.
D2Q2	Where later information is received, such as from EDR scheme complaints or from other industry participants, that might indicate that further clients may be affected or the issues arose earlier than identified.
D3Q1	Yes, as outlined above.
E1Q1	No, the AFA agrees with paragraphs 97-104.
E2Q1	The AFA agrees with the principles outlined in paragraphs 106-111.
E2Q2	Please see our detailed submission under the heading ‘ Costs, benefits and savings ’.
E2Q3	The Australian Standard on Complaint Handling provides very good guidance on dealing with complaints with a consumer focus. The AFA considers that this standard could be tied into ASIC’s guidance in more than just a referral, but in a substantive and relevant manner.
E3Q1	Subject to our response at F2Q5, the AFA agrees that 90 days to remediate a consumer after notifying a consumer that they are invited to participate in a program is appropriate and will generally allow flexibility to deal with issue complexity and program scale given that consumers can seek review through an EDR scheme if not satisfied.
E3Q2	The AFA agrees with the principles outlined in paragraphs 121-123.

E3Q3	The AFA recommends ASIC set the interest rate that applies to monetary remedies offered by licensees because EDR scheme rates will still be available to consumers if they subsequently seek review through an EDR scheme. The AFA recommends that the rate should be set at the RBA cash rate plus one percent for the period that applies over the period of loss in order to reflect the cost of investments in deposit products.
E3Q4	The AFA agrees that peer reviewing advice through a program is an important element of programs involving complex investment issues and complex investment advice because personal financial advice is one adviser's opinion of what strategy and/or product is appropriate and in many cases, different advisers will differ on their views. Peer review therefore should mitigate issues of differing opinion affecting the perceived causes or contributors to client financial losses. Likewise, the AFA agrees that peer reviews will assist reviewers in the early stages of a program because it will be important to eliminate bias and lack of expertise early.
E4Q1	Yes. It is not appropriate for the licensee representative to review their own conduct.
E4Q2	The AFA considers that internally remunerated or appointed reviewers and experts can achieve the same outcomes with the same standard of independence as external reviewers in many cases, but agrees with ASIC view at paragraph 135 that some cases will require external reviewers.
E4Q3	The AFA considers that conflicts of interest will be inherent where the reviewer or decision-makers are remunerated by the licensee. However, with appropriate guidance and oversight from ASIC, those conflicts should be able to be managed by most licensees – especially those who have well-developed compliance programs that use external parties. If perceptions of conflicts remain, there are several compliance providers in the industry who can provide independent and quality review services.
E4Q4	The AFA considers that external oversight will be necessary when an enforceable undertaking or other license condition is involved, when the scale of program is extensive, when the systemic issue involves poor governance, when the licensee is a sole practitioner and where the licensee may have no capacity to develop internal expertise to operate a program.
E5Q1	The AFA agrees with the principles outlined in paragraphs 139-142.
E6Q1	The AFA agrees with the principles outlined in paragraphs 143-146.
E7Q1	The AFA agrees with the principles outlined in paragraphs 147-149, and submits that public reporting through the Financial Adviser Register should be limited to repeated issues to ensure that licensees are given opportunity to address isolated systemic issues.
F1Q1	The AFA agrees with the principles outlined in paragraphs 150-154.
F1Q2	Please see our detailed submission under the heading ' Costs, benefits and savings '.
F1Q3	No, the Consultation Paper together with the Australian Standard on Complaint Handling will provide sufficient guidance to licensees because ultimately each program will require consideration of the issues, scope and quantum involved.
F2Q1	Yes. Written communication will benefit all parties at the beginning and end of the program.
F2Q2	The AFA considers that it will depend on the circumstances, such as the complexity of the issues and any advice, available records and the scale of the program. As with EDR timeframes, licensees should be entitled to an extension of time to respond where it is reasonable to do so.
F2Q3	No, the AFA agrees with the guidance in paragraphs 165-170 and considers those elements as good practice when dealing with complaints as well.
F2Q4	The AFA considers that where extending the scope to other clients may be appropriate will depend on the circumstances and what is a simple process for one program may not apply to others. Guidance in the form of examples would be of value here.
F2Q5	The AFA considers that a 30-day consumer response timeframe will significantly impact on a licensee's ability complete remediation within 90 days. EDR schemes generally use a 14-day response standard for all parties, but flexibly scale up or down the timeframe depending on the complexity of the information sought. A similar standard should apply,

