



Compliance Report (Part 3)

Commonwealth Financial Planning Limited and Financial Wisdom Limited

Report of Compliance Expert

3 November 2017

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KordaMentha
Forensic

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Background Information and Disclaimer

This report is prepared by KordaMentha Forensic as the compliance expert engaged by ASIC under the additional Licence Conditions imposed by ASIC on two AFS Licensees: Commonwealth Financial Planning Limited ABN 65 003 900 169 (AFS Licence No: 231139) and Financial Wisdom Limited ABN 70 006 646 108 (AFS Licence No: 231138) ('Additional Licence Conditions'). Both Licensees are subsidiaries of the Commonwealth Bank of Australia ABN 48 123 123 124. The report deals only with the issues set out in the Additional Licence Conditions.

For ASIC purposes, this is ASIC Report 549 and is available on the ASIC website at asic.gov.au.

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3 November 2017

By email: Joanna.bird@asic.gov.au
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Dear Joanna and Louise,

**Compliance Report (Part 3) of the Compliance Expert appointed under the Additional
Licence Conditions of CFPL and FWL**

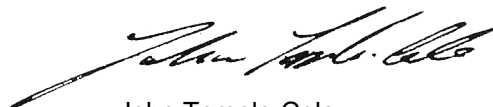
This Compliance Report (Part 3) has been prepared by KordaMentha Forensic. It has been prepared pursuant to our appointment as Compliance Expert concerning the Additional Australian Financial Services Licence Conditions imposed on two subsidiaries of the Commonwealth Bank of Australia: Commonwealth Financial Planning Limited (CFPL) and Financial Wisdom Limited (FWL).

We would like to acknowledge the co-operation provided to us by both ASIC and the Commonwealth Bank of Australia in the preparation of this report, and the KordaMentha Forensic engagement team involved in preparing it.

Yours sincerely



Owain Stone
Partner
Project Leader



John Temple-Cole
Engagement Partner

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A. Executive summary

Introduction

1. The Commonwealth Bank of Australia Group ('CBA') includes two financial planning entities known as Commonwealth Financial Planning Limited ('CFPL') and Financial Wisdom Limited ('FWL') ('Licensee' or 'Licensees')¹. Both Licensees are required to be licensed by the Australian Securities and Investments Commission ('ASIC').
2. On 19 August 2014, ASIC imposed, by consent, Additional Licence Conditions on the Licensees, under which we have been engaged to provide three written reports – the Comparison Report (published on 23 April 2015), the Identification Report (published on 17 December 2015) and the Compliance Report.
3. We are required in the Compliance Report to review the Licensees' compliance with Additional Licence Conditions 24 to 31(a) (inclusive) and provide our opinion as to whether the Licensees have complied with those conditions.
4. The Compliance Report has been provided in stages and addresses the following scope:
 - a. Parts 1 and 2 of the Compliance Report were published by ASIC on 5 December 2016 and considered the Licensees' compliance with Additional Licence Conditions 24 to 28 and 30 to 31(a) (inclusive).
 - b. Part 3 of the Compliance Report (this report) considers the Licensees' compliance with Additional Licence Conditions 29(a) and (b), including whether the Licensees have appropriately applied the Additional Processes identified as a result of our Identification Report, which require the Licensees to review a prescribed sample of client files² of a further 17 advisers to determine whether the clients of those advisers should be included in a compensation program.
 - c. Part 4 of the Compliance Report will consider the Licensees' compliance with Additional Licence Condition 29 (c)³, including whether the Licensees have undertaken appropriate review and remediation for the clients of any advisers identified as a result of this report. As the Licensees' activities in this respect are ongoing, this Part of our report will be published separately.

Overall opinions relating to the application of the Additional Processes

5. We have reviewed the Licensees' approach to selecting client files of the 17 advisers for review in accordance with Step 1 of the Additional Processes and the Licensees' approach to the review of Client Files as required by Steps 2 to 4 of the Additional Processes. In our opinion, the Licensees' approach is reasonable and consistent with the requirements of the Additional Processes.
6. In our opinion, the Licensees' review of client files for the 17 advisers (through the Pilot Program⁴ and the Initial Review Program) and the Licensees' review of client files for six of those 17 advisers in the Further Review Program satisfy the requirements set out in Steps 2 and 3 of the Additional Processes and the further reviews required under Step 4 of the Additional Processes. In this respect, the Licensees have complied with Additional Licence Conditions 29(a) and (b).

¹ For ease, we will refer throughout this report to 'the Licensee(s)', but this may refer, depending on the context, to CFPL, FWL, or CBA as a whole.

² The review referred to in this report concerns advice provided to the client by the adviser in the period prior to July 2012 (the period prior to the period covered by the 2012 PARR Review).

³ Paragraph 191 of the Identification Report states that 'As we have found that there was a reasonable basis for the steps taken by the Licensees to identify Affected Clients of IFRs, there are no Revised Steps'. As a result, Licence Condition 29(d) is not applicable.

⁴ The terms 'Pilot Program', 'Initial Review Program' and 'Further Review Program' are defined in the glossary provided at Appendix A.

Overall findings relating to the application of the Additional Processes

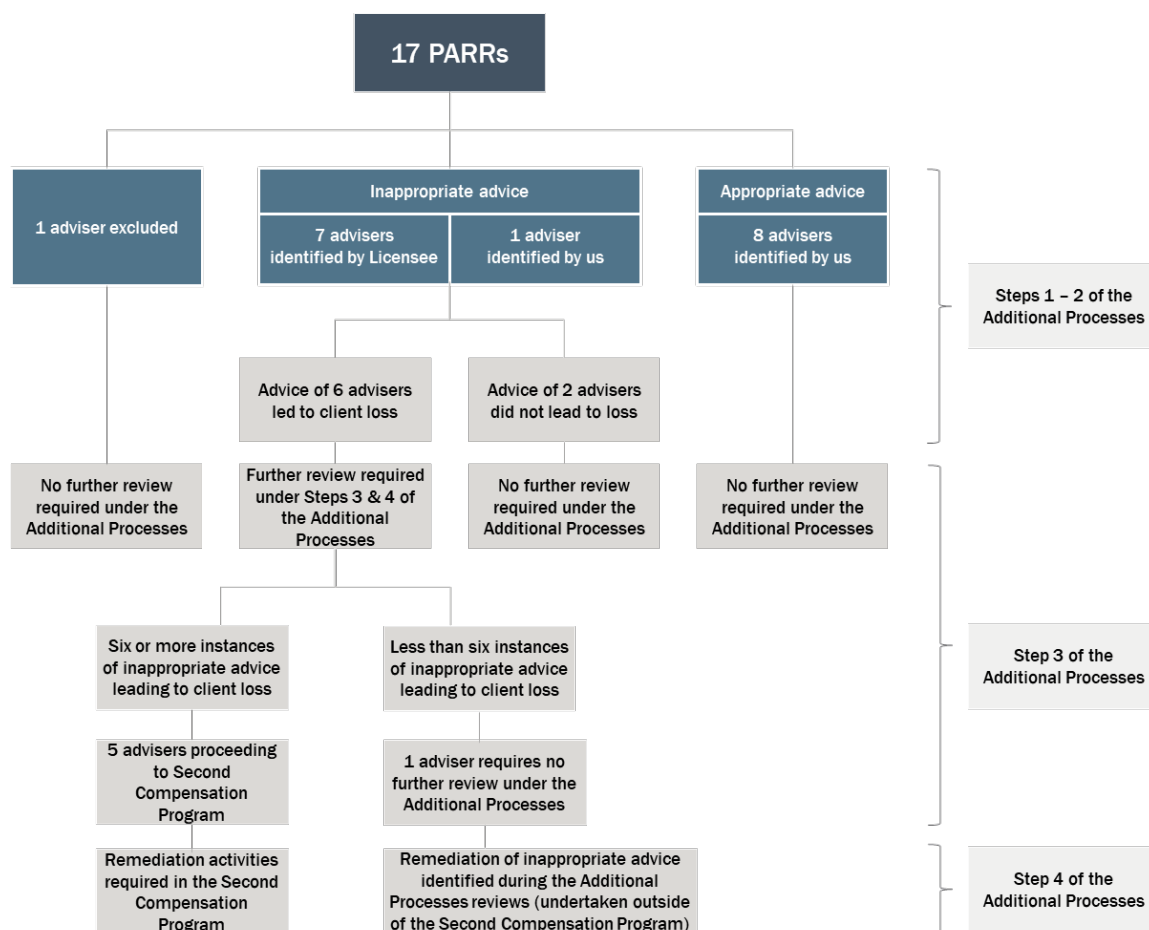
7. The findings of our review activities and the Licensees' review activities in relation to the 17 advisers, as required under the Additional Processes, are summarised in Figure 1 below and as follows:
 - a. The Licensees are required to undertake a full review of all client files of five of the 17 advisers in a compensation program. This compensation program (including file reconstruction where necessary) will be conducted in accordance with the same methodology used in the Compensation Program⁵, and is required under Step 4 of the Additional Processes, the Additional Licence Conditions and the Additional Elements (referred to as the **'Second Compensation Program'** in this report).
 - b. 11 advisers have been reviewed in accordance with the Additional Processes and shall not proceed to the Second Compensation Program because fewer than six instances of inappropriate advice leading to client loss were identified (six instances being the trigger under the Additional Processes). However, the clients of these advisers who were identified during our review as having received inappropriate advice shall be remediated by the Licensees as discussed in the body of this report.
 - c. One adviser was correctly excluded from the Licensees' review under the Additional Processes following further review by the Licensees which identified that the adviser is not a Deductive PARR.⁶
 - d. \$1.2 million of client loss⁷ was identified by the Licensees for the Client Files reviewed under the Additional Processes.

⁵ Including identification of the subject of concern and scoping, as required under Step 4 of the Additional Processes and discussed in Section D and Appendix D of the Identification Report.

⁶ Refer to discussion from paragraph 149.

⁷ Client loss amounts disclosed in this report include interest.

Figure 1: Summary of Additional Processes review results



8. The key reasons for inappropriate client advice findings, as identified by the Licensees and the Financial Planning Expert were:
- Inappropriate asset allocation for the client's risk profile;
 - Overweight in property investments;
 - Inappropriate product replacement;
 - Inappropriate insurance recommendations and/or lost insurance cover or benefits;
 - Inappropriate internal gearing recommendations;
 - Inappropriate assessment of clients' risk profiles;
 - Loss of Centrelink Age Pension entitlement;
 - Loss of defined benefit entitlement;
 - Inappropriate tax outcome; and/or
 - Lost guaranteed capital.

Detail of findings resulting from the Additional Processes

9. During Project BIM, which was undertaken in 2012, the Licensees engaged Consulting Firm 1 to undertake data analytics testing for the purpose of identifying advisers *'who exhibited risk attributes or behaviours which indicated the relevant representatives may have provided inappropriate advice'* (referred to as Potential at Risk Representatives or **'PARRs'**). Although identified as exhibiting such risk attributes, following further review by the Licensees, these advisers⁸ were not included by the Licensees in the Compensation Program.
10. We determined, in our Identification Report, that the Licensees had performed insufficient review of 17 of the PARRs identified during Project BIM. We found these 17 advisers had been identified by the Licensees through Project BIM in 2012, and subsequently excluded by the Licensees from the Compensation Program, but had not received sufficient review for the Licensee to make that determination. This meant the clients of these advisers were not provided with the opportunity to participate in the Compensation Program, including access to independent review of their advice.
11. The Additional Processes in our Identification Report set out the further review activities required under the Additional Licence Conditions for these 17 advisers to determine whether they should be included in a compensation program.
12. The Licensees undertook their review activities required under the Additional Processes in the following phases:
 - a. The Pilot Program (for one adviser) as a trial of the proposed review processes to identify and resolve potential issues before undertaking their further reviews;
 - b. The Initial Review Program which was the Licensees' review of six Client Files for each of the remaining 16 advisers⁹ as required under Step 2 of the Additional Processes; and
 - c. The Further Review Program which was the Licensees' review of additional Client Files for six advisers as required under Steps 3 and 4 of the Additional Processes.

Initial review of 17 advisers

13. The Licensees undertook their review of six Client Files for each of 16 advisers (as required under Step 2 of the Additional Processes) in the Pilot Program and Initial Review Program.
14. The Licensees reviewed files for one other adviser (Adviser 118) in preparation of the Initial Review Program and identified that Adviser 118 is not a Deductive PARR. As a result, the Licensees submitted that Adviser 118 should not be reviewed further under the Additional Processes or the Additional Licence Conditions. We reviewed the Licensees' submission and agreed that Adviser 118 should not be reviewed further.
15. As a result of the Licensees' review activities in the Pilot and Initial Review Programs, and our review of those activities, six of the 16 advisers reviewed were identified as having provided inappropriate client advice which led to client loss and, therefore, required further review of Client Files under Step 3 of the Additional Processes.

Further Review Program for six advisers

16. The Licensees undertook their review of the six advisers identified as providing inappropriate advice which led to client loss (as required by Steps 3 and 4 of the Additional Processes) in the **'Further Review Program'**. Of these six advisers:

⁸ Also referred to as 'high risk planners' by the Licensees (refer to paragraph 98 of the Identification Report).

⁹ As discussed below and from paragraph 149, Adviser 118 was subsequently excluded from the Initial Review Program.

- a. Two advisers were originally identified by Consulting Firm 1 using deductive data analytics tests, but were not included in the Compensation Program. The purpose of that testing was to identify advisers with clients who had a 'high inherent risk of receiving poor quality advice' based on the advice strategy the clients received. These advice strategies were determined by having regard to the analysis of certain risks and issues and the data that was readily available and usable for the deductive testing performed¹⁰; and
 - b. Four advisers were identified by Consulting Firm 1 using inductive data analytics tests, but were not included in the Compensation Program. The purpose of that testing was to identify advisers who were potentially at risk of providing inappropriate advice, but had not previously been identified as such by the Licensees. The inductive testing involved comparing a broad range of approximately 800 attributes of certain IFRs and other known advisers who may have provided inappropriate advice to the attributes of all other Licensee advisers.¹¹
17. As a result of the Licensees' review activities in the Pilot, Initial Review and Further Review Programs, and our review of those activities, five of the 17 advisers were identified as having provided six or more instances of inappropriate advice which led to client loss.¹²
 18. A total of 411 instances of advice were reviewed by the Licensees during the Pilot, Initial and Further Review Programs, with 334 instances of appropriate advice (81.3%) and 77 instances of inappropriate advice (18.7%) identified.¹³
 19. Step 4 of the Additional Processes requires a full review of all client files for these five advisers (including File Reconstruction where necessary) in the Second Compensation Program. Broadly, the Second Compensation Program covering these five advisers will involve review and compensation activities undertaken by the Licensees which are designed to identify where inappropriate advice was provided to a client resulting in the need for compensation and, if so, restore the client to the position that they would have been in had they received appropriate advice.

¹⁰ Refer to paragraph 101 of the Identification Report.

¹¹ Refer to paragraphs 103 and 104 of the Identification Report.

¹² The remaining adviser reviewed in the Further Review Program (Adviser 63) was determined to have provided fewer than six instances of client advice leading to loss.

¹³ The Licensees were required to review known Areas of Concern of advisers identified through deductive testing.



B. Scope of our work

Scope of Additional Licence Conditions and our Engagement

20. On 19 August 2014, ASIC imposed, by consent, Additional Licence Conditions to the Australian Financial Services Licences of the Licensees. The Additional Licence Conditions arose because of differences in the processes that the Licensees followed in Project Baringa compared to Project Hartnett.
21. KordaMentha Forensic is the Compliance Expert appointed by ASIC under clause 23 of the Additional Licence Conditions. The scope of our engagement is defined in the Additional Licence Conditions. We are to produce three reports referred to as:
 - a. Comparison Report (published by ASIC on 23 April 2015);
 - b. Identification Report (published by ASIC on 17 December 2015); and
 - c. Compliance Report:
 - i. Parts 1 and 2 (published by ASIC on 5 December 2016);
 - ii. Part 3 (this report); and
 - iii. Part 4 to be published separately.
22. For context in understanding this report, we have briefly summarised the scope and opinions from these three reports below.
23. Appendix A is a glossary of defined terms.

