



ASIC
Australian Securities &
Investments Commission

CEU final compliance report by ASIC

ASIC’s final report dated **21 May 2020** on compliance with the s93AA ASIC Act court enforceable undertaking (CEU) given by the **Commonwealth Bank of Australia**, ACN 123 123 124 (**CBA**).

Terms used in this report have the same meaning as in the CEU dated **3 July 2018**. Matters described in ASIC’s interim reports dated 20 May 2019 and 21 November 2019 have not been repeated in this report.

Undertakings	Report on compliance
<p>Independent Expert Second Review and Report</p> <p>CEU paragraphs 3.12.8-3.12.10</p>	<ol style="list-style-type: none"> On 6 March 2020, Deloitte Touche Tohmatsu (Deloitte) provided ASIC with its Second Compliance Report in relation to its review of CBA’s compliance with paragraphs 3.2-3.6 of the CEU which was within the time frame required under paragraph 3.12.10 of the CEU. Following enquiries by ASIC, Deloitte provided an updated version of its Second Compliance Report to ASIC on 27 April 2020. The Second Compliance Report indicates that Deloitte did not identify any exceptions in relation to CBA’s compliance with paragraphs 3.2-3.6 of the CEU. An extract of the Second Compliance Report summarising Deloitte’s findings has been included below.
<p>Recommendations or offers of Superannuation Products</p> <p>CEU paragraphs 3.2-3.7</p>	<ol style="list-style-type: none"> On 8 May 2020, ASIC communicated to CBA noting that the undertakings regarding recommendations and offers of Superannuation Products continue to apply as described in CEU paragraphs 3.2-3.7.

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1.3 Summary of findings

1.3.1 Compliance with EU

Our report is based on measures put in place by CBA to comply with the EU up to 31 January 2020.

Our assessment has noted the following with regards to the EU obligations and this table should be read in conjunction with our first Compliance Report dated 17 July 2019:

Table 1

EU undertaking	CBA actions in respect of the Second Compliance Report	Deloitte assessment and findings
<p>3.2 CBA undertakes that it will not recommend Essential Super or any other Superannuation Product to any customer immediately before, during, or immediately after, or in conjunction with, or in a manner that might be perceived by a reasonable person to be in conjunction with:</p> <ul style="list-style-type: none"> • A Financial Health Check conducted with that customer; or • Any other Needs-Based Discussion conducted with that customer. 	<p>To ensure compliance with sections 3.2 to 3.6 of the Enforceable Undertaking, Offers and recommendations of Essential Super and other Superannuation Products within the Bank Channels remained suspended during the period covered by the Second Compliance Report (1 June 2019 to 31 January 2020) and remains suspended up to the date of issuing this report.</p>	<p>We:</p> <ul style="list-style-type: none"> • Interviewed the GM Retail Wealth and Head of Regulatory Engagements, RBS Compliance to confirm suspension of Essential Super and any other superannuation products; • Conducted 19 interviews (27 interviews conducted for the First Compliance Report) with selected branch staff and managers; • Tested a sample of 149 originations made between 1 June 2019 and 31 January 2020 to check if any offers had been originated through the Bank Channels. <p>No exceptions identified.</p>
<p>3.3 CBA undertakes to ensure that any CBA staff member or representative who is to offer Essential Super or any other Superannuation Product to a customer will not be permitted to access any information obtained from the customer during the Financial Health Check or Needs-Based Discussion before providing any Financial product Advice to the customer in relation to the offer.</p>	<p>During the period covered by the Second Compliance Report (1 June 2019 to 31 January 2020), offering of Essential Super or other Superannuation Products remained suspended through Bank Channels. Therefore, no staff member has been able to offer Essential Super or any other Superannuation Product through the Bank Channels.</p>	<p>We:</p> <ul style="list-style-type: none"> • Conducted interviews with CBA management to validate that Superannuation Products are not being offered or recommended via Bank Channels; • Obtained originations made between 1 June 2019 and 31 January 2020, made a sample of 149 originations (149 originations selected for the First Compliance Report) to determine if any Essential Super or any other Superannuation Products had been offered or recommended; • Obtained all phone recordings for the period 1 June 2019 and 31 January 2020 to determine if