	or otherwise make the 90-day remediation timeframe contingent on a consumer's timeliness.
F2Q6	Licenses could also utilise information networks within the industry, such as product provider records, that are available to the licensee and subject to privacy releases on record.
G1Q1	The AFA considers that EDR scheme monetary limits and other jurisdictional limitations, such as claim apportionment, have been established with detailed consideration of the factors involved with consumer complaints as well as established legal precedents for dealing with consumer claims. Further, professional indemnity terms are often set with EDR scheme jurisdictional limits in mind. The AFA considers that establishing rules by which licensees are required to waive limits will affect licensees' ability comply with RG126 compensation requirements, thereby affecting a licensee's compliance with its general licensee obligations. This does not prevent a licensee from exercising discretion to waive limits. This should, however, be a commercial consideration for each licensee on case-by-case basis.
G1Q2	EDR scheme limits on non-financial and consequential loss are already generous for the type of remediation involved. The AFA considers that our submission that EDR scheme limits could be waived by licensees on a case-by-case basis applies to non-financial loss limits as well.
G1Q3	The AFA considers that there are well-funded and appropriately resourced and experienced services in the community already available to all consumers who require assistance to deal with complaints as well as licensee review and remediation programs. As with EDR scheme limits, licensees can consider assisting consumers however they see fit when the circumstances support it. The AFA does not support guidance that indicates financial assistance levels but does support that licensees could consider supporting consumers with referrals to independent pro bono or community funded professional services
G1Q4	Please see our response to G1Q3.
G1Q5	Please see our detailed submission under the heading ' Costs, benefits and savings '.
G1Q6	No, paragraphs 177-184 provide adequate guidance, subject to our submissions to Section G.
G2Q1	The AFA agrees with the principles outlined in paragraphs 185-186.
H1Q1	<p>The AFA agrees the proposed amendment to CO 14/923 provided that it will not have retrospective application and will allow reasonable flexibility where technological changes beyond the control of a licensee, such as software upgrades, do not impact its ability to comply.</p> <p>Many licensees have begun to implement measures that recognise the importance of access to client records when advisers or clients move between licensees. However, despite reasonable steps being taken with legal agreements with representatives, facilitative relationships with other licensees, centralising record-keeping and pro-active copying of documents, not every record can be guaranteed to be forever accessible when third party providers of record keeping software and systems are involved. In many cases, licensees have not only little ability to dictate to software providers how they code their systems, but in some cases despite best efforts compatibility issues will arise that are either irreversible or will take substantial time to rectify.</p> <p>The AFA considers that the insertion of the words 'reasonable steps' – as reflected in privacy legislation when it comes to protecting personal information stored through third party providers – would be a reasonable amendment to the Class Order to reflect that licensees' responsibilities can be affected by situations beyond their control.</p>
H1Q2	Our membership considers that this amendment will definitely change record keeping practices, especially when client records may move to other licensees. This proposed amendment may also result in more licensees seeking to centralise records and seek technological solutions to record keeping issues. The AFA supports those measures.
H1Q3	Please see our detailed submission under the heading ' Costs, benefits and savings '.

Appendix B - Examples of Review and Remediation Programs relating to non-personal advice situations and/or non-retail clients

JP Morgan	Enforceable Undertaking	16 November 2015	Implemented due to breaches of the Disclosure Requirement to wholesale clients
Menkens Financial Group	Enforceable Undertaking	17 September 2015	Implemented due to <i>implementation</i> (i.e. 'dealing' in financial products) of financial advice prior to the issue of Statements of Advice (SoAs), amongst other things such as back-dating SoAs.
Wealthsure Pty Ltd	Enforceable Undertaking	30 April 2015	Implemented in part due to breaches by representatives when providing general advice and execution-only services
Monarch FX Group Pty Ltd	Banning Order	17 December 2014	Issued in part due to the manner in which SMSFs were established and alleged breaches of obligations when dealing in financial products
Interactive Brokers LLC	Enforceable Undertaking	15 December 2014	Implemented due to dealing in margin lending products despite not being authorised in margin lending
Dimitri Amargianitakis	Enforceable Undertaking	12 November 2014	Implemented in large part due to the provision of financial services despite not holding an AFSL
Royal Bank of Scotland	Enforceable Undertaking	21 July 2014	Implemented due to concerns about breaches of s912A, which provides for the general conduct (including the efficient, honest, and fair conduct requirement) obligations on AFS Licensees
PGW Financial Services	Enforceable Undertaking	18 July 2014	Implemented, in part, due to breaches of s912A requirements relating to appointment and monitoring of authorised representatives
Forex Financial Services Pty Ltd	Enforceable Undertaking	19 February 2014	Implemented due to concerns about erroneous categorisation of clients as wholesale clients and representations about an MDA service
BNP Paribas	Enforceable Undertaking	28 January 2014	Implemented due to concerns about breaches of s912A, which provides for the general conduct (including the efficient, honest, and fair conduct requirement) obligations on AFS Licensees
National Australia Bank Ltd	Enforceable Undertaking	23 December 2013	Implemented due to alleged misleading conduct and breaches of the ASX Market Rules in relation to transactions authorised under the AFSL's dealing services authorisation
Australian Investment Exchange Ltd	Enforceable Undertaking	17 December 2013	Implemented in part due to breaches of requirements around handling of client money in relation to dealing services
Gabriel Nakahl	Enforceable Undertaking	11 November 2013	Implemented in large part due to representations made to clients when inducing them to engage his services to establish and advise on SMSFs
Spring Financial Group Pty Ltd	Enforceable Undertaking	18 September 2013	Implemented in part due to the manner in which SMSFs were marketed to consumers as well as the sufficiency of monitoring and training of representatives
Pavan Vyas	Banning Order	3 July 2013	Issued due to lodgement of life insurance applications (i.e. a 'dealing' service) on behalf of deceased persons, otherwise known as 'tombstoning'.