Scope of the Comparison Report and our opinions

Purpose

24. The Comparison Report was published by ASIC on 23 April 2015.¹⁴
25. The Comparison Report identified the differences in the process steps undertaken by the Licensees for communicating with:
 - a. Clients who received advice from banned former CFPL advisers Don Nguyen and Anthony Awkar, and who were remediated under a compensation program known as Project Hartnett¹⁵; and
 - b. Certain clients of a further 15 former CFPL and FWL advisers who gave advice between 2003 to 2012, many of whom were offered compensation as a result of adviser misconduct, in a separate Compensation Program known as Project Baringa.

Our opinions

26. The Comparison Report identified certain process steps applied in Project Hartnett that were not applied in the Compensation Program (referred to as '**Additional Elements**'), namely:
 - a. In the Compensation Program most clients assessed did not receive an Initial Letter, indicating that the advice they received was being investigated and that CFPL would contact them with the outcome, or else received a letter that was inconsistent with those used in Project Hartnett;

¹⁴ Refer to the Comparison Report.

¹⁵ Being a compensation program undertaken in 2011 and 2012.

- b. In the Compensation Program, no clients received an offer of up to \$5,000 for independent professional advice to help them assess the validity of the Licensees' review of their advice, an offer which had generally been made in Project Hartnett; and
 - c. In Project Hartnett, clients who received the Initial Letter indicating there was an investigation being conducted into the advice provided to them, but who were determined by the Licensees not to be entitled to compensation, received a letter stating this result of the file review. However, in the Compensation Program, while some clients received a letter offering compensation or advising they were not entitled to compensation, most clients reviewed received no such communication.
27. The Additional Licence Conditions required the Licensees, amongst other things, to apply the Additional Elements to Affected Clients. It was agreed with ASIC that the Licensees would also write to No Evidence of Advice Clients. After having also agreed with ASIC that three of these No Evidence of Advice Clients would be exempt from this process,¹⁶ this left 1,626 cases. Therefore, the Additional Elements identified above were to be applied to the 4,333 Cases¹⁷, which was to involve:
- a. Writing to the 2,707 Affected Clients offering them up to \$5,000 to have their financial advice independently reviewed and the other options described above; and
 - b. Writing to a further 1,626 No Evidence of Advice Clients informing them that the Licensee's review of their file found no evidence that they had received advice, but if that is not correct, the clients will be offered \$5,000 assistance and all the options available under the Additional Licence Conditions.
28. These communications with each of the 4,333 Cases were required to be undertaken within 30 days of the publication of the Comparison Report (i.e. by 22 May 2015), unless otherwise agreed with ASIC.

Scope of the Identification Report and our opinions

Purpose

29. The Identification Report was published by ASIC on 17 December 2015.¹⁸
30. The scope of that report required us to provide our opinion in relation to three key aspects:
- a. Whether there was a reasonable basis for the processes undertaken by the Licensees to identify the clients of the 15 advisers ('**Identified Former Representatives**' or '**IFRs**') that were considered in the Compensation Program;
 - b. Whether there was a reasonable basis for the processes undertaken by the Licensees to identify whether advisers other than those 15 IFRs considered in the Compensation Program also exhibited risk attributes or behaviours which indicated the relevant advisers may have provided inappropriate advice; and

¹⁶ CBA proposed, and ASIC agreed, that it would not write remediation letters to three Affected Clients as they were, or had an association with an Identified Former Representative, whose advice was being reviewed under these Additional Licence Conditions.

¹⁷ The 4,333 Cases comprises the 4,330 cases identified at the time of writing the Comparison Report, plus six additional cases identified subsequently by the Licensees, less three cases of No Evidence of Advice Clients that were agreed with ASIC that were exempt from the Additional Elements. In our [Comparison Report](#), Appendix E, we reported that there were 2,740 Affected Clients and 1,590 No Evidence of Advice Clients. As a result of the Licensees subsequently performing reassessment of some of these cases, 56 Affected Clients were identified as actually not being provided with advice and therefore are now No Evidence of Advice Clients. Similarly, 17 No Evidence of Advice Clients were identified as having received advice and are now Affected Clients. Additionally, there were six further Affected Clients identified resulting from split cases and review of Adviser 19, as well as three cases that were agreed with ASIC would be exempt from this process. This results in 2,707 Affected Clients and 1,626 No Evidence of Advice Clients.

¹⁸ Refer to the [Identification Report](#).

- c. Whether there was a reasonable basis for the additional processes that the Licensees undertook to determine whether any of the 51 PARRs who were identified ought to have been assessed as part of the Compensation Program.

Our opinions

31. In the Identification Report we found that in 2012 the Licensees took reasonable steps to identify which clients of the 15 IFRs should have been included in the Compensation Program.
32. The Identification Report also found that the Licensees took reasonable steps to identify whether there were any PARRs.
33. However, we found that the Licensees did not have a reasonable basis for the processes the Licensees used to determine whether 17 of the PARRs should have been included in the Compensation Program.
34. As a result of our findings, CFPL and FWL were required to apply Additional Processes, involving the review of the Client Files of the 17 PARRs to determine whether those advisers should be included in a further compensation program.
35. Clients of those 17 advisers who are found to have suffered a loss as a result of inappropriate advice provided by the Licensees' advisers will be compensated in a process to be overseen by KordaMentha Forensic and reported on in Part 4 of the Compliance Report. This will be published separately.

Scope of the Compliance Report (Parts 1 and 2) and our opinions

Purpose

36. In the Compliance Report we are required to review the Licensees' compliance with Additional Licence Conditions 24 to 31(a) (inclusive) and provide a written report outlining the Compliance Expert's opinion as to whether the Licensees have complied with those conditions.
37. Parts 1 and 2 of the Compliance Report were published by ASIC on 5 December 2016¹⁹ and considered the Licensees' compliance with Additional Licence Conditions 24 to 28 and 30 to 31(a) (inclusive).²⁰
38. The scope of Parts 1 and 2 of the Compliance Report required us to provide our opinion on:
 - a. Whether the Licensees appropriately applied the Additional Elements identified as a result of our Comparison Report to the 4,333 Cases, including writing to them in the agreed form, offering up to \$5,000 for assistance, reassessing their advice (if requested to do so, and including consideration of any information provided by the client) and compensating them where required; and
 - b. Whether the Licensees complied with certain requirements of an administrative nature under the Additional Licence Conditions.

Our opinions

39. The table below outlines the Licensees' compliance with each of the Additional Licence Conditions required to be applied to the 4,333 Cases.

¹⁹ Refer to the Compliance Report (Parts 1 and 2).

²⁰ Additional Licence Conditions 29(a) and (b) are considered in Part 3 of the Compliance Report (this report) and Additional Licence Condition 29(c) will be considered in Part 4 of the Compliance Report.



Table 1 – Summary of compliance

Additional Licence Condition		Compliance
Condition 24	Reasonable access for Compliance Expert.	Yes
Condition 25	Written communications with the 4,333 Cases (by 22 May 2015, unless otherwise agreed with ASIC).	99.95%
Condition 26	Provision of information to Independent Adviser where requested	
	• Timing requirement (provided to clients within 14 days)	98.10%
	• Reasonably sufficient information requirement.	Yes
Condition 27	Further Licensee Review (completed within 90 days of client request).	92.50%
Condition 28	Further Licensee Review outcome letter (completed within 30 days of completion of Condition 27).	97.50%
Condition 30	Licensee status reports to ASIC.	Yes
Condition 31(a)	Inclusion on CBA Board meeting agenda.	Yes

Source: Compliance Report (Parts 1 and 2).

Scope of the Compliance Report (Part 3) and our opinions

Purpose

40. The scope of Part 3 of the Compliance Report (this report) requires us to provide our opinion on the Licensees' compliance with Additional Licence Conditions 29(a) and (b) regarding whether the Licensees have satisfied the requirements of the Additional Processes for the 17 PARRs identified as requiring further review in our Identification Report.
41. It should be noted that these 17 PARRs were not included by the Licensees amongst the 15 IFRs that were considered in the Compensation Program, on the basis that the Licensees' own reviews had not identified any indicators that they should be included.
42. We found, for the reasons set out in our Identification Report, that the Licensees did not have a reasonable basis for the processes they used to determine whether these 17 PARRs should have been included in the Compensation Program.
43. As a result, the 17 PARRs were identified by us as requiring further review. This report therefore assesses whether the Licensees have appropriately applied the Additional Processes, which require the Licensees to review a prescribed sample of Client Files of the 17 advisers to determine whether the clients of those advisers should be included in the Second Compensation Program.
44. In the body of our report, we set out our review and opinions concerning whether the Licensees have appropriately applied the Additional Processes to the Client Files of the 17 advisers, following our review of the various components of work undertaken:
 - a. Sampling Methodology;
 - b. File Review Process;
 - c. Pilot Program;
 - d. Initial Review Program; and
 - e. Further Review Program.

45. Part 4 of the Compliance Report will require us to provide our opinion on Additional Licence Condition 29(c)²¹ regarding whether the Licensees have satisfied the remediation requirements for Other Affected Clients identified as a result of the review of the PARRs. As the Licensees' work is ongoing as part of the Second Compensation Program, this will be published separately.

Definitions in the Additional Licence Conditions

46. It is important, in our opinion, for readers of this report to understand the definitions of the key terms contained in the Additional Licence Conditions, which act to define the scope of this Compliance Report.
47. These definitions are set out in the Glossary in Appendix A.

Information relied on

48. The statements and opinions contained in this report are given in good faith, and to a large extent depend upon the accuracy and completeness of information and documentation provided to us by the Licensees, and explanations provided to us by the Licensees' employees, Consulting Firm 1, and the Licensees' legal representatives. KordaMentha Forensic does not warrant the accuracy or reliability of any of the information supplied to it. The scope of this Compliance Report does not extend to testing the accuracy and completeness of the information provided to us. However, to satisfy ourselves that the information provided to us was suitable for the purposes of this report, we undertook various steps to assess, question and consider the information provided to us, as described in each section below.
49. This report has been prepared by KordaMentha Forensic with care and diligence.

References to adviser and client names

50. Much of the information provided to us concerns and identifies the names of individual advisers. Apart from two advisers dealt with under Project Hartnett (Mr Don Nguyen and Mr Anthony Awkar, who are referred to in our reports as '**Hartnett Adviser 1**' and '**Hartnett Adviser 2**' respectively), we have anonymised the names of the individual advisers for legal reasons. We have therefore used an 'Adviser Number' for each adviser referred to by us, consistent with the approach adopted in the Comparison Report and the Identification Report.
51. Further, for reasons of privacy, we have not referred to individual client names.

²¹ Licence Condition 29(d) is not applicable.



PART 3 – Application of Additional Processes



C. Sampling Methodology

Our opinion

52. We have reviewed the Licensees' approach to selecting Client Files of the 17 PARRs for review in accordance with Step 1²² of the Additional Processes and, in our opinion, the Licensees' approach is reasonable and consistent with the requirements set out in the Additional Processes.

Background

53. The Licensees have designed and adopted a methodology to select Client Files for review in accordance with the requirements of the Additional Processes. This process is referred to as the Sampling Methodology.
54. The Licensees engaged Consulting Firm 1 to separately assess the reasonableness of the Sampling Methodology and assist with certain aspects of the file selection process. The steps undertaken by Consulting Firm 1 are explained below (from paragraph 58) in greater detail in our discussion of the Overview of the Sampling Methodology and our testing of the process.

Our review

55. The purpose of our review of the Sampling Methodology was to assess the methodology which the Licensees had developed to select Client Files for review which, if adhered to, would allow the Licensees to comply with the requirements of Step 1 of the Additional Processes.
56. Our review of the Sampling Methodology included the following steps:
- a. An initial meeting with the Licensees where they provided an overview of the Sampling Methodology process and explained the analytical approaches adopted in the Sampling Methodology.
 - b. A review of draft Sampling Methodology documents.
 - c. Discussion with the Licensees of our initial queries and comments relating to the draft Sampling Methodology documents.
 - d. A review of final Sampling Methodology documents updated following the Licensees' consideration of our initial queries and comments.
 - e. Provision of our comments to the Licensees relating to the final Sampling Methodology documents.
 - f. A review of the Licensees' response in relation to our final comments.
 - g. Preparation of our report documenting our opinion of the Sampling Methodology in relation to the requirements of Additional Licence Condition 29 and the Additional Processes.
57. Our review has involved engagement with the Licensees to ensure that they were provided the opportunity to update their processes, where necessary, in response to questions and issues raised by us and to meet the requirements of Additional Licence Condition 29 and the Additional Processes.

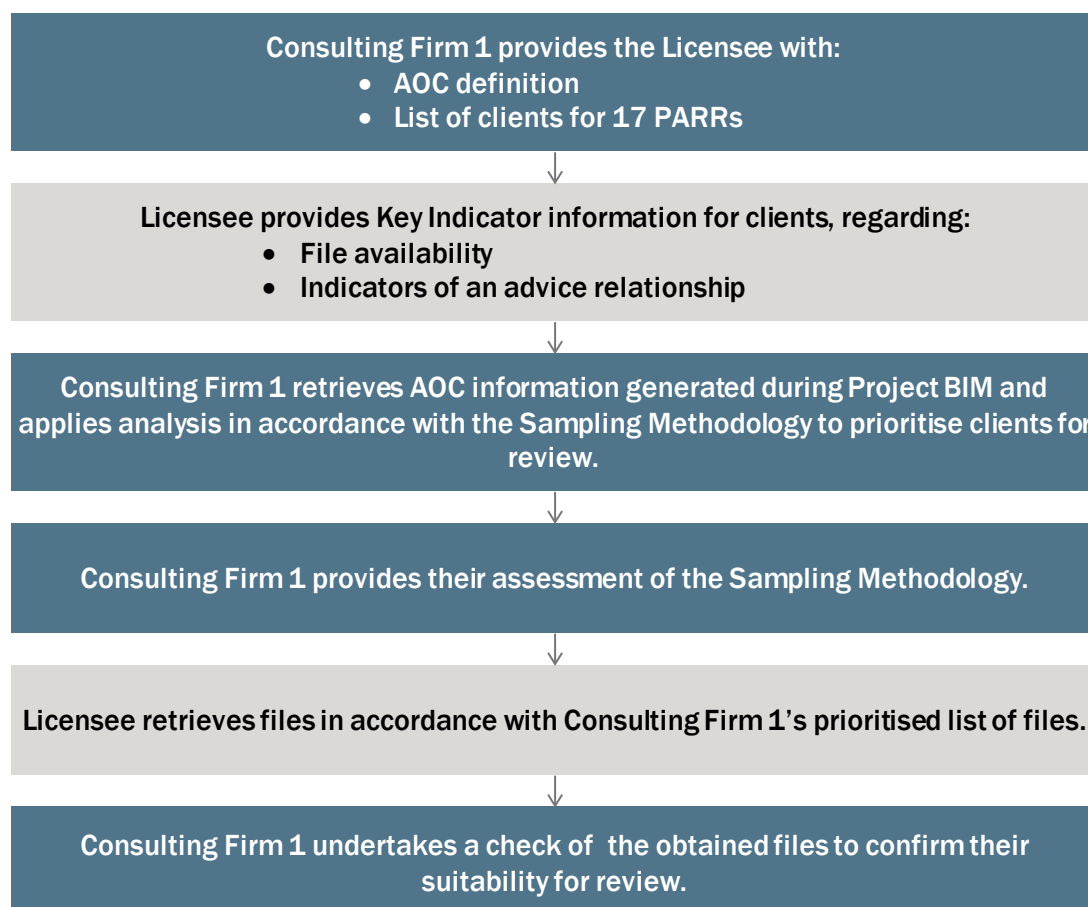
Overview of the Sampling Methodology and our testing of the process

58. The following diagram provides a summary of the Licensees' and Consulting Firm 1's involvement in the Sampling Methodology process.

²² Refer to Step 1 as detailed at paragraph 195 of the Identification Report.



