



ASIC
Australian Securities &
Investments Commission

CEU compliance report by ASIC

ASIC's report dated **9 August 2019** on compliance with the s93AA ASIC Act court enforceable undertaking given by **Financial Index Australia Pty Ltd** (ACN 094 287 037) (**FIA**) dated 28 July 2017.

Terms used in this report have the same meaning as in the 28 July 2017 court enforceable undertaking (**CEU**).

Undertakings	Report on compliance
Engagement Independent Expert CEU paragraphs 5.2 to 5.9	<ol style="list-style-type: none">1. FIA obtained written approval from ASIC for a 5-business day extension for nominating an Independent Expert (IE). FIA nominated an IE for ASIC's approval within the extended timeframe under paragraph 5.2 of the CEU.2. ASIC requested additional information from FIA regarding the nominated IE. ASIC approved the IE's appointment and the draft terms of the engagement on 11 September 2017.3. FIA appointed the approved IE within the timeframe specified in paragraph 5.3 of the CEU.
Policy and Procedure Review CEU paragraphs 5.13 to 5.18	<ol style="list-style-type: none">4. FIA engaged the IE to conduct and complete a review as specified by paragraph 5.13 of the CEU.5. The IE delivered the Policy and Procedure Report within the extended timeframe agreed with ASIC under paragraph 5.14 of the CEU.6. FIA provided the Remedial Action Plan – Policy and Procedure to ASIC and the IE within the timeframe specified by paragraph 5.15 the CEU.7. Neither ASIC or the IE requested any modifications to the Remedial Action Plan – Policy and Procedure.8. On 20 August 2018, FIA provided the IE the final updated policy and procedure document.9. The Remedial Action Plan – Policy and Procedure has been implemented in full including the SOA template which was the

Undertakings	Report on compliance
	<p>only remaining item as at the interim compliance report dated 3 December 2018.</p> <p>10. FIA provided written notification on 14 March 2019 to ASIC confirming full implementation of the Remedial Action Plan – Policy and Procedure. This was provided outside the agreed timeframe with ASIC under paragraph 5.18 of the CEU due to a communication issue with the IE and FIA. ASIC accepted the reason for the delay.</p> <p>11. As a result of the Policy and Procedure Review, the IE reviewed 16 of FIA’s policy documents and the SOA template and where necessary made recommendations to enhance the operation of these documents.</p>
<p>Advice Review and Remediation</p> <p>CEU paragraphs 5.19 to 5.28</p>	<p>12. FIA provided the IE and ASIC with the methodology and processes to be used by FIA to review the Financial Product Advice provided to selected Clients and to remediate Affected Clients, for ASIC’s approval. This was provided within the extended timeframe agreed with ASIC under paragraph 5.19 of the CEU.</p> <p>13. On 15 November 2017, the IE provided comments regarding the effectiveness of the proposed Review and Remediation Program within the timeframe required by paragraph 5.20 of the CEU.</p> <p>14. FIA made the necessary modifications to the Review and Remediation Program within the timeframe specified by paragraph 5.22 of the CEU. The Review and Remediation Program contained the terms required in paragraph 5.21 of the CEU.</p> <p>First Review and Remediation Update Report</p> <p>15. The IE provided the first Review and Remediation Update Report for the period 14 December 2017 to 13 April 2018 on 4 May 2018, within the timeframe required by paragraph 5.23.3(a) of the CEU.</p>

Undertakings	Report on compliance
	<p>16. The first Review and Remediation Update Report confirmed that FIA had reviewed 51 Client files, with 47 of these Client files being assessed as not complying with one or more of the Corporations Act sections referred to in paragraph 5.21.2 of the CEU.</p> <p>17. As a result of the first Review and Remediation Update Report, FIA agreed that it would review all Client files for all 37 FIA Representatives as per paragraph 5.21.5 of the CEU.</p> <p>18. FIA did not prepare a Remedial Action Plan – Review and Remediation report under subparagraph 5.24 of the CEU, as FIA immediately implemented the IE’s sole recommendation as to the form of the template letter to clients, as such, the IE considered the report unnecessary, and ASIC agreed.</p> <p>Second Review and Remediation Update Report</p> <p>19. The IE provided the second Review and Remediation Update Report for the period 10 April 2018 to 8 August 2018 on 30 August 2018, within the timeframe required by paragraph 5.23.3(a) of the CEU.</p> <p>20. The second Review and Remediation Update Report confirmed that FIA had reviewed a further 545 Client files, with all these Client files being assessed as not complying with one or more of the Corporations Act sections referred to in paragraph 5.21.2 of the CEU.</p> <p>21. The majority of the compliance failures identified by FIA related to instances where FIA had failed to provide their clients with adequate disclosure or record adequate explanations about the recommendation to switch to the in-house product where it was more expensive.</p> <p>22. At the date of the second Review and Remediation Update Report, the IE had reviewed 11% of the Client files reviewed by FIA as per paragraph 5.21.6 of the CEU.</p>

