

Compliance Co.

NEO Financial Solutions Pty Ltd
Independent Expert Final Summary Report

30 May 2018

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Disclaimer

This Report has been prepared by Obsequium Consulting Pty Ltd t/a Compliance Co. at the request of the Australian Securities and Investments Commission ("ASIC") in accordance with the terms of ASIC's Enforceable Undertaking, and the Consultancy Agreement between NEO Financial Solutions Pty Ltd and Obsequium Consulting Pty Ltd t/a Compliance Co. 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 Obsequium Consulting Pty Ltd t/a Compliance Co. by NEO Financial Solutions Pty Ltd, and explanations provided to Obsequium Consulting Pty Ltd t/a Compliance Co. by NEO Financial Solutions Pty Ltd's Representatives, and NEO Financial Solutions Pty Ltd's legal representative, along with the specialised knowledge of the Independent Expert. Obsequium Consulting Pty Ltd t/a Compliance Co. does not warrant the accuracy or reliability of any of the information supplied to it. The scope of this Independent Expert Report does not extend to testing the accuracy and completeness of the information provided to us. However, Obsequium Consulting Pty Ltd t/a Compliance Co. undertook various steps to review and consider the information provided to us, throughout the Enforceable Undertaking. Obsequium Consulting Pty Ltd t/a Compliance Co. has read and complied with the Federal Court of Australia Expert Evidence Practice Note and agrees to be bound by it.

This report has been prepared by Obsequium Consulting t/a Compliance Co. with care and diligence. Information contained in this report is current as at the date of the Final Assessment and may not reflect any event or circumstances which occur after the date of the report.

Public release

Obsequium Consulting Pty Ltd t/a Compliance Co. consents to NEO Financial Solutions Pty Ltd, at its discretion, permitting ASIC to release a copy of this Summary Report into the public domain, provided the report is released in its entirety.

1.0 Background and Scope

NEO Financial Solutions Pty Ltd ACN 141 607 098 (the “Licensee”) holds Australian Financial Services License (“AFSL”) number 385845. On 5 February 2016, the Australian Securities and Investments Commission (“ASIC”) identified issues relating to the Licensee’s compliance with Condition Four of the Licensee’s AFSL, whereby the Licensee is required to “establish and maintain compliance measures that ensure, as far as is reasonably practical, that the Licensee complies with the provisions of the financial services laws”, by letter to the Licensee (“ASIC’s Letter of Concern”).

The concerns addressed in ASIC’s Letter of Concern were identified as part of the surveillance conducted by ASIC over the Licensee between 6 July 2015 and 5 February 2016. ASIC’s Letter of Concern addressed alleged inadequacies relating to the Licensee’s risk management framework and compliance management framework, in accordance with Section 2.13 of the Enforceable Undertaking. The Licensee acknowledged that ASIC’s concerns in relation to the alleged conduct were reasonably upheld.

On 17 August 2016, under *S93AA of the ASIC Act* and as an alternative to ASIC pursuing administrative action, the Licensee offered, and ASIC agreed to accept, the undertakings set out in the NEO Financial Solutions Pty Ltd Enforceable Undertaking (the “Enforceable Undertaking”). Pursuant to the terms of the Enforceable Undertaking, Obsequium Consulting Pty Ltd trading as Compliance Co. (the “Consultant”) was engaged as Independent Expert to undertake the following:

- provide an assessment, report and make recommendations in relation to the specific areas of concern, initially identified in ASIC’s Letter of Concern, being the “Initial Assessment” and “Initial Licensee Review Report” (the “First Assessment”);
- provide an assessment and report in relation to the extent to which the recommendations set out by the Consultant in the Initial Licensee Review Report had been considered and / or implemented by the Licensee, being the “Implementation Review” and “Implementation Report” (the “Second Assessment”);
- conduct an assessment of the effectiveness of the Licensee Improvement Program by conducting a sample test of the remediation process applied to Remediation Clients, being the “Remediation Assessment” and “Remediation Report” (the “Third Assessment”); and
- provide an assessment and report in relation to the implementation and effectiveness of the Licensee’s compliance and risk management frameworks following completion of the Licensee Improvement Program, and to form a view on the Licensee’s compliance with Sections 912A, 961B, 961G, 961H, 961J and 961L of the Corporations Act (“the Act”), being the “Final Assessment” and “Final Report” (the “Final Assessment”).