Figure 2: Overview of Sampling Methodology



AOC for Deductive PARRs

59. Step 1 of the Additional Processes includes a requirement in respect of Deductive PARRs that the Licensees identify an Area of Concern ('AOC'), being the particular area of advice that was the reason in Project BIM for the identification of the adviser as a PARR.
60. The Licensees engaged Consulting Firm 1, which had been engaged to perform the data analytics in Project BIM, to provide AOC definitions.²³
61. We have reviewed the various AOC definitions proposed by Consulting Firm 1 and confirm that they are consistent with previous information provided to us regarding the data analytics tests used in Project BIM.

Client Files

62. Step 1 of the Additional Processes includes a definition of a Client File as being a file that contains sufficient information to assess the appropriateness of an example of advice that was provided to the client by the PARR in the period prior to the period covered by the 2012 PARR review. The requirements for both Deductive and Inductive PARRs refer to a sample of available Client Files.

²³ The AOC definitions provided by Consulting Firm 1 were agreed with the Licensees.

63. The Licensees engaged Consulting Firm 1 to provide a complete list of clients identified during Project BIM for the 17 PARRs. The Licensees then reviewed their systems and records to determine:
 - a. Indicators of document availability; and
 - b. Indicators of an advice relationship.
64. Clients whose files had better indicators of document availability were identified by the Licensees by prioritising clients in systems which, in the Licensees' experience, contain more complete and reliable records.
65. The Licensees reviewed their records to determine indicators of an advice relationship in order to deprioritise from the sample files which were likely to have been inherited from other advisers.
66. We have reviewed and discussed the tests used to determine indicators of document availability and indicators of an advice relationship with the Licensees and, in our opinion, the Licensees' approach was reasonable and consistent with the requirements of Step 1 of the Additional Processes.

Prioritising Client Files for selection

67. Consulting Firm 1 was engaged by the Licensees to retrieve AOC information generated during Project BIM in relation to clients of Deductive PARRs. This information was analysed for each client by Consulting Firm 1 to determine the percentage deviation from AOC thresholds.²⁴
68. Consulting Firm 1 prioritised files for retrieval in accordance with the Sampling Methodology ('**Prioritised List**'), as summarised below:
 - a. Files of Deductive PARRs were prioritised for retrieval based on:
 - i. Indicators of document availability;
 - ii. Indicators of an advice relationship; and
 - iii. Analysis of AOC parameters.
 - b. Files of Inductive PARRs were randomly prioritised for retrieval following consideration of:
 - i. Indicators of document availability; and
 - ii. Indicators of an advice relationship.
69. We reviewed the processes and methodology supporting prioritisation of files for the 17 PARR's and, in our opinion, the approach is reasonable and consistent with the requirements of Step 1 of the Additional Processes.

²⁴ Clients with AOC data relating to gearing were provided a binary measure of 'yes' or 'no' rather than a percentage measure of deviation.



D. File Review Process

Our opinion

70. We have reviewed the Licensees' approach to the review of Client Files as required by Steps 2 to 4²⁵ of the Additional Processes and, in our opinion, the Licensees' approach is reasonable and consistent with the requirements of the Additional Processes.

Background

71. The Licensees have designed and adopted a methodology to govern the review of Client Files as required by the Additional Processes. This process is referred to as the Licensees' **'File Review Process'**.
72. The Licensees engaged Consulting Firm 1 to separately assess the reasonableness of the File Review Process and assist with specific roles within the File Review Process. The steps undertaken by Consulting Firm 1 are explained below in greater detail (from paragraph 76) in our discussion of the Overview of the Licensees' File Review Process and our testing of the process.²⁶

Our review

73. The purpose of our review of the Licensees' File Review Process was to assess the methodology which the Licensees developed to govern the process, which if adhered to during the review of Client Files, would provide the Licensees with a reasonable basis to comply with the requirements of the Additional Processes.
74. Our review of the Licensees' File Review Process included the following steps:
- a. A review of draft File Review Process documents.
 - b. Provision to the Licensees of our initial queries and comments relating to the draft File Review Process documents.²⁷
 - c. A review of the Licensees' responses in relation to our initial comments.
 - d. A review of additional and final File Review Process documents updated following the Licensees' consideration of our initial queries and comments.
 - e. Provision to the Licensees of our final queries and comments relating to the updated File Review Process documents.
 - f. A review of the Licensees' responses in relation to our final comments.
 - g. Preparation of our report documenting our opinion of the File Review Process in relation to the requirements of Additional Licence Condition 29 and the Additional Processes.
75. Our review has involved engagement with the Licensees to ensure that they were provided the opportunity to update their processes, where necessary, in response to questions and issues raised by us and to meet the requirements of Additional Licence Condition 29 and the Additional Processes.

²⁵ Refer to steps 2 to 4 as detailed at paragraph 195 of the Identification Report.

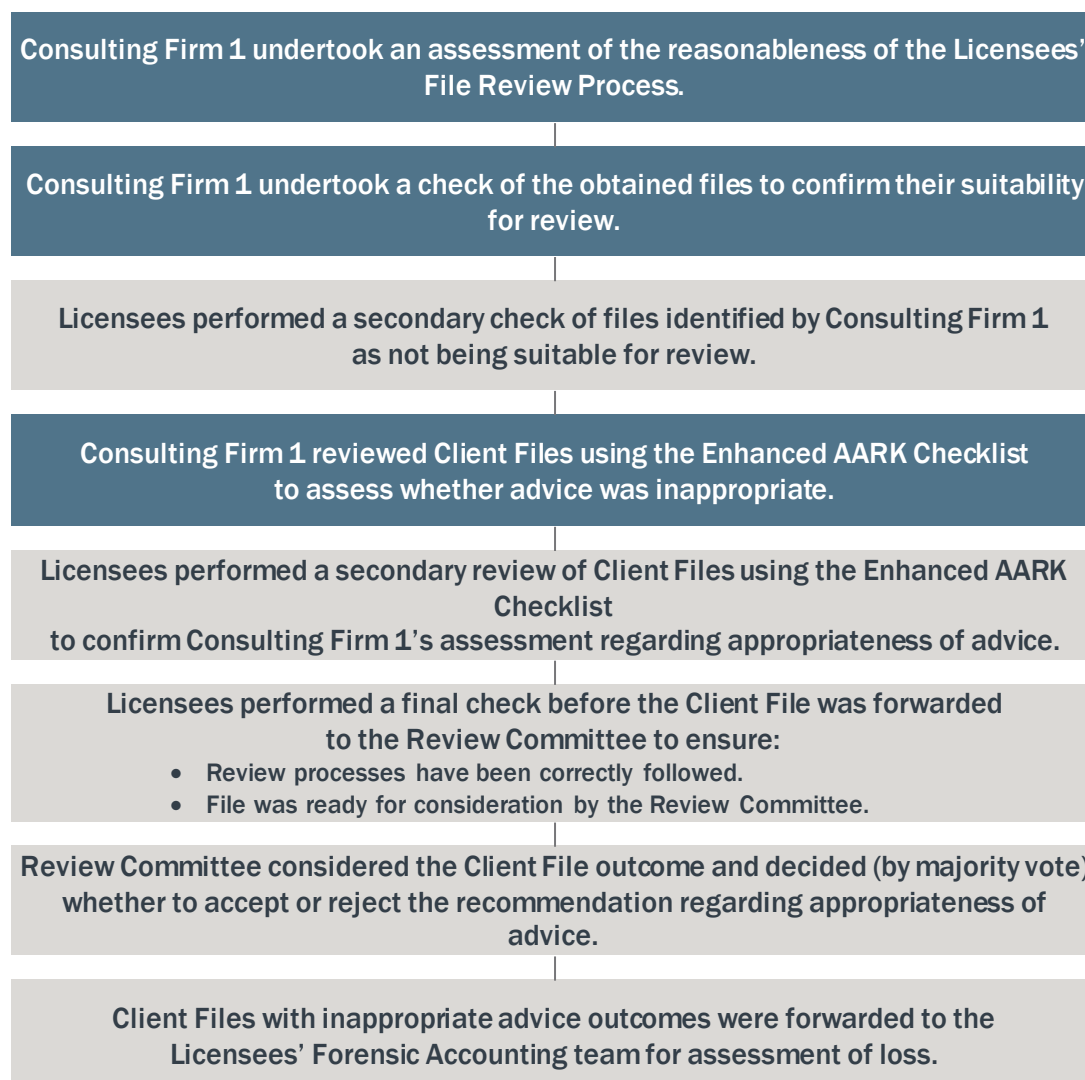
²⁶ Consulting Firm 1 has advised that, whilst Consulting Firm 1 executed specific roles within the File Review Process, no assurance or opinion is provided by Consulting Firm 1.

²⁷ The Licensees were required to undertake File Reconstruction in the event that there was insufficient client information to assess the appropriateness of an example of advice provided. As this circumstance did not eventuate for any of the Client Files of the 17 PARRs, it was not necessary for us to review the File Reconstruction process.

Overview of the Licensees' File Review Process and our testing of the process

76. The following diagram provides a summary of the Licensees' and Consulting Firm 1's involvement in the Licensees' File Review Process.

Figure 3: Overview of the Licensees' File Review Process



Determine suitability of Client Files for review

77. Consulting Firm 1 was engaged by the Licensees to conduct a check of the prioritised files²⁸ to confirm their suitability for Review under the Additional Processes and their inclusion in the File Review Process as Client Files.
78. The Licensees' File Review Process required Consulting Firm 1's review to check that:
- Each Client File contained documentation suitable for review including:
 - Adequate documentation to undertake an assessment of the advice received; and
 - The advice fell within the Review Period;
 - Advice was provided by the PARR;

²⁸ Files were prioritised by Consulting Firm 1 in executing the Sampling Methodology on behalf of the Licensees (discussed from paragraph 67).

- c. Advice had been implemented by the client; and
- d. For Deductive PARRs, each Client File contained at least one instance of advice related to the identified AOC.

79. The Licensees' File Review Process required the Licensees to perform additional checks of any files deemed by Consulting Firm 1 to be ineligible for review (i.e. those considered to not be Client Files). The Licensees' secondary checks were conducted using the same principles as those described above for Consulting Firm 1.
80. We reviewed the processes and methodology supporting the determination of suitability of Client Files for review and, in our opinion, the approach is reasonable and consistent with the requirements of the Additional Processes.

Licensees' engagement of Consulting Firm 1 to review Client Files for appropriateness of advice

81. Consulting Firm 1 was engaged by the Licensees to perform the initial review of Client Files for the 17 PARRs to assess the appropriateness of client advice in accordance with the Additional Processes.²⁹
82. The Licensees' File Review Process required Consulting Firm 1's file reviewers ('**Case Assessors**') to complete the Client File Reviews with reference to the Enhanced AARK Checklist³⁰, the Enhanced AARK Case Assessor Reference Guide and the standard operating procedure for Client File Reviews. Each Client File was assessed for inappropriate advice using these supporting tools. The output of each review was a summary providing the Case Assessor's assessment of advice and any themes identified, referred to as a '**Client File Review Outcome**'.
83. Consulting Firm 1 has advised that its Case Assessors possess a relevant degree (or equivalent experience), RG 146 accreditation and have been provided with training in relation to the key process steps, the Enhanced AARK Checklist and the Enhanced AARK Case Assessor Reference Guide.
84. We reviewed the Licensees' processes and methodology supporting Consulting Firm 1's Case Assessors' Client File reviews and, in our opinion, the approach is reasonable and consistent with the requirements of the Additional Processes.

Licensees' review of Client Files to confirm appropriateness of advice findings

85. The Licensees' File Review Process required the Licensees to review Consulting Firm 1's Case Assessors' assessment of the Client Files to confirm the appropriateness of Consulting Firm 1's advice findings. The Licensees' Client File Reviews were undertaken with reference to the Enhanced AARK Checklist, the Enhanced AARK Case Assessor Reference Guide and the standard operating procedure for Client File Reviews (i.e. the same criteria as Consulting Firm 1).
86. The Licensees' file reviewers ('**Peer Reviewers**') engaged to review Consulting Firm 1's Client File reviews possess the same qualifications as those noted for Consulting Firm 1 at paragraph 83 above. In addition, they are required to possess two or more years' experience in an advice review role.

²⁹ Consulting Firm 1's review of Client Files was completed under the instruction of the Licensees.

³⁰ Step 2 of the Additional Processes requires that for the purposes of the review, the Licensees should use the Project AARK Checklist to assess whether the advice provided was inappropriate and has led to client loss. The Licensees have refined the Project AARK Checklist to produce the '**Enhanced AARK Checklist**' which they used in their review. We have reviewed the Enhanced AARK Checklist and are satisfied that it is appropriate for use in the reviews.

87. Where the Licensees considered additional work should be undertaken or that an alternative position should be considered by the Consulting Firm 1 Case Assessor, the Client Files were returned to the Consulting Firm 1 Case Assessor with an explanation of the Licensees' position regarding the issue requiring further analysis. If the Licensees' Peer Reviewer and Consulting Firm 1's Case Assessor could not agree their position, they referred to the Licensees' Senior Technical Advice Experts ('STAE') for guidance.³¹
88. The respective assessment outcomes of the Consulting Firm 1 Case Assessors and the Peer Reviewers (Licensees) were recorded in the Client File Review Outcome. The Licensees' Peer Reviewer was required to explain any difference in position to the Review Committee.
89. We reviewed the processes and methodology supporting the Licensees' review of Client Files and, in our opinion, the approach is reasonable and consistent with the requirements of the Additional Processes.

Final check of Client Files before submission to the Review Committee

90. The Licensees' File Review Process required that one of the Licensees' STAEs perform a final check of Client Files prior to their submission to the Review Committee for consideration. One STAE was assigned to all cases for a PARR.
91. The STAE's final check of a Client File involved ensuring that the Client File Review Outcome was ready for consideration by the Review Committee.
92. We reviewed the processes and methodology supporting the Licensees' final check of Client Files prior to their submission to the Review Committee and consider that the approach is reasonable and consistent with the requirements of the Additional Processes.

Review Committee considered and decided advice outcomes

93. The Review Committee was responsible for reviewing proposed Client File Review Outcomes and determining whether the proposed Client File Review Outcomes received by it should be accepted.

Composition of the Review Committee

94. The Review Committee Charter required that the Review Committee comprise three voting members:
 - a. A Review Committee Chairperson; and
 - b. Two of the Licensees' STAEs.
95. We have been provided with the qualifications and experience of the Review Committee Chairperson and we consider that they are appropriately qualified to chair the Review Committee and should reasonably be considered independent of perceived or actual conflict with the Licensees.³² We note that the Review Committee Chairperson was engaged by the Licensees as a contractor through the Chairperson's consulting firm.
96. The qualifications and experience of the Licensees' STAEs are provided below at footnote 31. The two STAE voting members of the Review Committee changed depending on the PARR under review. We note that one of the STAEs acting as a voting member on the Review Committee also previously performed the final check of the Client File before its submission to the Review Committee.

³¹ The Licensees' STAEs possess the same qualifications as noted at paragraph 83 and hold a minimum of five years' experience in an advice review role.

³² In addition, the Chairperson and the other voting members of the Review Committee were required to complete a conflict disclosure at the commencement of each Review Committee meeting confirming that they are free of any potential conflicts relating to the relevant Client Files and the PARR who provided the advice.

97. We have been advised by the Licensees that the purpose of the final check by one of the Licensees' STAEs was to confirm the Client File's suitability for review by the Review Committee and not to reach a position regarding the appropriateness of advice.
98. The Review Committee Charter allows that non-voting members of the Review Committee include the:
 - a. Licensees' legal representative (to assist with issues as they arose);
 - b. Licensees' Peer Reviewer who performed the secondary check of the Client File; and
 - c. Review Committee manager responsible for providing administrative support, for example the recording of minutes.
99. The Review Committee could request the assistance of other personnel as required, including the Consulting Firm 1 Case Assessor who performed the initial review of the Client File.

Functionality of the Review Committee

100. The Licensees' File Review Process required the determination of the Review Committee regarding Client File Review Outcomes be made by majority vote. The position of each voting member of the Review Committee was recorded in the Review Committee minutes and was therefore visible to us during our review of the Client Files.
101. Where the Review Committee concluded that the proposed Client File Review Outcome was not supported, it could either return the Client File for rework (if required) or make its own determination regarding the Client File Review Outcome. These decisions and their supporting reasons were documented in the Review Committee Minutes and were visible to us during our review of the Client Files.
102. We reviewed the processes and methodology supporting the composition and operation of the Review Committee and consider that the approach adopted is reasonable and consistent with the requirements of the Additional Processes.