Undertakings	Report on compliance
	<p>23. FIA did not prepare a Remedial Action Plan – Review and Remediation report under paragraph 5.24 of the CEU, as the IE made no additional recommendations.</p> <p>Third Review and Remediation Update Report</p> <p>24. The IE provided the third Review and Remediation Update Report for the period 9 August 2018 to 9 December 2018 on 18 December 2018, within the timeframe required by paragraph 5.23.3(a) of the CEU.</p> <p>25. The third Review and Remediation Update Report confirmed that FIA had reviewed a further 482 Client files, with all but 8 of these Client files being assessed as not complying with one or more of the Corporations Act sections referred to in paragraph 5.21.2 of the CEU.</p> <p>26. The majority of the compliance failures identified by FIA related to instances where FIA had failed to provide their clients with adequate disclosure or record adequate explanations about the recommendation to switch to the in-house product where it was more expensive.</p> <p>27. The IE confirmed that FIA had reviewed all Client files.</p> <p>28. At the date of the third Review and Remediation Update Report, the IE had reviewed 10.6% of the Client files reviewed by FIA as per paragraph 5.21.6 of the CEU.</p> <p>29. FIA did not prepare a Remedial Action Plan – Review and Remediation report under paragraph 5.24 of the CEU, as the IE made no additional recommendations.</p> <p>30. At the date of the third Review and Remediation Update Report, FIA had commenced writing to the Clients informing them of the outcome of the review.</p> <p>Fourth Review and Remediation Update Report</p> <p>31. The IE provided the fourth Review and Remediation Update Report for the period 10 December 2018 to 8 April 2019 on 1 May 2019, within the timeframe required by paragraph 5.23.3(a) of the CEU.</p>

Undertakings	Report on compliance
	<p>32. At the date of the fourth Review and Remediation Update Report, FIA had completed the communication and remediation activities to 70% of the Clients.</p> <p>33. At the date of the fourth Review and Remediation Update Report, the IE had tested a sample of 78 client files to ensure FIA were conducting the communication and remediation activities correctly. The IE did not identify any exceptions based on the testing undertaken.</p> <p>34. FIA did not prepare a Remedial Action Plan – Review and Remediation report under paragraph 5.24 of the CEU, as the IE made no additional recommendations.</p> <p>Final Review and Remediation Report</p> <p>35. The IE provided the Final Review and Remediation Update Report on 12 July 2019, within the timeframe required by paragraph 5.23.3(b) of the CEU.</p> <p>36. The IE oversaw the Review and Remediation Program to confirm its effectiveness and to ensure it included, at a minimum, consistency with the principles set out in ASIC Regulatory Guide - 256 <i>Client review and remediation conducted by advice licensees</i>.</p> <p>37. The total number of Client files reviewed by FIA was 1,076 including 39 files that were either duplicates or later determined to be out of scope.</p> <p>38. The IE independently tested a total of 122 Client files to ensure FIA had undertaken the file reviews in line with the methodology and processes set out in the Review and Remediation Program. This included the following:</p> <ul style="list-style-type: none"> (a) confirming all file reviews were conducted utilising the file review template provided by ASIC to record the findings of the files reviewed; (b) confirming letters sent to Clients were consistent with the methodology set out in the Review and Remediation Program;

Undertakings	Report on compliance
	<p>(c) reviewing file notes of all communications and meetings between FIA and the Clients regarding the advice and remediation; and</p> <p>(d) where necessary, testing the calculation of all remediation amounts and confirming that payment was made.</p> <p>39. The IE selected a further sample of Clients to contact to confirm that they had received the relevant letters and were satisfied with the outcome of the review undertaken by FIA. All the Clients the IE contacted were satisfied with the process and outcome.</p> <p>40. The total number of Clients that received corrective disclosure as a result of the Advice Review and Remediation was 1,033.</p> <p>41. The total amount of compensation payments made was \$42,761.</p> <p>42. The IE confirmed that FIA had complied with the Review and Remediation Program as required by paragraph 5.23.3(b)e. of the CEU.</p> <p>43. FIA did not prepare a Remedial Action Plan – Review and Remediation report under paragraph 5.24 of the CEU, as the IE made no additional recommendations.</p>