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EU undertaking	CBA actions in respect of the Second Compliance Report	Deloitte assessment and findings
		<p>any discussions of superannuation included offers or recommendation of Essential Super or any other Superannuation Product and whether the offer was provided following an FHC;</p> <ul style="list-style-type: none"> • Interviewed branch staff and Financial Planners to determine if any offers or recommendation of Superannuation Products are made following an FHC or NBD. <p>No exceptions identified.</p>
<p>3.4 CBA undertakes to ensure that, where CBA staff member or representative offers Essential Super or any other Superannuation Product to a customer and they know that the customer has previously completed a Financial Health Check or any other Needs-Based Discussion, the staff member or representative will inform the customer that they will not have regards to the information provided to CBA by the customer in any Financial Health Check or Needs-Based Discussion.</p>	<p>During the period covered by the Second Compliance Report (1 June 2019 to 31 January 2020), offers and recommendations of Essential Super and other Superannuation Products remained suspended. No Information obtained by staff members during a Financial Health Check or Needs – Based Discussion has been used to offer or recommend an Essential Super account or any other superannuation product.</p>	<p>We:</p> <ul style="list-style-type: none"> • Obtained originations made between 1 June 2019 and 31 January 2020, selected a sample of 149 originations (149 originations selected for the First Compliance Report) to determine if any Superannuation Product had been offered or recommended; • Obtained all phone recordings for the period 1 June 2019 and 31 January 2020 to determine if any discussions of superannuation included offers or recommendation of Essential Super or any other Superannuation Product and whether this was provided following an FHC; • Interviewed branch staff and Financial Planners to determine if any offers or recommendation of Superannuation Products are made following an FHC or NBD and whether customers were informed that the information will be used for that purpose; • Conducted mystery shopping to check compliance with the EU. <p>No exceptions identified.</p>
<p>3.5 CBA undertakes to, upon the Acceptance Date, take immediate steps to ensure that within 14 days of the Acceptance Date CBA Staff and</p>	<p>During the period covered by the Second Compliance Report (1 June 2019 to 31 January 2020), offering of Essential Super or other Superannuation Products remained suspended through Bank Channels</p>	<ul style="list-style-type: none"> • We interviewed the GM Retail Wealth, EM Retail Wealth Risk Governance and Head of Regulatory Engagements RBS Compliance to confirm that offering Essential Super and any other Superannuation Products remains suspended

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<p>representatives will comply with the steps outlined in sections 3.2 to 3.4 above.</p>		<p>during the period 1 June 2019 to 31 January 2020.</p> <p>No exceptions identified.</p>
<p>3.6 CBA undertakes that if CBA offers Essential Super or any other Superannuation Product to a customer by telephone, that call will be recorded.</p>	<p>Following receipt of the EU on 3 July 2018, CBA suspended offering Essential Super to customers through Bank Channels with effect from 17 July 2018. Essential Super and other Superannuation Products remained suspended during the period covered by the Second Compliance Report.</p>	<p>We:</p> <ul style="list-style-type: none"> • Obtained all phone recordings for the period 1 June 2019 and 31 January 2020 to determine if any discussions of superannuation included offers or recommendation of any Superannuation Product. Out of a sample of 12 call recordings (13 selected during the first compliance report) tested, none of them involved the offering or originating of a Superannuation Product; • Obtained all originations made between 1 June 2019 and 31 May 2019, made a sample of 149 originations to determine if any Superannuation Product had been offered or recommended. In order to determine if these were initiated via the phone. <p>No exceptions identified.</p>
<p>3.12.6 Identifies any deficiencies in CBA's compliance with the EU Undertakings and recommendations for control improvements to remedy those deficiencies</p>	<p>CBA suspended offering Essential Super to customers through Bank Channels with effect from 17 July 2018. Essential Super and other Superannuation Products remained suspended during the period covered by the Second Compliance Report.</p>	<p>No exceptions identified.</p>

Based on our assessment of CBA's compliance with sections 3.2 to 3.6 of the EU up to the date of this report, no exceptions have been identified.