Client Files with inappropriate advice assessed for loss

103. The Licensees' File Review Process required that where the Review Committee determined inappropriate advice had been provided to a client, the Client File was forwarded to the Licensees' Forensic Accounting team for an assessment of loss (if any).
104. Loss was considered to have occurred where the client was in a worse position at the calculation period end date than if they had received appropriate advice from the Licensees. The loss amount was determined as the difference between the actual portfolio performance and an appropriate portfolio performance over the period in which the advice is considered to have been inappropriate.
105. Whilst not determinative of our findings, the Licensees have confirmed to us that the loss assessment methodology is consistent with the remediation methodology under the Open Advice Review ('OAR') Program. The Licensees have also advised us that the loss assessment methodology is consistent with Financial Ombudsman Service ('FOS') principles. Our review of the Initial Review Program considered a sample of loss calculations to confirm that they were applied in a manner consistent with FOS principles. The Licensees' assessment of loss was conducted by appropriately qualified personnel in accordance with a standard operating procedure.
106. The STAE prepared a results pack (including any calculation) for each PARR, including:
 - a. A PARR fact sheet containing a summary of the PARR's characteristics³³ and a record of breach reports, complaints, compensation and advice assurance review ratings;

³³ The PARR's characteristics include the PARR's licensee, authorisation period and inductive or deductive classification.

- b. Identified themes; and
 - c. The Client File Review Outcome for each Client File that received advice from each PARR.
107. We have reviewed the processes and methodology supporting the Licensees' assessment of loss for the File Review Process including the calculation methodology and, in our opinion, the approach is reasonable and consistent with the requirements of the Additional Processes.



E. Pilot Program

Our opinion

108. In our opinion, the Licensees' review of Client Files for Adviser 40 (the '**Pilot Program**') satisfies the requirements set out in the Additional Processes.

Background

109. The Licensees undertook a Pilot Program as a trial of the Sampling Methodology and File Review Process to identify and resolve potential issues before undertaking their review of the remaining advisers.
110. The Licensees chose Adviser 40 for the Pilot Program based on good indicators of likely document availability. Adviser 40 is an Inductive PARR and was a CFPL adviser.
111. The Licensees reviewed six Client Files from the Prioritised List for Adviser 40 and found that all client advice within scope³⁴ on those files was appropriate.

Our review

112. Our review of the Pilot Program included the following components:
- a. Our review of the Licensees' File Review Process to confirm that it complied with the processes discussed earlier in this report³⁵ and satisfied the requirements of the Additional Processes; and
 - b. An assessment of the appropriateness of the client advice contained in the six Client Files reviewed.
113. These elements are discussed in further detail below.

Review of the File Review Process

114. We reviewed the Licensees' File Review Process to confirm that it complied with the requirements of the Additional Processes and with the steps outlined in the Sampling Methodology and File Review Process sections of this report.
115. Our review included the following steps:
- a. Reviewing the Licensees' documentation to confirm that:
 - i. The Licensees' File Review Process was adequately documented.
 - ii. Tasks were undertaken by the appropriate people in accordance with the Sampling Methodology and File Review Process.
 - iii. The Licensees reviewed six Client Files in the order of the Prioritised List³⁶ provided by Consulting Firm 1.
 - iv. Files were checked by Consulting Firm 1's Case Assessors, according to the File Review Process, to determine their suitability for review as Client Files under the Additional Processes.³⁷
 - v. Client Files contained client advice within the correct Review Period.

³⁴ Client advice within scope of the Additional Processes. For example, client advice that meets parameters such as the Area of Concern (where relevant), falls within the relevant Review Period and has sufficient available documentation to be reviewed.

³⁵ The Sampling Methodology and File Review Process discussed at sections C and D of this report.

³⁶ Refer to the discussion from paragraph 67.

³⁷ This check includes factors such as document availability, Area of Concern (in the case of Deductive PARRs) and whether client advice is in the Review Period.

- vi. The File Reviews undertaken by Consulting Firm 1 and the Licensees to determine the appropriateness of client advice were completed in accordance with the Enhanced AARK Checklist.
 - vii. Client File Review Outcomes were appropriately considered and approved by the Review Committee and that the composition of the Review Committee was consistent with the File Review Process.
 - b. Reviewing the Licensees' documentation relating to client advice and Client File Review Outcomes for commentary that would indicate further investigation was required.
 - c. Provision of our initial comments and queries to the Licensee.
 - d. Reviewing the Licensees' response in relation to our initial comments.
 - e. Discussion of our comments and findings with ASIC and the Licensee.
 - f. Preparation of this report documenting our review and opinion of the Pilot Program.
116. Our review involved engagement with the Licensees to provide them with the opportunity to update their processes and provide further information, where necessary, in response to questions raised by us and to meet the requirements of Additional Licence Condition 29 and the Additional Processes.

Review of client advice

117. At the request of ASIC, we engaged the Financial Planning Expert to review the six Client Files reviewed by the Licensees in the Pilot Program and to assess the appropriateness of the client advice contained therein. The purpose of this check was to provide independent expert verification of the Licensees' assessment of the appropriateness of client advice.
118. Our review of the appropriateness of client advice included the following steps:
- a. Briefing the Financial Planning Expert regarding their review.
 - b. The Financial Planning Expert's review of the Licensees' advice documents and their assessment of the appropriateness of the client advice.³⁸
 - c. Discussions between us and the Financial Planning Expert regarding their preliminary findings and observations.
 - d. A meeting between us, the Financial Planning Expert and the Licensees to discuss the Financial Planning Expert's preliminary findings and queries.
 - e. Consideration by the Compliance Expert and the Financial Planning Expert of the Licensees' response to the queries raised during our meeting.
 - f. A teleconference between the Compliance Expert, the Financial Planning Expert, ASIC and the Licensees to discuss the Financial Planning Expert's findings.
 - g. Provision to us of the Financial Planning Expert's report setting out their opinion as to the appropriateness of the client advice.
 - h. Preparation of this report documenting our review and opinion of the advice appropriateness findings determined during the Pilot Program.
119. Our review has also involved engagement with the Licensees to provide them with the opportunity to provide further information, where necessary, in response to questions raised by the Financial Planning Expert and to meet the requirements of Additional Licence Condition 29 and the Additional Processes.

³⁸ The Financial Planning Expert was provided with all documents made available to the File Reviewers and Case Assessors of the Licensees and Consulting Firm 1.

Our findings

120. The Licensees' File Review Process for the Pilot Program, covering the review of six Client Files of Adviser 40, was completed in accordance with the requirements of the Additional Processes and the steps outlined in the Sampling Methodology and File Review Process sections of this report.
121. The client advice contained in the six Client Files was determined by the Licensees to have been appropriate.
122. The Financial Planning Expert also determined that the client advice contained in the six Client Files was appropriate. In our opinion, the Licensees have satisfied the requirements of the Additional Processes in relation to the Pilot Program, covering the client advice of six Client Files for Adviser 40.
123. As our review did not identify any instances of inappropriate advice within these six Client Files³⁹, no further review of Adviser 40 is required to be undertaken by the Licensee.⁴⁰

³⁹ Consideration of client loss is also therefore not required or relevant in the case of Adviser 40.

⁴⁰ As specified in the Additional Processes (See Appendix G of the Identification Report).

F. Initial Review Program

Our opinion

124. In our opinion, the Licensees' review of six Client Files for 15 advisers (the '**Initial Review Program**') satisfies the requirements of Steps 1 and 2 of the Additional Processes.
125. One adviser (Adviser 118) was correctly excluded from further review under the Additional Processes and the Additional Licence Conditions after the Licensees identified that the adviser is not a Deductive PARR.
126. Earlier in our report (at section E), we advised that the Pilot Program, which involved the review of one adviser also satisfies the requirements of Steps 1 and 2 of the Additional Processes. When considered together, the Pilot Program and Initial Review Program review a total of six Client Files for each of 16 advisers.
127. As a result of the Licensees' review under the Initial Review Program, which identified further instances of inappropriate client advice leading to client loss which had not previously been identified, the Licensees are required to conduct further review activities for six advisers⁴¹ under Step 3 of the Additional Processes (in the Further Review Program).

Background

128. The Identification Report determined that 17 advisers who were identified by the Licensees through Project BIM in 2012, but subsequently excluded by the Licensees from the Compensation Program, had not received sufficient review for the Licensee to make that determination. This meant the clients of these advisers were not provided with the opportunity to participate in the Compensation Program, including access to independent review of their advice.
129. As a result, we included Additional Processes in the Identification Report which required the Licensees to undertake further review of these 17 advisers to determine whether they also should be included in a Compensation Program.
130. The Licensees were required under Steps 1 and 2 of the Additional Processes to review a sample of six Client Files for each of the 17 advisers to determine whether inappropriate advice leading to client loss had occurred. This review was undertaken by the Licensees in the Pilot Program and the Initial Review Program. The results of these programs determined whether further review was required under Step 3 of the Additional Processes.
131. We determined that, based on the Licensees' review activities⁴² in the Pilot and Initial Review Programs, six advisers had provided inappropriate advice resulting in client loss. As a result, the Licensees were required to conduct a further review of Client Files under Steps 3 and 4 of the Additional Processes (the Further Review Program).
132. Based on Step 4 of the Additional Processes, advisers identified during the Pilot, Initial Review and/or Further Review Programs as having provided six or more instances⁴³ of inappropriate advice leading to client loss will proceed to be reviewed in the Second Compensation Program.

⁴¹ These six advisers were identified during the Initial Review Program as having provided inappropriate client advice leading to client loss.

⁴² Reviews of six Client Files for each of 16 advisers (17 advisers less one adviser who the Licensees identified is not a Deductive PARR).

⁴³ For clarification, we note the distinction in the Additional Processes between Client Files and instances of advice. The Licensees are required under the Additional Processes to review a prescribed number of Client Files however it is the number of instances of inappropriate advice leading to client loss identified which trigger further review under the Additional Processes (if required). In some cases, multiple instances of advice were reviewed on a single Client File.

133. The Second Compensation Program involves the Licensees undertaking a full review of all client files (including File Reconstruction where necessary) of an adviser in accordance with the methodology used in the Compensation Program. Broadly, the Second Compensation Program will involve review and compensation activities undertaken by the Licensees which identify where inappropriate advice was provided to a client resulting in the need for compensation and, if so, restore the client to the position that they would have been in had they received appropriate advice.
134. Following the Pilot, Initial Review and Further Review programs, advisers determined by the Licensees to have provided fewer than six instances of inappropriate advice leading to client loss will not be reviewed further under the Additional Processes.
135. Our review of the Licensees' activities in the Further Review Program is discussed in Section G of this report.

Our review

136. Our review of 16 advisers in the Initial Review Program (the 17 advisers less the one adviser in the Pilot Program) involved the following components:
 - a. Our review of the Licensees' File Review Process for the Initial Review Program to confirm that it was executed in accordance with the processes discussed earlier in this report⁴⁴ and satisfied the requirements of Steps 1 and 2 of the Additional Processes;
 - b. Consideration of the Licensees' proposal to exclude one adviser (Adviser 118) from further review under the Additional Processes and Additional Licence Conditions after the Licensees identified that the adviser is not a Deductive PARR; and
 - c. An assessment by the Financial Planning Expert of the appropriateness of the client advice contained in one Client File for each of the 15 advisers reviewed⁴⁵ to confirm whether the conclusion reached by the Licensees was appropriate.
137. These elements are discussed in further detail below.

Review of the File Review Process

138. We reviewed the Licensees' File Review Process for the Initial Review Program to confirm that it complied with the requirements of Steps 1 and 2 of the Additional Processes and with the steps outlined in the Sampling Methodology and File Review Process sections of this report.
139. Our review included the following steps:
 - a. Reviewing the Licensees' documentation to confirm that:
 - i. The Licensees' File Review Process was adequately documented.⁴⁶
 - ii. Tasks were undertaken by employees of the Licensees and Consulting Firm 1 with the appropriate skills in accordance with the Sampling Methodology and the File Review Process.
 - iii. The Licensees reviewed six Client Files in the order of the Prioritised List provided by Consulting Firm 1.
 - iv. Files were checked by Consulting Firm 1's Case Assessors, according to the File Review Process, to determine their suitability for review as Client Files under the Additional Processes.

⁴⁴ The Sampling Methodology and File Review Process discussed at sections C and D of this report.

⁴⁵ 16 advisers less Adviser 118 who was excluded from the Initial Review Program as discussed from paragraph 149.

⁴⁶ The Licensees redacted sensitive client information, such as client names and addresses, from the documentation provided to the Compliance Expert and the Financial Planning Expert. This data redaction did not impede our review.

- v. Client Files contained client advice within the correct Review Period.
 - vi. The File Reviews undertaken by Consulting Firm 1 and the Licensees to determine the appropriateness of client advice were completed in accordance with the Enhanced AARK Checklist.
 - vii. Client File Review Outcomes were appropriately considered and approved by the Review Committee and that the composition of the Review Committee was consistent with the File Review Process.
 - viii. A sample of calculations for Client Files with inappropriate advice were reviewed to confirm that the calculations were appropriately undertaken and the applied methodology was reasonable.⁴⁷
 - b. Reviewing the Licensees' documentation relating to client advice and Client File Review Outcomes for commentary that would indicate further investigation was required.
 - c. Reviewing the Licensees' submission regarding Adviser 118 and considering whether Adviser 118 should be excluded from the Initial Review Program.
 - d. Provision of our initial comments and queries regarding the File Review Process to the Licensees.
 - e. Reviewing the Licensees' response in relation to our initial comments.
 - f. Discussion of our comments and findings with ASIC and the Licensees.
 - g. Preparation of this report documenting our review and opinion of the Initial Review Program.
140. Our review has involved engagement with the Licensees to provide them with the opportunity to update their processes and provide further information, where necessary, in response to questions raised by us and to meet the requirements of Additional Licence Condition 29 and the Additional Processes.

Review of client advice

141. At the request of ASIC, we engaged the Financial Planning Expert to review a sample of client advice of the 15 advisers to assess the appropriateness of the client advice.⁴⁸ The purpose of this check was to provide independent expert verification of the Licensees' own assessment of the appropriateness of client advice.
142. Our review of the appropriateness of client advice included the following steps:
- a. Briefing the Financial Planning Expert regarding the scope and purpose of their review.
 - b. Determining which Client Files should be reviewed by the Financial Planning Expert.⁴⁹
 - c. The Financial Planning Expert's review of the Licensees' advice documents and their assessment of the appropriateness of the client advice.⁵⁰
 - d. Discussions with the Financial Planning Expert regarding their preliminary findings and observations.
 - e. Provision of the Financial Planning Expert's queries regarding the client advice to the Licensees.

⁴⁷ The sample of compensation calculations reviewed included both client advice that had been determined by the Licensees to have resulted in loss and client advice that had been determined by the Licensees to have not resulted in client loss.

⁴⁸ We instructed the Financial Planning Expert to review the client advice contained in one Client File for each of the 15 Advisers.

⁴⁹ The Client File for each adviser was chosen following completion of the Licensees' File Review Process for that adviser. Our decision regarding which Client File should be reviewed by the Financial Planning Expert was based on the key documents provided for our review of the File Review Process.

⁵⁰ The Financial Planning Expert was provided with all documents made available to the File Reviewers and Case Assessors of the Licensees and Consulting Firm 1.

- f. A meeting between us, the Financial Planning Expert and the Licensees to discuss the Financial Planning Expert's preliminary findings.
- g. Consideration by the Compliance Expert and the Financial Planning Expert of the Licensees' submissions regarding the Financial Planning Expert's preliminary findings and queries.
- h. A meeting between us, the Financial Planning Expert, ASIC and the Licensees to discuss the Financial Planning Expert's findings.
- i. Review of the Financial Planning Expert's report setting out their opinion as to the appropriateness of the client advice.
- j. Preparation of this report documenting our review and opinion of the advice appropriateness findings determined during the Initial Review Program.

143. Our review has involved engagement with the Licensees to provide them with the opportunity to provide further information, where necessary, in response to the questions raised by the Financial Planning Expert and to meet the requirements of Additional Licence Condition 29 and the Additional Processes.