The Consultant’s assessment of the Licensee’s compliance measures was performed in accordance with the scope set out in the Consultancy Agreement dated 23 September 2016. On the basis of this assessment, the Consultant provided 62 Recommendations¹ to the Licensee to form part of the Licensee Improvement Program.

¹ Recommendations 1 to 32, Initial Licensee Review Report, 28 December 2016
Recommendations 33 and 34, Implementation Report, 19 June 2017
Recommendations 35 to 62, Remediation Report, 1 November 2017

2.0 Final Assessment Scope and Methodology

In accordance with matters outlined in paragraph 3.21 of the Enforceable Undertaking, the Final Assessment was the Consultant's:

- assessment and opinion of the implementation and effectiveness of the [Licensee's] compliance and risk management frameworks following completion of the Licensee Improvement Program; and
- opinion on the Licensee's compliance with *Sections 912A, 961B, 961G, 961H, 961J and 961L of the Act*.

To enable assessment of the implementation of the Recommendations set out by the Consultant, the Consultant conducted a Final Assessment of:

- the extent to which the Recommendations have been considered and / or implemented by the Licensee as part of the Licensee Improvement Program; and
- the Licensee's general obligations (*912A of the Act*) and best interest obligations (*912A, 961B, 961G, 961H, 961J and 961L of the Act*).

2.0 Summary of Observations

Item	Final Assessment Scope	Final Assessment
1	<p>Consultant's Recommendations</p> <p>Review the extent to which the 62 Recommendations have been considered and / or implemented by the Licensee as part of the Licensee Improvement Program.</p>	<p>To support the consistent application of Recommendations made by the Consultant in the First, Second and Third Assessments, the Licensee implemented and updated a "Licensee Improvement Tasks Timeline" in an ongoing capacity throughout the course of the Enforceable Undertaking, specifically where the Consultant introduced further recommendations.</p> <p>As part of the Final Assessment, the Consultant assessed the implementation of each Recommendation as adequate.</p> <p>In accordance with paragraph 3.22 of the Enforceable Undertaking, the Consultant identified through the Final Assessment, two further Recommendations with respect to the Licensee's compliance with the financial services laws, pertaining to:</p> <ul style="list-style-type: none"> ➤ one instance of inadequate breach identification, assessment and reporting; and ➤ minor improvements to the Licensee's complaints register. <p>The Consultant subsequently set out the details of the identified deficiencies, recommendations on how to remedy the deficiencies and a reasonable timeframe for the Licensee Improvement Program to be amended and implemented.</p> <p>The Licensee has communicated to both the Consultant and ASIC, their commitment to the finalisation of further recommendations, and their intent to engage an external compliance consultant to ensure timely completion, in accordance with the timeframe set out by the Consultant.</p>

Section 912A Corporations Act (2001)

