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Dear Xenia,

I am strongly motivated to make a submission on **ASIC CONSULTATION PAPER 247 Client review and remediation programs and update to record-keeping requirements** to prevent this unwarranted increase in red tape by ASIC becoming law or future reality. Many statements in italics are quotes from current regulations or ASIC information.

I encourage all others in the Financial planning industry to **oppose** this further intrusion by ASIC into the financial planning industry by stealth when they already have these powers. I do not believe any extension or codification by regulation is necessary when ASIC already has these powers and does not use them effectively.

Most financial planners are unaware ASIC requires industry response by 26 February 2016 as it was released during the Christmas period, or that they may be controlled by new Regulatory Guide and Class orders by May 2016 if not opposed.

ASIC claims in CP100 that "*Transparency and disclosure are important factors in market integrity and consumer confidence; they serve to promote deterrence and educate consumers and industry*" yet ASIC does not comply with these principles themselves in negotiating with industry partners or reporting to Government.

ASIC Report 446 lists ASIC objective to cutting red tape as "*cutting regulation where appropriate, eliminating unintended consequences of regulation, and ensuring efficient and effective operation of regulation and regulators*", and "*Our statutory mandate obliges us to perform our functions and exercise ASIC's powers in the interests of reducing business costs. This means we aim to achieve legislative regulatory priorities with minimum cost to and burden on the businesses we regulate*".

The industry agrees and ASIC's view is "*that it is the accumulation of obligations that creates a red-tape 'burden', rather than any one area of regulation. As such, we continue to work on incrementally reducing unnecessary red tape"...." We are particularly interested in hearing whether the way we administer the law (rather than the law itself) imposes an unnecessary compliance burden*".

ASIC states "***A well-designed program avoids unnecessary complexity. If clients can understand a program easily, they are more likely to have confidence that it will produce consistent, timely and fair***

outcomes." CP247 creates unnecessary complexity that AFSL Licensees and Authorised Representatives do not understand and they can have no confidence in its outcomes.

ASIC proposals and discussion questions requesting feedback concerning CP247 state that it is "*only an indication of the approach we may take and are not our final policy*", indicating that ASIC themselves are not sure why or what they are trying to achieve with this further CP247 review and remediation regulation.

ASIC state they "*are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on: □ the likely compliance costs; □ the likely effect on competition; and □ other impacts, costs and benefits. Where possible, we are seeking both quantitative and qualitative information. We are also keen to hear from you on any other issues you consider important.*"

There is no need for any new powers under CP247 as ASIC already has these powers and remedies under Corporation Law and Regulations, RG100 and RG78 if they apply their **current** powers effectively and responsibly. There is certainly **no need** for CP247 or to apply CP247 to **small and medium AFSL Licensees.**

ASIC requires a Regulation Impact Statement (RIS) for new and amended policy that has a significant regulatory impact. After ten years, ASIC reviews that class order to see if it is operating effectively and efficiently, then prepares a RIS to assess proposed changes to the class order. Financial Planners need to oppose CP247 and make ASIC **validate the need** for any regulation in a RIS before CP247 becomes new regulation.

Federal Governments and political parties claim red tape is stopping Australian innovation and needs to be reduced. The Financial planning industry is drowning in regulation, red tape and increased ineffective compliance to catch a minority of offenders. Further regulation reinforces and emphasises the present ineffectiveness of ASIC.

Financial planners need to **oppose the need for CP247** where ASIC wants power to force AFSL Licensees to further self-report possible breaches and spend time and money investigating Authorised Representatives when they already do this in their compliance and audit reporting under RG78. Anything missed in audit will be reported to the Ombudsman as a consumer complaint and investigated.

CP247 is ASIC admitting that they have been ineffective through Enforceable Undertakings and compliance over large Financial institutions so they now want power to burden all AFSL Licensees and Authorised Representatives with more unnecessary red tape.

Financial planning is a relatively new and highly regulated industry trying to assist consumers understand complex financial and taxation issues affecting their lifestyles and financial futures. No one can predict or fully identify the many variables that change future outcomes. Financial Planning has more regulation and laws already than most other industry in Australia.

Financial Planners deal with unknown future possibilities to reduce risk from negative life events and help fulfil consumer dreams. AFSL's and Authorised Representatives are currently controlled by Corporations Law, ASIC, IDR, EDR plus compensation penalties, PI Insurance requirements, education

standards, licensing and regulation of advisers, annual Licensee audits then possible Court action and penalties to do their job.