Our findings

144. The Licensees' File Review Process for the Initial Review Program was completed in accordance with the requirements of Steps 1 and 2 of the Additional Processes and the processes outlined in the Sampling Methodology and File Review Process sections of this report.

145. In summary, through our review of the Initial Review Program, we determined that:

- a. Six advisers⁵¹ provided inappropriate advice leading to client loss, and therefore require further review under Step 3 of the Additional Processes (in the Further Review Program); and
- b. Adviser 118 should be excluded from further review because the adviser is not a Deductive PARR.

146. A summary of the Licensees' findings and our findings, i.e. indicating whether we agree with the Licensees' findings, for the 17 advisers is provided in Table 2 below.

Table 2: Summary of our review and the Licensees' review from the Pilot and Initial Review Programs

Adviser number	Licensee	Instances of client advice reviewed	Licensees' assessed instances of inappropriate advice	Our assessed instances of inappropriate advice	Instances of inappropriate advice leading to client loss
Pilot Program					
40	CFPL	17	-	-	-
Initial Review Program					
118	FWL	Excluded ⁵²	Excluded	Excluded	Excluded
33	CFPL	9	-	-	-
61	CFPL	10	-	-	-
74	CFPL	8	-	-	-
84	CFPL	10	-	-	-
93	CFPL	9	-	-	-
101	CFPL	7	-	-	-

⁵¹ The advisers proceeding to the Further Review Program are Advisers 30, 52, 63, 72, 91 and 107.

⁵² Refer to discussion from paragraph 149.

Adviser number	Licensee	Instances of client advice reviewed	Licensees' assessed instances of inappropriate advice	Our assessed instances of inappropriate advice	Instances of inappropriate advice leading to client loss
124	CFPL	6	-	-	-
70	CFPL	6	-	1	-
31	FWL	10	2	2	-
30	CFPL	8	3	3	2
52	CFPL	10	1	1	1
63	CFPL	9	2	2	1
72	CFPL	6	5	5	5
91	CFPL	7	1	1	1
107	FWL	6	4	4	1
Total		138	18	19	11

147. As indicated in Table 2:

- a. Adviser 118 was excluded from the review⁵³, leaving 16 advisers who were reviewed in the Pilot Program and the Initial Review Program.
- b. 138 instances of client advice were reviewed in total by the Licensees as a result of multiple instances of advice on some Client Files.⁵⁴
- c. The Licensees assessed that seven advisers had provided inappropriate advice (from the 16 advisers reviewed).
- d. We agree that seven advisers, identified by the Licensees, provided inappropriate advice however, in our opinion, another adviser (Adviser 70) also provided inappropriate advice. This provides a total of eight advisers who were identified as having provided inappropriate advice.
- e. No inappropriate advice was identified by us or the Licensees from the other eight advisers reviewed during the Pilot and Initial Review Programs.⁵⁵
- f. From the eight advisers identified by us or the Licensees as having provided inappropriate advice:
 - i. Six advisers provided inappropriate advice which the Licensees assessed⁵⁶ as having led to client loss; and
 - ii. Two advisers⁵⁷ provided inappropriate advice which was assessed by the Licensees as not having led to client loss.

148. The above six advisers who were identified by us and the Licensees as having provided inappropriate advice leading to client loss were therefore determined to require further review under Step 3 of the Additional Processes (undertaken in the Further Review Program).

⁵³ Refer to discussion from paragraph 149.

⁵⁴ The Licensees reviewed six Client Files for 15 of the Advisers and seven Client Files for Adviser 33. Adviser 33 is a Deductive PARR. The Licensees reviewed the only Client File for Adviser 33 which related to the relevant Area of Concern (internally geared funds). The Licensees checked the remaining files on the Prioritised List for Adviser 33 to confirm that no further Client Files relating to the Area of Concern were available. The Licensees then reviewed a further six Client Files for Adviser 33 in the order of the Prioritised List, which did not relate to the Area of Concern (seven Client Files were reviewed in total).

⁵⁵ One adviser identified during the Pilot Program and seven advisers identified during the Initial Review Program.

⁵⁶ As discussed at paragraph 172, we reviewed, on a sample basis, the Licensees' assessment of loss relating to inappropriate advice.

⁵⁷ Adviser 70 (refer to discussion from paragraph 159) and Adviser 31 (refer to discussion from paragraph 174).

Adviser excluded from the Initial Review Program

149. Adviser 118 is a current FWL adviser who was identified during Project BIM as a Deductive PARR⁵⁸ with a high frequency of investing clients into portfolios with an exposure of more than 25% to property investments.
150. The Licensees undertook the Sampling Methodology process to prioritise Client Files for review. Whilst determining the suitability of the prioritised Client Files for review, the Licensees determined a revised position that Adviser 118 is not a Deductive PARR and should be excluded from further review under the Additional Processes and the Additional Licence Conditions.
151. The Licensees' revised position was based on the following:
 - a. 49 Client Files were identified by Consulting Firm 1 as containing indicators relating to the Area of Concern for Adviser 118.
 - b. All 49 Client Files containing indicators of the Area of Concern were determined by the Licensees and Consulting Firm 1 to be unsuitable for review under the Additional Processes.⁵⁹ The primary reason for this was that, of these 49 Client Files, 48 Client Files related to the same employer superannuation fund that was set up as a result of a single instance of advice as a default asset allocation. This advice was not provided by Adviser 118.
152. We have reviewed the submission provided by the Licensees and discussed the matter with them, and, in our opinion, the Licensees' request to exclude Adviser 118 from the Initial Review Program is reasonable and appropriate.

Advisers determined by the Licensees to have provided appropriate client advice

153. The Licensees determined through the Initial Review Program that eight advisers⁶⁰ had provided only appropriate client advice across all six Client Files reviewed⁶¹ (i.e. they did not provide any inappropriate client advice). The Licensees submitted that they had reviewed these advisers according to the Additional Processes and the advisers should have no further review under the Additional Licence Conditions.
154. We reviewed the Licensees' documentation for these advisers and confirmed that the File Review Process was completed in accordance with the requirements of the Additional Processes and the processes set out in Section D.
155. During our review of the File Review Process we chose one Client File for each adviser for review by the Financial Planning Expert.
156. The Financial Planning Expert assessed the appropriateness of the client advice on the Client Files with the purpose of providing an independent expert verification of the Licensees' assessment of the appropriateness of the client advice. The Financial Planning Expert was provided with all documents made available to the Peer Reviewers and Case Assessors of the Licensees and Consulting Firm 1.
157. The Financial Planning Expert found that, in their opinion, seven of the Client Files reviewed contained appropriate client advice and one Client File contained inappropriate client advice. The Client File confirmed by the Financial Planning Expert as containing inappropriate advice related to Adviser 70.

⁵⁸ The term 'Deductive PARR' is defined in the glossary provided at Appendix A.

⁵⁹ The criteria which determine eligibility of a Client File for review under the Additional Processes are provided at paragraph 78.

⁶⁰ Nine advisers when considering the Initial Review Program and Pilot Program together.

⁶¹ Seven Client Files for Adviser 33.

158. Based on our review of the File Review Process and the Financial Planning Expert's confirmation of the Licensees' advice findings for the Client Files reviewed, we are satisfied that seven advisers reviewed during the Initial Review Program have been adequately reviewed according to the Additional Processes and should have no further review under the Additional Licence Conditions.⁶²

Difference in position between the Licensees and Financial Planning Expert on the advice finding for Adviser 70

159. The Financial Planning Expert found that, in their opinion, and contrary to the Licensees' finding, the Client File for Adviser 70 contained inappropriate client advice.
160. We discussed the Financial Planning Expert's finding with them to understand their position regarding the advice appropriateness of the Client File reviewed for Adviser 70. In the Financial Planning Expert's opinion, the recommendation of a level premium income protection policy instead of a stepped premium policy was inappropriate.
161. We provided the Financial Planning Expert's queries regarding the advice to the Licensee and considered the submission received from them in response. We then facilitated a discussion between the Financial Planning Expert and the Licensees providing both with the opportunity to provide their respective opinions of the contended Client File for Adviser 70. During this discussion the Chair of the Review Committee provided context and explanation of the Review Committee's determination on the Client File.
162. Following the discussion, and remaining of the opinion that the advice was appropriate, the Licensees submitted to the Compliance Expert further information which it considered relevant to the Financial Planning Expert's deliberations. This information was provided to the Financial Planning Expert and considered by them.
163. After consideration of the additional information submitted by the Licensees and discussions with the Compliance Expert and Licensee, the Financial Planning Expert reached a final position that the advice was inappropriate.
164. The Financial Planning Expert's final opinion was that the following components of the advice were inappropriate:
- a. The recommendation of an income protection policy based on a level insurance premium instead of a stepped insurance premium; and
 - b. A recommendation to switch superannuation funds and the associated Death and TPD insurance held therein.
165. After considering the information submitted by the Licensees and further discussions with the Compliance Expert and Licensee, the Financial Planning Expert reached a final position that, based on the circumstances of this case, the inappropriate advice identified for Adviser 70 had not led to client loss.
166. Based on our review of the File Review Process and the Financial Planning Expert's finding that the identified inappropriate advice did not lead to loss, we are satisfied that Adviser 70 has been adequately reviewed according to the Additional Processes and should have no further review under the Additional Licence Conditions.
167. In our opinion, given the subjective nature of the issues contended and that only one disagreement occurred during the Initial Review Program, the disagreement between the Financial Planning Expert and the Licensees regarding advice appropriateness for Adviser 70 does not indicate an issue with the design of the Licensees' File Review Process.

⁶² This extends to eight advisers when considered in conjunction with Adviser 40 who was reviewed during the Pilot Program.



Advisers determined by the Licensees to have provided inappropriate client advice

168. The Licensees determined through their review under the Initial Review Program that seven advisers had provided inappropriate client advice. The Licensees submitted that six of these advisers require further review under Step 3 of the Additional Processes. The Licensees submitted that the remaining adviser⁶³ did not require further review under Step 3 of the Additional Processes because the inappropriate client advice identified had not led to client loss.
169. A summary of the Licensees' findings regarding inappropriate advice (including their basis) is provided at Appendix C.
170. The key reasons for inappropriate client advice findings as identified by the Licensees and the Financial Planning Expert were:
 - a. Inappropriate asset allocation for the client's risk profile;
 - b. Overweight in property investments;
 - c. No basis for replacing the client's existing superannuation fund;
 - d. Inappropriate advice regarding insurance premiums; and/or
 - e. Allocation to internally geared funds exceeded the maximum acceptable limit in the Enhanced AARK Case Assessor Reference Guide.

Licensees' assessment of loss

171. As discussed from paragraph 103 of this report, the File Review Process requires that where the Review Committee determines that inappropriate client advice has been provided to a client, the Client File will be forwarded to the Licensees' Forensic Accounting team for an assessment of loss (if any). The identification by the Licensees of inappropriate advice leading to client loss triggers further review of the adviser required under the Additional Processes.⁶⁴
172. We reviewed, on a sample basis, the Licensees' assessment of loss relating to inappropriate advice to confirm that calculations were appropriately undertaken and the applied methodology was reasonable and consistent with FOS principles. Our review sample included both client advice that was determined by the Licensees to have resulted in loss and client advice that was determined by the Licensees not to have resulted in client loss.
173. Our review included discussion with the Financial Planning Expert to confirm that assumptions and principles applied by the Licensees were consistent with FOS principles. As discussed from paragraph 159, the Financial Planning Expert disagreed with the Licensee's initial compensation assessment for one instance of advice in relation to Adviser 70 however, based on the specific client circumstances and following further discussion and submissions from the Licensee, we determined that no client loss had arisen as a result of the inappropriate advice.

Inappropriate client advice not leading to client loss

174. In some cases, the Licensees determined that inappropriate advice had not resulted in client loss i.e. where the client was in a better position than if they had been invested in an appropriate portfolio.
175. One adviser (Adviser 31) was determined by the Licensees to have provided two instances of inappropriate advice to the same client, however both instances of inappropriate advice were determined by the Licensees to have led to a gain for the client. The Licensees submitted that the adviser had been adequately reviewed according to the Additional Processes and should have no further review under the Additional Licence Conditions.

⁶³ Adviser 31.

⁶⁴ Additional Processes, Step 3.

176. The inappropriate advice related to an overweight investment allocation to Australian shares and underweight investment allocation to international shares when considered against the client's risk profile. The loss period was measured from inception of the investment (February 2008) to closure of the investment (April 2014).
177. The Licensees assessed the value of the client's investment during the loss period against the equivalent value of an appropriate investment for the client's risk profile and determined that the client had made a gain from being invested in the inappropriate portfolio.
178. We reviewed the Licensees' documentation for Adviser 31 and confirmed that the File Review Process was completed in accordance with the requirements of the Additional Processes and the processes set out in Section D. We reviewed the Licensees' calculations of loss and confirmed that the methodology was reasonable and consistent with FOS principles.
179. We chose a Client File of Adviser 31 that had been determined by the Licensees to contain appropriate advice for review by the Financial Planning Expert. The Financial Planning Expert confirmed that the advice in the Client File reviewed was appropriate.
180. Based on our review of the File Review Process and the Financial Planning Expert's confirmation of the Licensees' advice findings for the Client File reviewed, we are satisfied that Adviser 31 has been adequately reviewed according to the Additional Processes and should have no further review under the Additional Licence Conditions.

Inappropriate client advice not leading to loss where the related investment is still held by the client

181. The Licensees determined through their review for the Initial Review Program that Advisers 63 and 107 had provided inappropriate client advice that had led to a gain to a total of four clients. The Licensees advised that the clients continue to hold the investments assessed as inappropriate.
182. The Licensees have confirmed that the four clients will each be provided with a letter consistent with those required under Condition 25 of the Additional Licence Conditions and offered the associated remediation benefits.⁶⁵

Inappropriate client advice leading to client loss

183. The Licensees determined through their review for the Initial Review Program that six advisers had provided inappropriate client advice leading to client loss. These advisers require further review under Step 3 of the Additional Processes.
184. A summary of the Licensees' findings regarding inappropriate advice (including their basis) is provided at Appendix C.
185. We reviewed the Licensees' documentation for the above six advisers and confirmed that the File Review Process was completed in accordance with the requirements of the Additional Processes and the processes set out in Section D.
186. During our review of the File Review Process we chose one Client File for each adviser for review by the Financial Planning Expert. The Client Files that we chose for review by the Financial Planning Expert included examples of both appropriate and inappropriate advice determinations by the Licensees. A sample of inappropriate advice determinations was reviewed to test that the Licensees' loss calculations for inappropriate advice findings were calculated in accordance with FOS principles and that remediation instructions for the loss calculation were appropriate.

⁶⁵ The Licensee has also agreed with KordaMentha Forensic to provide clients who received inappropriate advice which did not lead to a loss, and who no longer hold their investment, i.e. Adviser 31, with letters consistent with those required under Condition 25 of the Additional Licence Conditions and offer them the associated remediation benefits. The Licensees have agreed to this remediation approach (rather than their 'Business As Usual' processes) despite not being required to under the Additional Licence Conditions or the Additional Processes.

187. The Financial Planning Expert's determination of advice appropriateness (including appropriate and inappropriate advice determinations) was consistent with those made by the Licensees for the above six advisers.



G. Further Review Program

Our opinion

188. In our opinion, the Licensees' review of additional Client Files for six advisers in the Further Review Program satisfies the requirements of Step 3 of the Additional Processes and the requirement regarding further reviews under Step 4 of the Additional Processes.
189. As a result of the Licensees' review of six advisers in the Further Review Program, the Licensees are required under Step 4 of the Additional Processes to remediate five advisers in accordance with the methodology used in the Compensation Program and the Additional Elements (the Second Compensation Program).⁶⁶ One adviser (Adviser 63) was determined by us and the Licensees not to require further review under the Additional Processes.