2	An assessment of the Licensee's obligation to <i>do all things necessary to ensure that the financial services covered by the licence are provided efficiently, honestly and fairly.</i>	The Consultant did not identify any instances, specifically as they relate to the Licensee's obligations under <i>Sections 912A, 961B, 961G, 961H, 961J and 961L of the Corporations Act</i> , whereby the Licensee demonstrated inefficiency in performance, ethical values or judgement, with the exception of the further Recommendation set out in Item 1.
3	An assessment of the Licensee's obligation to <i>have in place adequate arrangements for the management of conflicts of interest.</i>	The Consultant determined that the Licensee has adequate arrangements in place for the management of conflicts of interest with respect to the nature, scale and complexity of the business.
4	An assessment of the Licensee's obligation to <i>comply with the conditions on the licence, comply with the financial services laws and take reasonable steps to ensure that its representatives comply with the financial services laws.</i>	<p>The Consultant conducted an assessment of the Licensee's obligation and ability to comply with, and ensure that its Representatives comply with, financial services laws as prescribed by <i>Section 761A</i> of the Act, including its obligation to:</p> <ul style="list-style-type: none">➤ <i>have available adequate resources to provide the financial services covered by the licence and to carry out supervisory arrangements;</i>➤ <i>maintain the competence to provide those financial services and ensure that its representatives are adequately trained and are competent, to provide those financial services;</i>➤ <i>have a dispute resolution system for retail clients; and</i>➤ <i>have adequate risk management systems.</i> <p>The Consultant conducted a review of the Licensee's human, technological and financial resources, policies and procedures, roles, responsibilities, governance framework, outsourcing arrangements, culture, compensation for retail clients and breach handling processes, in accordance with the scope of the Enforceable Undertaking.</p> <p>With the exception of the further recommendations set out in Item 1 of this Final Report Summary, the Consultant determined that the Licensee has adequate systems in place in accordance with <i>Section 912A</i> of the Act.</p>

Sections 961B, 961G, 961H and 961J Corporations Act (2001)

5	An assessment of the Licensee's obligation to <i>act in the best interests of the client in relation to the advice, provide appropriate advice, effectively manage circumstances of incomplete / inaccurate</i>	<p>In accordance with <i>Sections 912B, 961G, 961H and 961J</i> of the Act, the Consultant undertook a final assessment of the Licensee's demonstrated adequacy in relation to the following:</p> <ul style="list-style-type: none">➤ policies and procedures➤ subject matter expertise; and➤ monitoring and supervision.
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	<i>information and conflicts of interest.</i>	<p>The Consultant determined the following:</p> <ul style="list-style-type: none"> ➤ In accordance with the requirements set out in <i>ASIC Regulatory Guide 175 Licensing: Financial product advisers—Conduct and disclosure (“RG175”)</i>, and in response to Recommendations set out by the Consultant, the Licensee demonstrated processes to ensure that their Representatives comply with best interest duty and safe harbour obligations; ➤ the Licensee’s compliance function contains an appropriate level of skilled resources and a robust framework to undertake monitoring and supervision activities; and ➤ the Licensee has adequate arrangements in place to maintain competence, and to monitor and supervise training, required to provide financial services.
Section 961L Corporations Act (2001)		
6	A final assessment of the Licensee’s demonstrated ability to comply with <i>Sections 961B, 961G, 961H and 961J</i> of the Act.	In accordance with the review of documentation and behaviours set out in the Final Report, the Consultant did not identify any instances, specifically as they relate to the Licensee’s obligations under <i>Sections 961B, 961G, 961H and 961J</i> of the Act, whereby the Licensee demonstrated non-compliance with <i>Section 961L</i> of the Act.

Limitations

The Consultant’s review was limited to the specific scope outlined in the Consultancy Agreement and was completed during the period of 28 September 2016 to 27 April 2018.

The Consultant’s review does not constitute a reasonable or limited assurance engagement in accordance with the Auditing and Assurance Standards Board standards and consequently, no assurance is provided. The scope does not extend to any interpretation of law. No legal opinions are provided or can be assumed.

The Consultant assumes that the information provided by the Licensee in relation to assessments conducted as part of the Enforceable Undertaking was true, complete and not misleading, and confirms that if the information is incorrect or misleading then the report may be incorrect and subsequently inappropriate for its purpose. The Consultant did not attempt to verify sources independently, unless otherwise stated within the Final Report.

The effectiveness of the Licensee’ compliance framework remains dependent on the quality of execution.

In accordance with Section 3.9(c) of the Enforceable Undertaking, this Final Summary Report was requested by ASIC to provide a high-level summary of key findings in accordance with *ASIC Regulatory Guide 100 Enforceable Undertakings*, therefore no reliance may be placed on the information, findings or conclusions in the absence of written confirmation from the Consultant, as the Consultant’s extended findings are contained solely in the Consultant’s Final Report dated 27 April 2018.