I am a 64 years old with over 10 years experience as an independent financial planner, 40 years small business experience and I hold a Master of Financial Planning and Bachelor of Commerce. I am in the financial planning industry to help consumers and small businesses understand the complexity of laws and financial structures that affect their wealth and life in retirement.

I am highly trained and experienced yet I can not make a reasonable profit as a financial planner after paying for compliance, administration, education and insurance costs.

Would I recommend the financial planning industry to new entrants? No.

Do I want a situation where when I retire, I still pay PI insurance and I am potentially responsible to Clients, my AFSL or ASIC for the next 7 years or longer into retirement? Would anyone pay me a premium for my business if, in buying it, they were responsible for my past Clients for another 7 plus years? Can I afford to give financial planning advice to Clients even when I want to help them with their needs by creating further potential unknown future risk for myself?

Already under the new Life Insurance Framework reforms, any income I earn can be clawed back over the next two years if a policy lapses for any reason to reimburse Insurance companies at my expense and loss of income, even though I diligently spent my time analysing my Client's needs and giving them a Statement of Advice.

ASIC will review Statements of Advice *"in the second half of 2016, with a view to making disclosure simpler and more effective for consumers as well as assisting advisers to make better use of these documents."* ASIC already recommends short concise SOA yet compliance and PI Insurance requirements for comprehensive risk assessment and protection means the SOA is now very long and complicated for Consumers to understand and read. How will ASIC improve a SOA when more regulations increase the problem?

We do not ask the medical industry and doctors to assess the whole health risk for their patients and then guarantee their advice for 7 years given future uncertainties and changes in consumer lifestyle. Financial Planners are required to conduct regular reviews and may be liable even if Clients do not review and follow up on advice to meet changes in their personal circumstances.

We spread the health risk through public and private systems with health insurance and government funding. We train doctors at great personal and public expense to build expertise. Professional indemnity insurance and Court evidence give doctors some protection from unexpected outcomes.

Years ago trained Gynaecologists who wanted to deliver babies found they could not practice on difficult cases as a result of litigation risk and cost. They had to be reintegrated into the public hospital system to practice effectively, transferring risk back to the public sector. This is where the Financial Planning industry is heading.

Financial service providers must be Licensed by ASIC and abide by Corporations laws and regulations. Advisers must be trained and licensed as Authorised Representatives regulated and audited by their

AFSL Licensee. The industry is regulated by ASIC and consumers have access a free Internal Dispute Resolution process and a free independent External Ombudsman service if they have any complaints.

The Ombudsman is not bound by legal rules of evidence and can levy payments against financial planners up to $309,000 for each complaint. The consumer can also complain to ASIC and go to Court. PI insurers are wary of future risks, and PI cover is difficult to get and premiums keep rising.

The Ombudsman, ASIC and the media can already examine individual consumer complaints and investigate systemic issues and bad practices in the financial planning industry very quickly and effectively if they want to do it or find a need to report it. AFSL must immediately report breaches to ASIC. There is no reason or need for further CP247 regulation.

ASIC has been slow to investigate and regulate bad practices and rogue advisers resulting in systemic losses for many Consumers who have lost life savings, particularly by the largest Banks in Australia using vertical integration and acquisitions. The Senate has recently exposed many of these shortcomings by both the large Banks, ASIC and the Corporate environment, exacerbated by the USA created GFC.

The large Banks have been reticent and slow to accept their responsibilities and reimburse Consumers. ASIC has strong existing powers of Enforceable Undertakings, public media condemnation and suspending Licences but has not been effective in satisfying Consumer and media complaints. These have been systemic problems caused by vertical integration by Banks confusing product sales with advice and staff incentive schemes to build sales.

ASIC now wants to extend regulation and responsibility to all honest small or medium AFSL Licensee's and Authorised Representatives under CP247 when the major problem is caused by large Financial institutions and ASIC inaction.

ASIC is the regulator but has not been proactive or effective in doing its job and has received public pressure for faster and better compliance. ASIC's only solution to regulate less than 5% of potential industry offenders is for more compliance and to pass the responsibility, cost and risk back to the Licensees and Authorised Representatives when 95% of the industry is responsibly providing valuable service to Clients.