Background

190. We repeat the background set out from paragraph 128 for the Initial Review Program.
191. The Licensees were required under Steps 1 and 2 of the Additional Processes to review a sample of six Client Files for each of the 17 advisers to determine whether inappropriate advice leading to client loss had occurred.
192. We determined that, based on the Licensees' review activities⁶⁷ in the Pilot and Initial Review Programs, six advisers had provided inappropriate advice resulting in client loss. As a result, the Licensees were required to conduct a further review of 25 Client Files under Step 3 of the Additional Processes (the Further Review Program).
193. Where the reviews undertaken in accordance with Steps 1 to 3 of the Additional Processes (a review of 31 Client Files in total for each of the advisers) identified between two and five instances of inappropriate advice leading to client loss, the Licensees were required under Step 4 of the Additional Processes to review the scale, nature and context of the examples of client loss and provide a proposed scope of work, to be discussed with ASIC and us, as to reasonable and proportional further steps in that situation. Step 4 of the Additional Processes required that we would develop 'pre-determined guidelines' regarding the scope of work, to be published in this report.
194. Our pre-determined guidelines in relation to the Licensees' further review of advisers identified as having provided between two and five instances of inappropriate advice leading to client loss are provided at Appendix D and summarised as follows:
- a. The default position for further review work by the Licensees, where two to five instances of inappropriate advice leading to client loss are identified in relation to an adviser, shall be a review by the Licensees of a further 25 Client Files (56 Client Files shall therefore have been reviewed in total in relation to the relevant adviser under the Additional Processes).
 - b. Where two to five instances of inappropriate advice leading to client loss are identified following the review of 56 Client Files, the Licensees will review the identified examples of inappropriate advice which led to client loss and no further file reviews are required under the Additional Processes.

⁶⁶ Step 4 of the Additional Processes requires that the Licensees '...should undertake a full review of all... [client files] (including File Reconstruction where necessary) for that PARR in accordance with the methodology used in the Compensation Program (including identification of the subject of concern and scoping... In accordance with the process discussed at Section D and Appendix D [of the Identification Report]'.
⁶⁷ Reviews of six Client Files for each of 16 advisers (17 advisers less one adviser who the Licensees identified is not a Deductive PARR).

- c. Where six or more instances of inappropriate advice leading to client loss are identified following the review of 56 Client Files the Licensees will undertake a full review of all client files in the Second Compensation Program.
 - d. KordaMentha Forensic will consider alternative proposals (if any) from the Licensees and, in accordance with Step 4 of the Additional Processes, conclude on the scope of any further review required to be undertaken by the Licensees.
195. Based on Step 4 of the Additional Processes, advisers identified during the Pilot, Initial Review and/or Further Review Programs as having provided six or more instances⁶⁸ of inappropriate advice leading to client loss will proceed to be reviewed in the Second Compensation Program.
196. The Second Compensation Program will involve the Licensees undertaking a full review of all client files (including File Reconstruction where necessary) of an adviser in accordance with the methodology used in the Compensation Program. Broadly, the Second Compensation Program will involve review and compensation activities undertaken by the Licensees which identify where inappropriate advice was provided to a client resulting in the need for compensation and, if so, restore the client to the position that they would have been in had they received appropriate advice.
197. Following the Pilot, Initial Review and Further Review programs, advisers determined to have provided fewer than six instances of inappropriate advice leading to client loss will not be reviewed further under the Additional Processes.

Our review

198. Our review of the six advisers in the Further Review Program involved the following components:
- a. Confirmation that the Licensees' File Review Process undertaken for the Further Review Program was executed in accordance with the processes discussed earlier in this report and satisfied the requirements of Steps 1 to 3 of the Additional Processes; and
 - b. An assessment by the Financial Planning Expert of the appropriateness of client advice contained in Client Files for advisers proposed by the Licensees as not proceeding to the Second Compensation Program.⁶⁹
199. These elements are discussed in further detail below.

Review of the File Review Process

200. We reviewed, on a sample basis⁷⁰, the Licensees' File Review Process for the Further Review Program to confirm that it complied with the requirements of Steps 1 to 3 of the Additional Processes and with the steps outlined in the Sampling Methodology and File Review Process sections of this report.
201. Our review included the following steps:

⁶⁸ For clarification, we note the distinction in the Additional Processes between Client Files and instances of advice. The Licensees are required under the Additional Processes to review a prescribed number of Client Files however it is the number of instances of inappropriate advice leading to client loss identified which trigger further review under the Additional Processes (if required). In some cases, multiple instances of advice were reviewed on a single Client File.

⁶⁹ Clients of advisers proceeding to the Second Compensation Program did not have their advice reviewed by the Financial Planning Expert however will have the option of obtaining an independent assessment of advice to the value of \$5,000.

⁷⁰ We reviewed the File Review Process of five Client Files for each adviser in the Further Review Program that the Licensee proposed should proceed to the Second Compensation Program and 10 Client Files for each adviser that the Licensee proposed should not proceed to the Second Compensation Program. We chose Client Files for our sample based on the Licensees' summary of review results for each adviser.

- a. Consideration of the Licensees' submission regarding advisers with six or more instances of inappropriate advice leading to client loss (identified by the Licensee) proceeding to the Second Compensation Program on an accelerated basis.
- b. Preparation of our pre-determined guidelines regarding the Licensees' further review of advisers identified as having provided between two and five instances of inappropriate advice leading to client loss.
- c. Review of the Licensees' summary of review results for each adviser to choose files for inclusion in our review sample.⁷¹
- d. Review of the Licensees' documentation relating to client advice and Client File Review Outcomes for commentary that would indicate further investigation was required.
- e. Reviewing the Licensees' documentation to confirm that:
 - i. The Licensees' File Review Process was adequately documented.
 - ii. Tasks were undertaken by employees of the Licensees and Consulting Firm 1 with the appropriate skills in accordance with the Sampling Methodology and File Review Process.
 - iii. The Licensees reviewed the required number of Client Files in the order of the Prioritised List provided by Consulting Firm 1.
 - iv. Files were checked by Consulting Firm 1's Case Assessors, according to the File Review Process, to determine their suitability for review as Client Files under the Additional Processes.
 - v. Client Files contained client advice within the correct Review Period.
 - vi. The File Reviews undertaken by Consulting Firm 1 and the Licensees to determine the appropriateness of client advice were completed in accordance with the Enhanced AARK Checklist.
 - vii. Client File Review Outcomes were appropriately considered and approved by the Review Committee and that the composition of the Review Committee was consistent with the File Review Process.
 - viii. A sample of calculations for Client Files with inappropriate advice were reviewed to confirm that the calculations were appropriately undertaken and the applied methodology was reasonable.
- f. Provision of our initial comments and queries regarding the File Review Process to the Licensees.
- g. Reviewing the Licensees' response in relation to our initial comments.
- h. Discussion of our comments and findings with ASIC and the Licensees.
- i. Preparation of this report documenting our review and opinion of the Further Review Program.

202. Our review has involved engagement with the Licensees to provide them with the opportunity to provide further information, where necessary, in response to questions raised by us and to meet the requirements of Additional Licence Condition 29 and the Additional Processes.

⁷¹ The Licensees summary of review results included details of both the Initial Review and Further Review Programs.



Review of client advice

203. At the request of ASIC, we engaged the Financial Planning Expert to review a sample⁷² of client advice of any adviser proposed by the Licensee as not proceeding to the Second Compensation Program. The purpose of the Financial Planning Expert's review was to assess the appropriateness of the client advice and provide independent expert verification of the Licensees' own assessment of the appropriateness of the advice.
204. Our review of the appropriateness of client advice included the following steps:
- Briefing the Financial Planning Expert regarding the scope and purpose of their review.
 - Review of the Licensees' summary of review results to choose files for inclusion in the Financial Planning Expert's review sample.
 - The Financial Planning Expert's review of the Licensees' advice documents and their assessment of the appropriateness of the client advice.
 - Discussions with the Financial Planning Expert regarding their preliminary findings and observations.
 - Provision of the Financial Planning Expert's queries regarding the client advice to the Licensees.
 - Consideration by the Compliance Expert and the Financial Planning Expert of the Licensees' submissions regarding the Financial Planning Expert's preliminary findings and queries.
 - Review of the Financial Planning Expert's report setting out their opinion as to the appropriateness of the client advice.
 - Preparation of this report documenting our review and opinion of the advice appropriateness findings determined during the Further Review Program.
205. Our review has involved engagement with the Licensees to provide them with the opportunity to provide further information, where necessary, in response to the questions raised by the Financial Planning Expert and to meet the requirements of Additional Licence Condition 29 and the Additional Processes.

Our findings

206. The Licensees' File Review Process for the Further Review Program was completed in accordance with the requirements of Steps 3 and 4 of the Additional Processes and the processes outlined in the Sampling Methodology and File Review Process sections of this report.
207. Through our review of the Further Review Program⁷³ we determined that:
- Five advisers had provided six or more instances of inappropriate advice (six instances being the trigger under the Additional Processes) leading to client loss and, in accordance with Step 4 of the Additional Processes, require a full review by the Licensees of all client files⁷⁴ in the Second Compensation Program⁷⁵; and

⁷² We chose six Client Files for review by the Financial Planning Expert for each adviser proposed by the Licensee as not proceeding to the Second Compensation Program. We chose Client Files for the sample based on the Licensees' summary of review results for each adviser.

⁷³ The results of the Further Review Program were considered in conjunction with the results of the Initial Review Program. The results of the Pilot Program were not considered as Adviser 40, who was the subject of the Pilot Program, did not progress to the Further Review Program.

⁷⁴ Including File Reconstruction where necessary.

⁷⁵ The five advisers proceeding to the Second Compensation Program are Advisers 30, 52, 72, 91 and 107.

- b. One adviser (Adviser 63) provided five instances of inappropriate advice leading to, or with potential for, client loss and therefore, in accordance with Step 4 of the Additional Processes, does not require further review under the Additional Processes.

208. A summary of our findings for the six advisers who progressed to the Further Review Program (the total review results identified during the Initial Review and Further Review Programs) is provided in the following table.⁷⁶

Table 3: Summary of total review results⁷⁷ for the six advisers who progressed to the Further Review Program

Adviser number	Licensee	Number of Client Files reviewed by the Licensees	Instances of client advice reviewed by the Licensees	Inappropriate instances of advice assessed by the Licensees	Inappropriate instances of advice leading to loss assessed by the Licensees	Inappropriate instances of advice leading to potential loss assessed by the Licensees ⁷⁸	Loss assessed by the Licensees ⁷⁹ (\$)
30	CFPL	49	72	17	8	2	120,966
52	CFPL	39	66	13	10		505,218
72	CFPL	13	19	9	9		150,640
91	CFPL	51	68	15	9		394,010
107	FWL	19	23	14	5	1	34,589
63	CFPL	56	71	7	4	1	15,669
Total		227	319	75	45	4	1,221,092

209. As indicated in Table 3:

- Six advisers were reviewed by the Licensees and us in the Licensees' Further Review Program.
- 227 Client Files and 319 instances of advice were reviewed by the Licensees for these advisers, as a result of multiple instances of advice on some Client Files.
- Of the 319 instances of advice reviewed by the Licensees, 75 inappropriate instances of advice (23.5%) were identified by the Licensees during the reviews, with 45 instances of inappropriate advice identified as leading to client loss and 4 instances of inappropriate advice identified having potential for client loss. 26 instances of inappropriate advice were determined by the Licensees not to have led to client loss.
- All six advisers reviewed by the Licensees in the Further Review Program were determined by the Licensees and us as having provided inappropriate advice leading to client loss.
- Five of the advisers are required under Step 4 of the Additional Processes to proceed to a full review by the Licensees of all client files (including File Reconstruction where necessary) in the Second Compensation Program as a result of six or more instances of inappropriate advice leading to loss having been identified by the Licensees.

⁷⁶ The table summarises the total review results for the six advisers from their reviews under both the Initial Review and Further Review Programs. The advisers were not reviewed in the Pilot Program.

⁷⁷ The table summarises the review results for the six advisers from their reviews under both the Initial Review and Further Review Programs. The results do not include any loss which may be identified for five of these six advisers to be reviewed in the Second Compensation Program.

⁷⁸ Assessments for 4 instances of inappropriate advice had not been concluded by the Licensees because of a lack of available information at the time of this report.

⁷⁹ Loss amounts include interest.

- f. One adviser (Adviser 63) was determined by the Licensees and us to have provided fewer than six instances of inappropriate advice leading to client loss and therefore does not require further review under the Additional Processes.
 - g. \$1.2 million of client loss was identified by the Licensees for the Client Files of the six advisers reviewed in the Further Review Program. This loss amount is the total identified by the Licensees during their Initial and Further Review Programs from the sample of Client Files reviewed.
210. Based on our review of the File Review Process and the Financial Planning Expert's review of advice appropriateness, we agree with the Licensees' assessment that, in accordance with the Additional Processes:
- a. Five advisers are required to proceed to the Second Compensation Program; and
 - b. One adviser (Adviser 63) does not require further review under the Additional Processes and is not required to proceed to the Second Compensation Program.
211. The five advisers proceeding to the Second Compensation Program are Advisers 30, 52, 72, 91 and 107.

Accelerated remediation approach

212. As the Licensees' review activities for the Further Review Program progressed, it became evident that advisers had provided six or more instances of inappropriate advice leading to client loss and would trigger the requirement under Step 4 of the Additional Processes to proceed to the Second Compensation Program.
213. The Licensees approached the Compliance Expert and ASIC to propose that advisers identified by the Licensees as having provided six or more instances of inappropriate advice leading to client loss proceed directly to the Second Compensation Program without the Licensees completing the remaining sample file reviews required under the Additional Processes.⁸⁰
214. In consultation with ASIC, we agreed with the Licensees' proposal to proceed directly to the Second Compensation Program where the adviser was identified as providing six or more instances of inappropriate advice leading to client loss (the trigger under Step 4 of the Additional Processes to proceed to the Second Compensation Program). This approach is referred to as the '**Accelerated Remediation Approach**' in this report.
215. We agreed with the Licensees' proposal regarding the Accelerated Remediation Approach to facilitate clients' remediation under the Second Compensation Program on an expedited basis, which would otherwise have been delayed by the completion of the full sample of Client Files required under the Additional Processes.

Advisers identified as having provided between two and five instances of inappropriate advice leading to client loss

216. The Licensees identified four advisers⁸¹ who provided between two and five instances of inappropriate advice leading to client loss, following their review of 31 Client Files for each of those advisers.
217. The Licensees did not submit alternative proposals in relation to further review activities for the advisers and adopted our default guidelines as set out in Appendix D, subject to the Accelerated Remediation Approach discussed above.

⁸⁰ The Licensees confirmed to us that the remaining file reviews under the Additional Processes would be included in the Second Compensation Program.

⁸¹ Advisers 30, 52, 63 and 91.

Further details of the five advisers proceeding to the Second Compensation Program

218. The Licensees determined, following the review activities required in the Further Review Program, that six advisers had provided inappropriate client advice leading to client loss. The Licensees submitted that one adviser⁸² is not required to proceed to the Second Compensation Program under the Additional Processes because fewer than six instances of inappropriate advice leading to client loss were identified. The Licensees submitted that five advisers are required to proceed to the Second Compensation Program under Step 4 of the Additional Processes.
219. The following table provides details of the findings for the five advisers who were identified as having provided six or more instances of inappropriate advice leading to client loss (Advisers 30, 52, 72, 91 and 107). These advisers will therefore need to proceed to the Second Compensation Program, as required by Step 4 of the Additional Processes.

Table 4: Details of total review results⁸³ for the five advisers progressing to the Second Compensation Program

Adviser number	Licensee	Instances of client advice reviewed by the Licensees	Appropriate instances of advice assessed by the Licensees	Inappropriate instances of advice assessed by the Licensees	Inappropriate instances of advice leading to loss/potential loss assessed by the Licensees ⁸⁴	Inappropriate instances of advice without loss assessed by the Licensees	Loss assessed by the Licensees ⁸⁵ (\$)
30	CFPL	72	55	17	10	7	120,966
52	CFPL	66	53	13	10	3	505,218
72	CFPL	19	10	9	9	-	150,640
91	CFPL	68	53	15	9	6	394,010
107	FWL	23	9	14	6	8	34,589
Total		248	180	68	44	24	1,205,423

220. As indicated in Table 4:
- Five advisers were determined by the Licensees to have provided six or more instances of inappropriate advice leading to client loss, thereby triggering the requirement under Step 4 of the Additional Processes for the advisers to proceed to the Second Compensation Program.
 - 248 instances of advice were reviewed by the Licensees during the Initial and Further Review Programs, with 180 instances of appropriate advice (72.6%) and 68 instances of inappropriate advice (27.4%) identified.
 - Of the 68 instances of inappropriate advice identified by the Licensees, 44 instances of inappropriate advice were determined by the Licensees to have either led to client loss or with potential for client loss with the remaining 24 instances of inappropriate advice determined by the Licensees not to have led to client loss.

⁸² Adviser 63.⁸³ The table summarises the review results for the five advisers from their reviews under both the Initial Review and Further Review Programs. The results do not include any loss which may be identified for these five advisers in the Second Compensation Program.⁸⁴ 41 instances of inappropriate advice were determined by the Licensees to have led to client loss. Assessments for 3 instances of inappropriate advice had not been concluded because of a lack of available information by the Licensees at the time of this report.⁸⁵ Loss amounts include interest.

- d. \$1.2 million of client loss was identified by the Licensees for the five advisers progressing to the Second Compensation Program. The compensation payments to clients, assessed by the Licensee for these advisers, ranged from approximately \$1,500 to \$202,000.
221. The key reasons for inappropriate client advice findings as identified by the Licensees were:
- Inappropriate asset allocation for the client's risk profile;
 - Overweight in property investments;
 - Inappropriate product replacement;
 - Inappropriate insurance recommendations and/or lost insurance cover or benefits;
 - Inappropriate internal gearing recommendations;
 - Inappropriate assessment of clients' risk profiles;
 - Loss of Centrelink Age Pension entitlement; and/or
 - Loss of defined benefit entitlement.
222. A summary of the Licensees' findings regarding inappropriate advice (including the basis of the inappropriate files reviewed in our sample) is provided at Appendix C.
223. We reviewed the Licensees' documentation for these advisers and confirmed that the File Review Process was completed in accordance with the requirements of the Additional Processes and the processes set out in Section D. We therefore agree with the Licensees' assessment that the five advisers identified by the Licensees as having provided six or more instances of inappropriate advice leading to client loss should proceed to the Second Compensation Program.

No further review required under the Additional Processes for Adviser 63

224. The Licensees submitted, following their review activities in the Further Review Program, that they had identified five instances of inappropriate advice leading to or with potential for client loss provided by Adviser 63, from the 56 Client Files reviewed under the Additional Processes. As a result, they submitted that no further review was required under the Additional Processes in relation to Adviser 63.
225. Details of the findings for Adviser 63 is provided in Table 5 below.⁸⁶

Table 5: Details of review results for adviser not progressing to the Second Compensation Program

Adviser number	Licensee	Instances of client advice reviewed by the Licensees	Appropriate instances of advice assessed by the Licensees	Inappropriate instances of advice assessed by the Licensees	Inappropriate instances of advice leading to loss/potential loss assessed by the Licensees ⁸⁷	Inappropriate instances of advice without loss assessed by the Licensees	Loss assessed by the Licensees ⁸⁸ (\$)
63	CFPL	71	64	7	5	2	15,669

226. As indicated in Table 5, the Licensees determined that for Adviser 63:

⁸⁶ The table summarises the total review results for Adviser 63 from both the Initial Review and Further Review Programs. Adviser 63 was not reviewed in the Pilot Program.

⁸⁷ Four instances of inappropriate advice were determined by the Licensees to have led to client loss. An assessment for one instance of inappropriate advice had not been concluded by the Licensees because of a lack of available information at the time of this report.

⁸⁸ Loss amounts include interest.

- a. 71 instances of advice were reviewed by the Licensees during the Initial and Further Review Programs, with 64 instances of appropriate advice and seven instances of inappropriate advice identified.
 - b. Of the seven instances of inappropriate advice identified, five were determined to have either led to client loss or had potential for client loss, with the remaining two instances of inappropriate advice determined by the Licensees not to have led to client loss.
 - c. Approximately \$16,000 of client loss was identified from inappropriate advice provided in the Client Files reviewed during the Initial Review and Further Review Programs.⁸⁹
227. The key reasons for inappropriate client advice findings as identified by the Licensees in relation to Adviser 63 were:
 - a. Inappropriate asset allocation for the client's risk profile;
 - b. Inappropriate product replacement;
 - c. Inappropriate insurance recommendation;
 - d. Inappropriate tax outcome; and/or
 - e. Lost guaranteed capital.
228. A summary of the Licensees' findings regarding inappropriate advice (including the basis of the inappropriate files reviewed in our sample) is provided at Appendix C.

Potential loss identified for client of Adviser 63
229. The Licensees were unable to conclude on whether one instance of advice provided by Adviser 63 and assessed by the Licensees as inappropriate had led to client loss, as a result of insufficient information being available to them.
230. The inappropriate advice identified by the Licensees contained recommendations by Adviser 63 regarding products issued by third party product providers. The Licensee contacted the client on multiple occasions to advise that the Licensee had assessed that the client had been provided with inappropriate advice and that compensation may be due to the client, and to request authorisation to third party information required to complete the loss calculation.
231. The Licensees have advised us that the client refused to provide their consent to the Licensees' third party information request and advised the Licensees that they wished for the matter to be closed.
232. We included this 'undetermined' instance of advice in the five instances of inappropriate advice which led to or have potential for loss identified for Adviser 63, however note that it did not alter the final outcome on whether Adviser 63 should proceed to the Second Compensation Program under Step 4 of the Additional Processes.
233. We reviewed the Licensees' documentation for Adviser 63 and confirmed that the File Review Process was completed in accordance with the requirements of the Additional Processes and the processes set out in Section D.

⁸⁹ Clients of Adviser 63 who were assessed as having received inappropriate advice leading to client loss will be remediated on the same basis as though they were an Other Affected Client.



Financial Planning Expert's review of Adviser 63's Client Files

234. During our review of the File Review Process we chose six Client Files of Adviser 63 for review by the Financial Planning Expert to assess the appropriateness of advice and test the Licensees' assessments of advice appropriateness.⁹⁰
235. The sample of Client Files that we chose for the Financial Planning Expert's review included examples of both appropriate and inappropriate advice assessments by the Licensees. The Financial Planning Expert's sample was focussed on the Licensees' appropriate advice assessments (to confirm those assessments) however, a sample of the Licensees' inappropriate assessments was also included to test that the Licensees' loss calculations were calculated in accordance with FOS principles and that remediation instructions for the loss calculations were appropriate.
236. The Financial Planning Expert's determination of advice appropriateness (including appropriate and inappropriate advice determinations) was consistent with those made by the Licensees for Adviser 63.
237. We therefore agree with the Licensees assessment that Adviser 63 who was identified by the Licensees as having provided five instances of inappropriate advice leading to client loss or with potential for client loss does not require further review under the Additional Processes.

Licensees' assessment of loss

238. The File Review Process requires that where the Review Committee determines that inappropriate client advice has been provided to a client, the Client File will be forwarded to the Licensees' Forensic Accounting team for an assessment of loss (if any).
239. The identification of six or more instances of inappropriate advice leading to client loss by an adviser triggers the inclusion of the adviser in the Second Compensation Program under the Additional Processes.⁹¹ As discussed from paragraph 212, we agreed with the Licensees' proposal to directly proceed to the Second Compensation Program for advisers identified as having provided six or more instances of inappropriate advice leading to client loss without completing its remaining reviews under the Additional Processes. This meant that review activities for some Client Files under the Additional Processes ceased and were moved to the Second Compensation Program.
240. As part of our review of the Licensees' compliance with the Additional Processes we reviewed, on a sample basis, the Licensees' assessment of loss relating to inappropriate advice to confirm that its calculations were appropriately undertaken and that the methodology applied was reasonable and consistent with FOS principles. Our review sample included:
- a. Advisers both proposed by the Licensees as proceeding to the Second Compensation Program and Adviser 63 (who the Licensee proposed should not proceed to the Second Compensation Program);
 - b. Client advice that was assessed by the Licensees to have resulted in loss; and
 - c. Client advice that was assessed by the Licensees not to have resulted in client loss.
241. Our review included discussion with the Financial Planning Expert to confirm that assumptions and principles applied by the Licensees were consistent with FOS principles.

⁹⁰ In total, the Financial Planning Expert reviewed seven Client Files (one Client File in the Initial Review Program and six Client Files in the Further Review Program).

⁹¹ Additional Processes, Step 4.

242. We determined, through our review, that the Licensees' calculations of loss were completed in accordance with the requirements of the Additional Processes and the File Review Process⁹² and was consistent with FOS principles.

Inappropriate client advice not leading to loss

243. As identified in Table 4 and Table 5 above, in some cases, the Licensees determined that inappropriate advice had not resulted in client loss. For example, where the client was in a better position as a result of the inappropriate advice than if they had been invested in an appropriate portfolio.
244. We reviewed a sample of the Licensees' compensation calculations which resulted in a gain to confirm that the File Review Methodology was appropriately applied and that, based on our discussions with the Financial Planning Expert, that the calculations were consistent with FOS principles.
245. The Licensees are required under the Additional Processes and Additional Licence Conditions to contact all Other Affected Clients (whether determined to have suffered loss or not) of the five advisers proceeding to the Second Compensation Program and remediate them in accordance with the Compensation Program.
246. The Licensees are required under the Additional Processes to remediate clients of Adviser 63⁹³, who were identified as having been provided with inappropriate advice which led to loss, on the same basis as though they were Other Affected Clients. The Licensees have separately agreed with KordaMentha Forensic to provide the clients of Adviser 63 who were identified as having received inappropriate advice which had not led to loss with letters consistent with those required under Condition 25 of the Additional License Conditions and offer them the associated remediation benefits. The Licensees have agreed to this remediation approach (rather than their 'Business As Usual' processes) despite not being required to under the Additional License Conditions or the Additional Processes.

⁹² Including the Accelerated Remediation Approach.

⁹³ Adviser 63 was determined not to proceed to the Second Compensation Program.

Appendix A Glossary

Defined term	Definition included in Additional Licence Conditions	Definition
Accelerated Remediation Approach	No	The Licensees proceed directly to the Second Compensation Program for advisers identified as providing six or more instances of inappropriate advice leading to client loss, without completing the remaining sample file reviews required under the Additional Processes.
Additional Elements	Yes	Any process steps applied in Project Hartnett that were not applied in the Compensation Program.
Additional Licence Conditions	No	The Licence Conditions imposed by ASIC on CFPL (Licence No: 231139) and FWL (Licence No: 231138).
Additional Processes	Yes	The processes that should reasonably be implemented to identify whether there were other representatives who ought to have been assessed as part of the Compensation Program.
Affected Client(s)	Yes	Refers to clients of IFRs except for: <ul style="list-style-type: none"> a. Clients where the Licensee has no record of advice having been provided; b. Groups of clients of IFRs as agreed with ASIC where it is not necessary to contact those clients for valid reasons (for example, where the only record of a client relationship involves a client having insurance cover that appears to have been obtained prior to the IFRs giving advice); c. Clients where returned mail is received, and after making appropriate efforts to contact the Affected Clients, the Licensee was unable to do so; or d. Clients who were not included in the Compensation Program as a result of analysis conducted by the Licensee which indicated that clients did not receive the type of advice from the IFR that was the subject of concern.
Area(s) of Concern (AOC)	No	The particular area(s) of advice that was/were the reason in Project BIM for the identification of the adviser as a PARR.
ASIC	No	Australian Securities and Investments Commission.
Case Assessors	No	Consulting Firm 1's file reviewers.
CBA	No	Commonwealth Bank of Australia Group, which includes both CFPL and FWL.
CFPL	No	Commonwealth Financial Planning Limited.
Client File(s)	No	A file that contains sufficient information to assess the appropriateness of an example of advice that was provided to the client by the PARR in the period prior to the period covered by the 2012 PARR Review.
Client File Review Outcome	No	The output of each review summarising the Case Assessor and Peer Reviewer's assessment of advice and any themes identified.
Comparison Report	No	The written report to ASIC and the Licensees outlining the Compliance Expert's opinion in relation to clause 23(a) of the Additional Licence Conditions.
Compensation Program	Yes	Means the review and compensation activities undertaken by the Licensee which: <ul style="list-style-type: none"> a. Were designed to identify where inappropriate advice was provided to a client resulting in the need for compensation, and if so, restore that Affected Client of an IFR to the position they would have been in had they received appropriate advice;

Defined term	Definition included in Additional Licence Conditions	Definition
		<p>b. Were based on the process methodology developed for Project Hartnett and extended to address additional client, product and advice attributes; and</p> <p>c. Commenced or concluded during the period from 25 October 2011 (being the date on which the EU took effect) until 30 June 2013,</p> <p>but does not include the review and compensation activities conducted under Project Hartnett.</p> <p>It covers the 15 advisers which are the IFRs encompassed by the Additional Licence Conditions.</p>
Compliance Report	Yes	<p>The written report to ASIC and the Licensees outlining the Compliance Expert's opinion in relation to clauses 24 to 31(a) of the Additional Licence Conditions. The Compliance Report has been provided in stages and addresses the following scope:</p> <p>a. Parts 1 and 2 of the Compliance Report were published by ASIC on 5 December 2016 and considered the Licensees' compliance with Additional Licence Conditions 24 to 28 and 30 to 31(a) (inclusive).</p> <p>b. Part 3 of the Compliance Report (this report) considers the Licensees' compliance with Additional Licence Conditions 29(a) and (b), including whether the Licensees have appropriately applied the Additional Processes identified as a result of our Identification Report, which require the Licensees to review a prescribed sample of Client Files of a further 17 advisers to determine whether the clients of those advisers should be included in a compensation program.</p> <p>c. Part 4 of the Compliance Report will consider the Licensees' compliance with Additional Licence Condition 29(c), including whether the Licensees have undertaken appropriate review and remediation for the clients of any advisers identified as a result of this report. As the Licensees' activities in this respect are ongoing, this Part of our report will be published separately.</p>
Consulting Firm 1	No	The external consulting firm used to assist in Project AARK and to undertake the data analytics testing in Project BIM.
Deductive PARR(s)	No	Potential At Risk Representative(s) identified through Project BIM in 2012 using deductive data analytics tests to identify advisers with clients who had a high inherent risk of receiving poor quality advice based on the advice strategy the clients received. These advice strategies were determined by having regard to the analysis of certain risks and issues and data that was readily available and usable for the deductive testing performed.
Enhanced AARK Checklist	No	Checklist used by the Licensees and Consulting Firm 1 to assist with their assessment of client advice.
EU	No	CFPL Enforceable Undertaking with ASIC executed on 25 October 2011.
File Review Process	No	The process designed and adopted by the Licensees to govern the review of Client Files as required by the Additional Processes.
Financial Planning Expert (FPE)	No	We engaged the Financial Planning Expert to review a sample of Client Files reviewed by the Licensees and to assess the appropriateness of the client advice contained therein.
FOS	No	Financial Ombudsman Service Australia.
Further Review Program	No	The Licensees' review of additional Client Files for six advisers as required under Steps 3 and 4 of the Additional Processes.