ASIC has been criticised by Senate over their handling of complaints and enforceable undertakings from big Financial Institutions who have all been prosecuted over Consumer losses through Westpoint, Storm and others that have taken more than 10 years to prosecute.

These cases may not have occurred if ASIC had more effective compliance activity in the first place when industry warnings were given to them. Many in the industry could "smell" the advertised activities and inconsistencies of these organisations at the time.

The Corporations law categorises general advice for educational purposes and personal specific advice by regulated Authorised Representatives. The nature of personal advice means that independent trained Financial Advisers working for themselves under an AFSL Licensee are the majority of the industry and are the future for independent financial advice.

Large institutions have employed Authorised Representatives under their control and this is where most ASIC and consumer problems have occurred. This will not be solved through more regulation.

64 *"An AFS licensee is required to: (a) take reasonable steps to ensure that its representatives comply with the financial services laws (s912A(1)(ca) of the Corporations Act); and (b) ensure its representatives are adequately trained, and competent, to provide the financial services authorised by the licensee (s912A(1)(f) of the Corporations Act)."*

65 *"Where a systemic issue is identified in relation to an existing representative, the licensee has an obligation to take steps to rectify any deficiencies in the representative's behaviour. Note: See RG 104 for further information."*

66 *"AFS licensees must notify ASIC in writing of any 'significant' breach (or likely breach) of their obligations under s912A (including licence conditions), s912B (compensation arrangements) or financial services laws, as soon as practicable, and in any event within 10 business days of becoming aware of the breach (or likely breach)."*

67 *"Licensees need to consider whether the breach (or likely breach) is significant and, if so, provide timely notification to ASIC. Whether a breach is significant will depend on individual circumstances. "*

68 *"In many cases, a systemic issue that triggers the establishment of a review and remediation program will also be a significant breach for the purposes of the breach reporting obligations. However, licensees need to make this assessment on a case-by-case basis. Note: See Regulatory Guide 78 Breach reporting by AFS licensees (RG 78) for further information."*

69 *"Under s912B of the Corporations Act, AFS licensees must have arrangements for compensating retail clients for losses they suffer as a result of a breach by the licensee or its representatives of their obligations in Ch 7 of the Corporations Act."*

70 *"These arrangements must: (a) satisfy the requirements in the Corporations Regulations 2001 (Corporations Regulations), which are that licensees must obtain professional indemnity (PI) insurance cover that is adequate, considering the nature of the licensee's business and its potential liability for compensation claims (reg 7.6.02AAA)".*

ASIC is stating that these are all current legal requirements and there is no real need for CP247.

CP247 states *"Advice licensees are currently required to ensure that client records are retained that show how the licensee has complied with the best interests duty and related obligations when personal advice is provided: s961B, 961G and 961J of the Corporations Act 2001 (Corporations Act). The records must be kept for at least seven years."* This is already the law.

"The obligation to retain records remains with the advice licensee. For the avoidance of doubt, we propose to amend [CO 14/923] to clarify that licensees must have access to the records during the period in which they are required to be retained—even if the records are retained by another person and that person is no longer authorised by, or related to, the licensee: see Section H." This is also the current law but ASIC has not enforced it.

ASIC now seeks that *"We would expect an advice licensee to review advice as far back as the licensee has retained records. This includes where a licensee has retained records for longer than the minimum seven years."* This is getting ridiculous if a consumer has not already complained in the previous 7 years or noticed a loss. This extension past 7 years must be opposed.

ASIC defines *a 'systemic issue' as an issue that may have implications beyond the immediate rights of the parties to a complaint or dispute, or that may have implications for more than one client. This is consistent with ASIC's policies on dispute resolution.*

37 ASIC-approved EDR schemes are required to seek appropriate remedial action from an AFS licensee and report to ASIC any systemic issues. Regulatory Guide 1

39 Approval and oversight of dispute resolution schemes (RG 139) broadly defines a 'systemic issue' as one that relates to an issue that has implications beyond the immediate actions and rights of the parties to a complaint or dispute. Note: See RG 139.116–RG 139.146 for further information on the obligation for EDR schemes to report systemic issues.

"EDR schemes are not bound by the rules of evidence that apply to court proceedings. This means that the schemes have some flexibility in how they handle a dispute, the evidence they will consider and the weight they place on that evidence.'

"When determining whether misconduct has occurred, EDR schemes will take into account a range of factors (e.g. legal principles, industry codes, practice guides and good industry practice), and previous decisions they have made. EDR schemes consider all the evidence and assess the alleged misconduct based on the balance of probabilities."

"EDR schemes can order a range of remedies for complainants. These include: compensation for direct financial loss, or other indirect or non-financial loss (e.g. inconvenience suffered by the client), and ordering the financial services provider to undertake a specific course of action to remediate the client.

EDR schemes may also award interest in addition to any monetary remediation ordered. The aim is to place clients in the position they would have been in, had it not been for the misconduct. RG 139 allows EDR schemes to impose compensation caps provided that these are consistent with the objectives in RG 139.164."

"An advice licensee's EDR scheme may also provide a level of independent oversight to a review and remediation program. This will occur when the scheme identifies trends in the disputes received by the scheme and the scheme commences a systemic issue investigation. A licensee may also self-report systemic issues to its EDR scheme."

"ASIC often becomes aware of an advice licensee's systemic issues through breach reports, proactive surveillance, reports of misconduct from the public and reports of systemic issues from EDR schemes." "There may be times when we will encourage an advice licensee to establish a review and remediation program, or we may require this as part of our enforcement activities". ASIC should refer matters to an EDR to achieve better regulation of AFSL's if ASIC is not effective. Does ASIC consider EDR schemes are not working effectively for consumers? Where is the need for CP247?

Financial Ombudsman Service says *"We do not fine businesses or issue penalties. That is what a regulator does – and we are not a regulator. Our role is to resolve individual cases between businesses and consumers. We have the power to get things put right in the individual cases referred to us, if we decide a business has got it wrong and a consumer has lost out as a result. We do not tell a business how it should treat all other customers."* FOS and CIO can also investigate systemic issues in the public interest.

38 AFS licensees are also required under Class Order [CO 09/339] Internal dispute resolution procedures to assess the nature of complaints received through internal dispute resolution (IDR) procedures to determine whether any systemic issues are present. These are already current laws and do not need CP247.

ASIC's examples of systemic issues are : *(a) failure to provide advice in the best interests of the client (or without a reasonable basis for the advice, if advice was given before the Future of Financial Advice reforms); (b) failure to provide appropriate advice; (c) failure to give priority to the interests of the client; (d) fraud; (e) failure to provide key disclosure documents (e.g. Financial Services Guide, Statement of Advice, fee disclosure statement or renewal notice), or providing disclosure documents that fail to comply with the requirements under the law; or (f) providing false or misleading statements.*

43 Not all review and remediation programs are conducted in relation to personal advice. Other examples include programs to remediate clients for: (a) administrative errors; Note: An administrative error is one that results from an error in an electronic system or an unintentional human error (e.g. unit pricing error, overcharging of fees or miscalculation of interest). (b) misconduct by a licensee (or its representatives) other than advice licensees (e.g. other AFS licensees, credit licensees or financial product providers); or (c) misconduct by advice licensees that does not relate to personal advice.

Can ASIC comply with these standards themselves, are administrative issues really the problem, and who can prove the adviser and individual circumstances at the time of giving personal advice did not justify the advice given? The facts are stated in the SOA.

ASIC admits "***Advice licensees may also be subject to a systemic issue investigation by an EDR scheme seeking remediation for affected clients. Depending on the scope of the systemic issue investigation, a separate review and remediation program may not be necessary.***" Why is CP247 necessary?

Under RG100 ASIC "*will consider accepting an enforceable undertaking if we believe it is the most effective and appropriate regulatory outcome given the significance of the issues to the market and the community, the nature and seriousness of the alleged breach and the compliance history of the party.*"

ASIC considers "*an enforceable undertaking to be an effective regulatory outcome if it: (a) promotes the integrity of, and public confidence in, our financial markets and corporate governance; (b) specifically deters the person from future instances of the conduct which gave rise to the undertaking; (c) promotes general deterrence in making the business community aware of the conduct and the consequences arising from engaging in that conduct; and/or (d) provides an ongoing benefit by way of improved compliance programs*" and they "*negotiate the terms of the undertaking with the promisor to arrive at an appropriate regulatory outcome.*"

ASIC "*will only accept an enforceable undertaking if the promisor makes a commitment to: (a) stop the particular conduct or alleged breach that concerns us; and (b) not recommence that conduct. If we take enforcement action, our approach to public comment on that action is contained in Information Sheet 152.*"

Enforceable Undertakings are the effective way for ASIC conduct Client review and remediation programs and update to record-keeping requirements and they already have these powers.