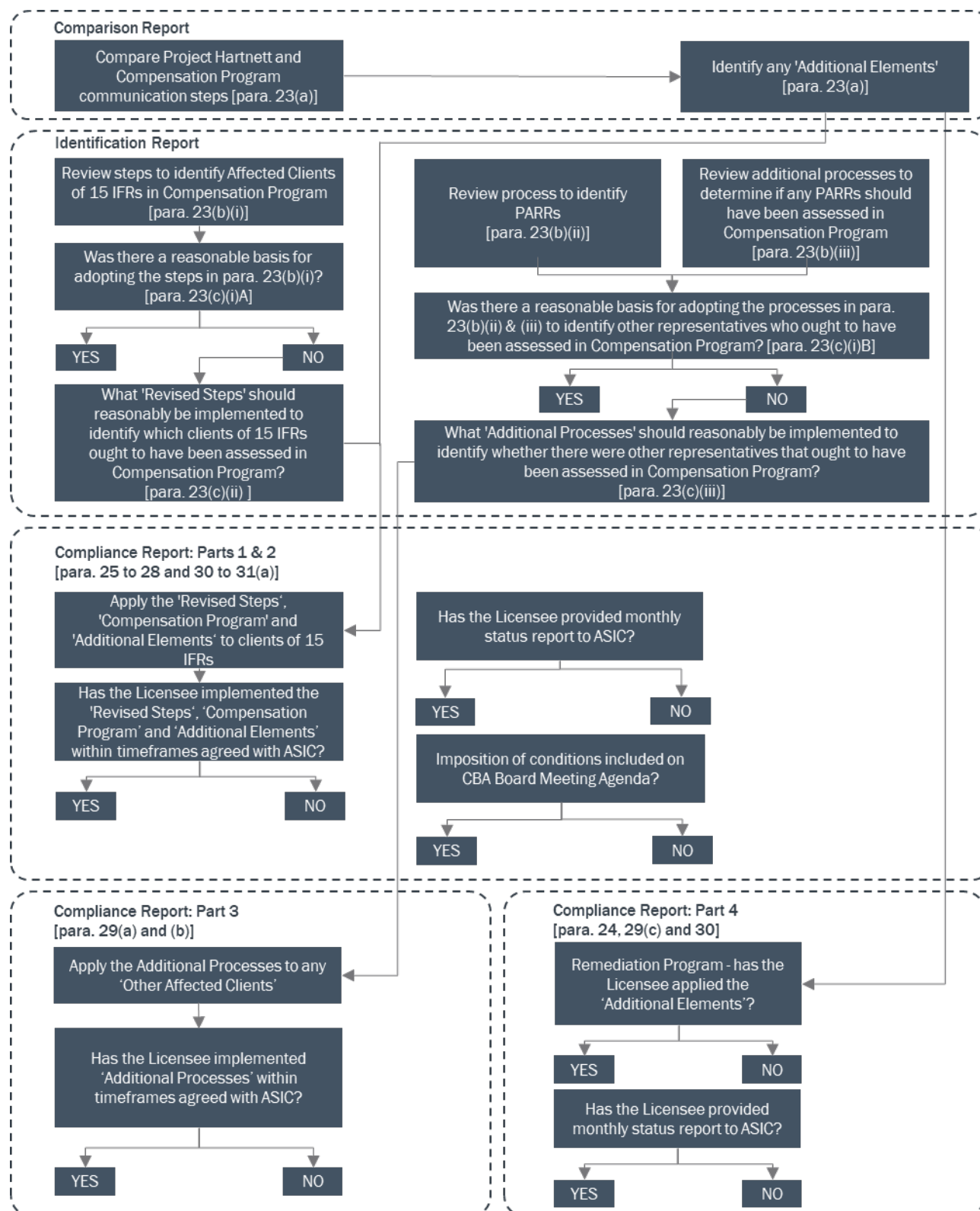
Defined term	Definition included in Additional Licence Conditions	Definition
FWL	No	Financial Wisdom Limited.
Hartnett Adviser 1	No	Mr Don Nguyen.
Hartnett Adviser 2	No	Mr Anthony Awkar.
Identification Report	Yes	The written report to ASIC and the Licensees outlining the Compliance Expert's opinion in relation to clauses 23(b)(i)-(iii) and 23(c)(i) – (iii) of the Additional Licence Conditions.
Identified Former Representatives (IFRs)	Yes	Those former representatives of the Licensee that the Licensee has, at the date these conditions were imposed, informed ASIC were identified by the Licensee as representatives whose advice needed to be reviewed, and one or more of their Affected Clients compensated, under the Compensation Program.
Inductive PARR(s)	No	Potential At Risk Representative identified through Project BIM in 2012 using inductive data analytics tests to identify advisers who were potentially at risk of providing inappropriate advice and who shared similar attributes to certain IFRs and other known advisers who may have provided inappropriate advice. The inductive testing involved comparing a broad range of attributes of the known advisers to the attributes of all other Licensee advisers. The approximately 800 attributes included such attributes as tenure at the Licensee, adviser remuneration, adviser location and products recommended.
Initial Letter	No	In Project Hartnett, Potentially Affected Clients received a letter indicating there was an investigation being conducted into the advice provided to them by their adviser and that, following completion of the review, the Licensee would contact them to confirm the outcome.
Initial Review Program	No	The Licensees' review of six Client Files for each of 15 advisers as required under Step 2 of the Additional Processes.
Licensee(s)	No	Refers to CFPL and FWL. For ease, we refer throughout this report to 'the Licensee(s)', but this may refer, depending on the context, to CFPL, FWL, or CBA as a whole.
No Evidence of Advice Client(s)	No	Clients where the Licensees have identified no record of advice having been provided.
OAR Program	No	Open Advice Review Program.
Other Affected Client(s)	Yes	Means clients of relevant representatives identified by [the Additional Processes, as required by clause condition 29(a) or 29(b) of the Additional Licence Conditions] except for: <ul style="list-style-type: none"> a. Clients where the Licensees have no record of advice having been provided; b. Groups of clients of the relevant representatives where it is not necessary to contact those clients for valid reasons (for example, where the only record of a client relationship involves a client having insurance cover that appears to have been obtained prior to the relevant representative giving advice); c. Clients where returned mail is received, and after making appropriate efforts to contact the Other Affected Clients, the Licensees are unable to do so; or d. Clients who will not be included in the Compensation Program as a result of analysis conducted by the Licensees, in accordance with the Revised Steps (if any), which indicates that clients did not receive the type of advice from the Potential At Risk Representative that was the subject of concern.

Defined term	Definition included in Additional Licence Conditions	Definition
PARR Reviews	No	The processes referred to in clause 23(b)(iii) of the Additional Licence Conditions, being the reviews of PARRs undertaken in 2012 and 2014 by the Licensees.
Peer Reviewer(s)	No	The Licensees' assessors engaged to review Consulting Firm 1's Client File Reviews.
Pilot Program	No	The Licensees' review of Client Files for one adviser, undertaken as a trial of the Sampling Methodology and File Review Process to identify and resolve potential issues before undertaking their review of the remaining 16 advisers.
Potential At Risk Representatives (PARRs)	No	Representatives (other than the 15 IFRs) who exhibited risk attributes or behaviours which indicated the relevant representatives may have provided inappropriate advice.
Prioritised List	No	List prepared by Consulting Firm 1 prioritising files for retrieval in accordance with the Sampling Methodology.
Project AARK	No	A project undertaken by CBA from late 2011 into early 2012 to estimate of the possible financial exposure it faced from client compensation payments for the purpose of its financial reporting.
Project Baringa	No	Means the process and methodology set out in the 'Project Baringa Client Remediation and Methodology' document. In effect, the methodology document used for this project describes the process undertaken for the Compensation Program, and refers to the advisers covered by the EU and other compensation activities (excluding the two advisers under Project Hartnett).
Project BIM	No	The range of steps around July 2012 aimed at identifying whether there were advisers, other than the 15 IFRs, who may have provided inappropriate advice to clients and whose clients may have required compensation as a result, referred to by the Licensees as 'Project BIM' (Business Issues Management).
Project Hartnett	Yes	Means the process and methodology set out in the Nguyen Methodology and the Awkar Methodology (provided to ASIC on 29 May 2014) and implemented by the Licensee to compensate clients who suffered losses as a result of inappropriate advice provided by two former representatives of the CFPL.
Review Committee	No	The Review Committee was responsible for reviewing proposed Client File Review Outcomes and determining whether the proposed Client File Review Outcomes received by it should be accepted.
Review Period	No	A requirement of the Additional Processes that the example of advice under review be provided to the client by the PARR in the period prior to the period covered by the 2012 PARR review.
RG 146	No	ASIC Regulatory Guidelines 146.
Sampling Methodology	No	The methodology designed and adopted by the Licensees to select Client Files for review in accordance with the requirements of the Additional Processes.
Second Compensation Program	No	The compensation program (including File Reconstruction where necessary) conducted in accordance with the same methodology used in the Compensation Program (including identification of the subject of concern and scoping as required under Step 4 of the Additional Processes and discussed in Section D and Appendix D of the Identification Report) and the Additional Elements.
STAE	No	The Licensees' Senior Technical Advice Experts.
The 4,333 Cases	No	The 2,707 Affected Clients and 1,626 No Evidence of Advice Clients, totalling of 4,333 Cases.

Appendix B Additional Licence Conditions Overview Diagram

Appendix B: Additional Licence Conditions Overview Diagram

See the [media release](#) dated 23 April 2015 for a text version of the additional licence conditions in this diagram.



Appendix C

Review outcomes

							Licensees' review							Financial Planning Expert ('FPE') review				Compliance Expert sample review					
							No. of Client Files reviewed in sample	Instances of Client Advice reviewed	Instances of appropriate advice	Instances of inappropriate advice	Basis for inappropriate finding	Instances of inappropriate advice leading to loss/ potential loss	Instances of inappropriate advice not leading to loss	Reason for no loss	No. of Client Files reviewed in sample	Licensee assessment of advice appropriateness	FPE assessment of advice appropriateness	FPE basis of inappropriate finding	No. of Client Files reviewed in sample	Instances of appropriate advice	Instances of inappropriate advice	Instances of inappropriate advice leading to loss/ potential loss?	Next step under Additional Processes
40	CFPL	Yes	No	No	Not applicable	Inductive	6	17	17	-	Not applicable	-	-	Not applicable	6	Appropriate	Appropriate	Not applicable	6	17	-	-	None
118	FWL	No	Yes	No	Not applicable	Not applicable	Excluded	Excluded	Excluded	Excluded	Excluded	Excluded	Excluded	Not applicable	Excluded	Excluded	Excluded	Excluded	Excluded	Excluded	Excluded	Excluded	None
33	CFPL	No	Yes	No	Internal gearing	Deductive	7	9	9	-	Not applicable	-	-	Not applicable	1	Appropriate	Appropriate	Not applicable	7	9	-	-	None
61	CFPL	No	Yes	No	Not applicable	Inductive	6	10	10	-	Not applicable	-	-	Not applicable	1	Appropriate	Appropriate	Not applicable	6	10	-	-	None
74	CFPL	No	Yes	No	Not applicable	Inductive	6	8	8	-	Not applicable	-	-	Not applicable	1	Appropriate	Appropriate	Not applicable	6	8	-	-	None
84	CFPL	No	Yes	No	Not applicable	Inductive	6	10	10	-	Not applicable	-	-	Not applicable	1	Appropriate	Appropriate	Not applicable	6	10	-	-	None
93	CFPL	No	Yes	No	Not applicable	Inductive	6	9	9	-	Not applicable	-	-	Not applicable	1	Appropriate	Appropriate	Not applicable	6	9	-	-	None
101	CFPL	No	Yes	No	Not applicable	Inductive	6	7	7	-	Not applicable	-	-	Not applicable	1	Appropriate	Appropriate	Not applicable	6	7	-	-	None
124	CFPL	No	Yes	No	Overweight in Growth/Equities	Deductive	6	6	6	-	Not applicable	-	-	Not applicable	1	Appropriate	Appropriate	Not applicable	6	6	-	-	None
31	FWL	No	Yes	No	Not applicable	Inductive	6	10	8	2	Inappropriate asset allocation for client's risk profile	-	2	Inappropriate investment led to a gain compared with the equivalent appropriate investment	1	Appropriate	Appropriate	Not applicable	6	8	2	-	None
70	CFPL	No	Yes	No	Overweight in Growth/Equities	Deductive	6	6	6	-	Not applicable	-	-	Not applicable	1	Appropriate	Inappropriate	Inappropriate advice regarding income protection insurance; Inappropriate superannuation switching	6	5	1	-	None
30	CFPL	No	Yes	Yes	Not applicable	Inductive	49	72	55	17	Inappropriate asset allocation for client's risk profile; Inappropriate product replacement; Lost insurance cover/benefits; Inappropriate insurance recommendation; Inappropriate risk profile	10	7	Advice not implemented; Implementation altered by client	1	Appropriate	Appropriate	Not applicable	11	15	5	3	Second Compensation Program
52	CFPL	No	Yes	Yes	Not applicable	Inductive	39	66	53	13	Inappropriate asset allocation for client's risk profile; Inappropriate product replacement; Reduced Centrelink Age Pension entitlements; Inappropriate loss of defined benefit entitlement	10	3	Inappropriate investment led to a gain compared with the equivalent appropriate investment.	1	Appropriate	Appropriate	Not applicable	11	16	3	2	Second Compensation Program
63	CFPL	No	Yes	Yes	Not applicable	Inductive	56	71	64	7	Inappropriate product replacement; Inappropriate asset allocation for client's risk profile; Inappropriate insurance recommendation; Inappropriate tax outcome; Lost guaranteed capital security	5	2	Advice not implemented; Inappropriate investment led to a gain compared with the equivalent appropriate investment.	7	8 Appropriate; 2 Inappropriate	8 Appropriate; 2 Inappropriate	Inappropriate product replacement; Inappropriate tax outcome	16	19	4	3	None
72	CFPL	No	Yes	Yes	Overweight in property investments	Deductive	13	19	10	9	Overweight in property investments; Inappropriate asset allocation for client's risk profile; Inappropriate risk profile	9	-	Not applicable	1	Inappropriate	Inappropriate	Overweight in property investments	11	10	7	7	Second Compensation Program
91	CFPL	No	Yes	Yes	Not applicable	Inductive	51	68	53	15	Inappropriate asset allocation for client's risk profile; Inappropriate gearing; Inappropriate insurance recommendation	9	6	Inappropriate investment led to a gain compared with the equivalent appropriate investment; Advice not implemented; Implementation altered by client	1	Appropriate	Appropriate	Not applicable	11	11	3	2	Second Compensation Program
107	FWL	No	Yes	Yes	Internal gearing	Deductive	19	23	9	14	Inappropriate internal gearing; Inappropriate asset allocation for client's risk profile; Potential lost insurance cover; Inappropriate risk profile	6	8	Inappropriate investment led to a gain compared with the equivalent appropriate investment; Advice not implemented	1	Inappropriate	Inappropriate	Allocation to internally geared funds exceeded maximum acceptable limit in the Enhanced AARK Case Assessor Reference Guide	11	8	6	1	Second Compensation Program
							288	411	334	77		49	28		27				132	168	31	18	

Appendix D Pre-determined guidelines for advisers with two to five instances of inappropriate advice

1. Step 4 of the Additional Processes published in the Identification Report require that, in relation to advisers identified as having provided between two and five instances of inappropriate advice leading to client loss following steps 2 and 3 of the Additional Processes, *'The final decision as to the scope of [further] work will be made by KordaMentha Forensic, by reference to pre-determined guidelines to be developed by KordaMentha Forensic, and published in the Compliance Report'*.
2. We shall consider the Licensees' proposed scope of work regarding reasonable and proportional further steps relating to the relevant Adviser and with regard to relevant factors including, but not limited to:
 - a. Areas of Concern identified during Project BIM;
 - b. Additional identified concerns identified during the reviews; and
 - c. Other relevant circumstances that may arise.
3. Following consideration of the circumstances for the relevant adviser⁹⁴ and the further review proposed by the Licensees, we shall determine the final review work required for the adviser. The default position for further review work shall be as follows unless we consider the alternative proposal submitted by the Licensees to be appropriate:
 - a. Where an adviser is identified as having provided between two and five instances of inappropriate advice leading to client loss following the reviews undertaken in Steps 1 to 3 of the Additional Processes⁹⁵, the Licensee will review a further 25 Client Files.
 - b. Where between two and five instances of inappropriate advice leading to client loss are identified following the review of 56 Client Files⁹⁶, the Licensees will review the identified examples of inappropriate advice which led to client loss and no further file reviews are required under the Additional Processes.
 - c. Where six or more instances of inappropriate advice leading to client loss are identified following the review of 56 Client Files⁹⁷, the Licensees will undertake a full review of all client files (including File Reconstruction where necessary) for that Adviser in accordance with the methodology used in the Compensation Program (including identification of the subject of concern and scoping) and as required under the Additional Processes, Additional Licence Conditions and Additional Elements.

⁹⁴ The Licensees are to demonstrate what issues have been identified for the adviser.

⁹⁵ 31 Client File reviews undertaken in steps 2 and 3 of the Additional Processes.

⁹⁶ 31 Client File reviews undertaken in steps 2 and 3 of the Additional Processes plus the further 25 file reviews.

⁹⁷ 31 Client File reviews undertaken in steps 2 and 3 of the Additional Processes plus the further 25 file reviews.