Under RG 78 Breach reporting by AFS licensees, "*As an AFS licensee, you must tell ASIC in writing within 10 business days about any significant breach (or likely breach) of your obligations. If you don't tell us about a significant breach (or likely breach) then we consider that this in itself is a significant breach. You should have a clear, well-understood and documented process for identifying breaches. Responsible entities are also subject to breach reporting requirements.*"

Section 912D requires you to report to ASIC any significant breach (or likely breach) of: *(a) your obligations under s912A and 912B (other than the obligation under s912A(1)(c)); and (b) your obligation under s912A(1)(c) to comply with certain financial services laws.*

AFSL obligations under s912A and 912B and s912A(1)(c) "*You must: □do all things necessary to ensure that the financial services covered by your AFS licence are supplied efficiently, honestly and fairly; □ comply with the conditions of your licence; □have adequate resources to provide the financial services covered by your licence and to carry out supervisory arrangements (unless you are a body regulated by APRA: see RG 78.6–RG 78.8); □be competent to supply the financial services covered by your licence; □ have trained and competent representatives; □take reasonable steps to ensure that your representatives comply with the financial services laws; □have a dispute resolution system for retail clients; □have adequate risk management systems (unless you are a body regulated by APRA: see RG 78.6– RG 78.8); and □have compensation arrangements for retail clients.*"

190 *However, our regulatory experience has highlighted difficulties in recent review and remediation programs* (large Banks) *where advice licensees have been unable to review the personal advice given to some clients because the licensee no longer has access to client records to determine whether or not the clients suffered a loss.* ASIC has current power to enforce this.

CP247 - *Generally, a review and remediation program is a project set up within an advice licensee to review personal advice, where a systemic issue in relation to the advice has been identified, and then to remediate those clients who have suffered loss as a result.*

The aim of the program is to place affected clients in the position they would have been in had the misconduct not occurred.

It is important that all review and remediation programs are conducted in a way that is efficient, honest and fair. Consumers should have confidence that any program in which they are involved is fair, consistent and transparent.

The proposed guidance is intended to apply to advice licensees conducting a program to address systemic issues that are a result of the decisions and behaviour of the licensee (or its representatives) in relation to personal advice.

Small programs and small licensees

13 The proposed guidance is intended to apply to all advice licensees that conduct a review and remediation program in relation to personal advice. This is regardless of the licensee's size or the size of the review and remediation program.

14 The intention of the guidonce is thot the principles con be scoled up or down, depending on the size of o progrom, ond con be odopted to suit odvice licensees of different sizes with different internol structures.

The process of review ond remediotion needs to be comprehensive, timely, foir, ond tronsporent. There should be cleorly defined principles to guide the process ond on oppropriote governonce structure (including oppropriote involvement ot o senior monogement level). The process should be simple for the client.

Where oppropriote, odvice licensees should offer ossistonce to clients who wish to seek their own professional advice to assist their response to o review ond remediotion progrom: see Section G.

All of this is currently done by AFSL audits and compliance, IDR, EDR, Enforceable Undertakings, consumer complaints and the media. It is unlikely there is any need for further CP247 remediation.

ASIC Rules state that "*Before settling on o finol policy, we will comply with the Austrolion Government's regulatory impact onolysis (RIA) requirements by: (o) considering oll feasible options, including examining the likely impacts of the ronge of olternotive options which could meet our policy objectives; (b) if regulatory options ore under considerotion, notifying the Office of Best Practice Regulation (OBPR); and (c) if our proposed option hos more than minor or mochinery impoct on business or the not-for-profit sector, preparing o Regulotion Impact Stotement (RIS).*

197 *All RISs ore submitted to the OBPR for opproval before we moke ony final decision. Without an approved RIS, ASIC is unable to give relief or moke any other form of regulotion, including issuing o regulatory guide thot contoins regulation.*

198 *To ensure thot we ore in a position to properly complete any required RIS, pleose give us as much informotion as you can obout our proposols or ony olternotive opprooches, including: (a) the likely compliance costs; (b) the likely effect on competition; ond (c) other impacts, costs ond benefits.*

Any RIS must be reviewed by the Financial Planning industry and general Public before any new regulation powers are granted to ASIC. As CP247 currently reads, I can not see how any benefit to AFSL or Authorised Representatives can be justified and there already exists in law effective alternative options to meet policy objectives. ASIC just needs to do its job.

There are no benefits to AFSL Licensees or Authorised Representatives under CP247 but many compliance costs and unknown future risks. There will be less competition, consumers will not find experienced financial planners who can afford to take on more personal risks. Consumers will not be able to afford good financial advice and will have to educate themselves or accept machine generated general advice to build their wealth in retirement.

There are no valid grounds for further CP247 regulations that can not be achieved under current regulation and compliance structures. CP247 should be discountinued as totally unnecessary and inefficient to serve any useful purpose.

Yours truly,

Glenn McKean

Glenn McKean AR 296590 of Synchron

ASIC PROPOSALS AND QUESTIONS

B3Q2 Do you agree that the principles in this guidance should apply to programs not relating to personal advice? If not, why not? – NO, CP247 should not become regulations under Corporation Law as the purpose is already covered by current regulations. It is unnecessary useless red tape.

C1Q4 Please provide feedback on any costs or savings to your business as a result of the threshold at which a review and remediation program would be appropriate. – No review or remediation program is necessary or appropriate after audit reporting, IDR, EDR, Enforceable Undertakings and Court action. ASIC can not even determine where or what the threshold would be as every case would be different.

C2Q1 Do you agree with the way we have described the relationship between a review and remediation program and the advice licensee's IDR and EDR obligations? If not, why not?- NO, as ASIC infer the IDR and EDR process is not effective in finding or remedying consumer complaints or adviser behavior or AFSL responsibilities.

C3Q2 Will the establishment of a review and remediation program, and a subsequent decision to remediate clients, affect an advice licensee's ability to make claims under its professional indemnity (PI) insurance? If so, please explain how. – Yes, inevitably PI insurance will be too expensive and unavailable to cover unknown potential risks.

D1Q3 Do you agree that advice licensees should review advice as far back as the licensee has retained records? If not, what is a reasonable timeframe? – NO. Even Courts only go back 6 years. If 7 years is not sufficient time for ASIC to become aware of a problem, how important is it and how will anyone find evidence to prosecute it. Financial Planners have to accept worse penalties than available through the Courts and it will be difficult to impossible to find evidence or affected Clients.

D1Q7 Please provide feedback on any costs or savings to your business as a result of the proposed guidance on determining the scope of a review and remediation program.- NONE, the potential costs and unknown risks to AFSL licensees and Authorised Representatives will be so bad no one will want to stay as a Financial planner. ASIC 's budget does not permit it to be effective now so ASIC wants to pass the cost and risk onto AFSL and AR to the detriment of everyone.

E2Q2 Please provide feedback on any costs or savings to your business as a result of the proposed guidance on the processes for a review and remediation program. – NONE, there is no possible saving to any AFSL or AR and the higher cost and risk imposed by CP247 is not worth us staying in business.

E3Q1Is it reasonable for advice licensees to make a decision on whether to remediate a client within 90 days of the client being notified that they are within the scope of the program? If not, what other timeframe would be appropriate? If a timeframe is not appropriate, are there other ways to ensure advice is reviewed in a timely way (e.g. regular reporting to the public or clients)? – NONE, there can be no time limit to make decisions as the problem and evidence will not be available if it has been missed by IDR, EDR, Audit or consumer complaint. There is no need for CP247.

E3Q2 What types of remediation (monetary or non-monetary) should advice licensees provide to clients? Are there any types of remediation licenses should not provide? – NONE. Just asking this question shows the stupidity of CP247. Maybe a roll of toilet paper.

E3Q3 Should advice licensees apply the interest rate (to calculate monetary loss) used by their relevant EDR scheme? If not, please provide alternatives. – NO, the Client has not even noticed a problem or they would have made an IDR or EDR complaint when they became aware of a problem.

E3Q4 Are there any circumstances, other than those listed at paragraph 129, when it would or would not be appropriate to have advice peer reviewed? If so, please specify. – NO, what would a peer review do that an AFSL, ASIC, AR, IDR, EDR or media do other than add cost for nothing. Who would be a Peer with experience to review anything.

E4Q1 Should all review and remediation programs involve a level of independent oversight? If not, in what circumstances would independent oversight be unnecessary? – NO, ASIC, EDR, media and Courts are sufficient independent oversight. Further regulation is unnecessary red tape.

E4Q2 Do you agree that persons who are internal or external to the advice licensee are appropriate to provide independent oversight, depending on the circumstances? If not, why not? – NO, ASIC imply IDR and EDR do not work and are incompetent. How will you find experienced independent parties who are better than AFSL's IDR, EDR or ASIC? What circumstances would be defined as applicable?

E7Q1 Do you agree that advice licensees should consider reporting publicly on review and remediation programs? If not, why not? – NO, CP247 should be abandoned. ASIC and media will report publicly and hold AFSL's accountable.

F1Q2 Please provide feedback on any costs or savings to your business as a result of this proposed guidance. – There will be no savings and extensive risk of future costs defending unnecessary potential investigations for no benefit. Anyone engaged in bad behavior will have long ago closed their business or disappeared or bankrupt so only honest operators will be affected.

F2Q2 Is 10 working days an appropriate timeframe for advice licensees to follow up in writing any verbal communication of key information to clients (see paragraph 161)? If not, please specify what an appropriate timeframe is. – NO, can ASIC or any business comply with time limits in legal matters that require evaluation of evidence that has been missed by all other audit and compliance programs?

G1Q2 Should the limits on some forms of compensation not be waived? If so, please specify what limits should not be waived and in what circumstances. - There will be no way of defining limits or compensation requirements when no one knows what the problem might be. The Client and industry has not been aware of the problem and ASIC should have used its powers to investigate or Enforceable Undertaking earlier.

G1Q3 Is assistance to clients wishing to seek professional advice required in all circumstances? If not, when would it be required? – NO, lawyers would love another open chance to attack AFSL or AR like they currently do with Wills, Workers Compensation and TPD insurance claims.

G1Q5 Please provide feedback on any costs or savings to your business as a result of the proposed guidance on the external review of decisions of review and remediation programs. – CP247 is very poor regulation where aims and benefits are not defined, problems and risks are unknown and it should be cancelled.

H1Q2 Will our proposed amendment change existing record-keeping practices? If so, please describe the changes involved. – Compliance will greatly increase record keeping practices and good financial

planners will not practice in many areas of financial advice as the risk to reward will make much new business uneconomic to complete. Higher risk will attach to dealing with high net worth individuals. Scope of financial advice will be very basic and safe so Clients will no longer see any value in paying for financial advice.

H1Q3 Please provide feedback on any costs or savings to your business as a result of the proposed amendment. – If CP247 becomes regulation, there will be extra costs, no savings, no benefit and most honest financial planners will exit the financial planning industry. ASIC will have nothing valuable to regulate. Congratulations on a job well done.

ASIC REPORT 391 - Our approach to deregulation

5 We take a broad approach to deregulation. We believe the following are the key areas that contribute to the goal of reduced regulatory burden and lower compliance costs for the people and businesses we regulate: reducing the total number of regulations that must be complied with; removing existing regulation that is onerous, excessive or does not serve clear policy goals; increasing the clarity of regulatory requirements to ensure regulation is more effective by being easier and less costly to comply with; ensuring regulatory requirements are set out in as few locations as possible, to make it easier for businesses to understand their obligations and how to comply with them; considering alternative or non-government regulation where appropriate, including self-regulation and co-regulation; reducing the cost of complying with regulation—for example, by reducing the number of processes that are required to be satisfied, or the number of times a person has to interact with a government agency; and improving the processes by which regulation is developed and ensuring that any regulation developed is well designed to meet its policy goals.

7 We have the most impact regarding reducing the cost of complying with regulation by working closely with businesses and individuals to ensure that our activity does not introduce unnecessary additional regulatory requirements, and providing guidance and relief where appropriate. We also strive to adopt a risk-based approach to regulation so that our actions are appropriate and proportionate—for example, the level of information we seek from Australian financial services (AFS) licence applicants depends on a risk assessment.

We also seek regular feedback on our performance and change our processes and practices in response to this feedback. We want to achieve our and the Government's regulatory goals in a way that ensures businesses are able to comply with the law with as little effort and paperwork as possible.

Much of our ongoing work minimises compliance costs and red tape. To complement our ongoing work we periodically undertake specific initiatives targeted at reducing compliance costs and burdens for regulated businesses.