

SUBMISSION
**Senate Economics
References Committee:
Inquiry into the scrutiny
of financial advice**



CommonwealthBank

Commonwealth Bank

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The Chairman
Senate Economics References Committee
Inquiry into the Scrutiny of Financial Advice
Parliament House
CANBERRA ACT 2600



Dear Chairman

The Inquiry into the *Scrutiny of Financial Advice* raises important questions about financial advice and provides the opportunity to talk about the industry's future.

I once again apologise to customers who received poor financial advice from our businesses. As the Committee is aware, a number of advisers who worked for Commonwealth Financial Planning (CFPL) or were authorised by Financial Wisdom Limited (FWL) failed in their primary obligation to act in the interests of customers.

I am sincerely sorry that customers suffered financial hardship, uncertainty and worry. I have personally met with customers and I recognise the impact of these events on individuals who were affected.

I also acknowledge that internal deficiencies contributed to those advisers failing our customers.

The unacceptable behaviour of those advisers has never been consistent with the values of the Commonwealth Bank. Nor is it representative of the focus that the vast majority of our 52,000 employees have every day on the financial wellbeing of our customers.

We are committed to putting things right for affected customers. To date we have paid more than \$52 million under compensation programs.

In July 2014 we announced our Open Advice Review (OAR) program for customers of CFPL and FWL. The aggregate reach of our promotion of the program through the media has been approximately 14.8 million people.

We will be writing to more than 300,000 current CFPL customers about the program. We will also contact each individual FWL practice to seek permission to inform their customers about the OAR program directly or to notify customers themselves. We will explore additional ways to make past customers aware of the program.

Approximately 4,500 CFPL and FWL customers have already registered for the OAR program.

We have also transformed our management and structure, systems and processes, culture, remuneration and training to ensure problems of this scale and severity are not encountered again.

I thank you for the opportunity to provide this submission. I would welcome the opportunity to discuss these issues in more detail with the Committee.

Yours sincerely

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(a) the current level of consumer protections;	11, 14, 17
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(d) mechanisms, including a centralised register, that would ensure financial advisers found to have breached any law or professional standards in their employment are transparent, for both the sector and consumers;	4, 18-19
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1. Introduction

The Commonwealth Bank of Australia Group (Commonwealth Bank) welcomes the opportunity to provide this submission to the Senate Economics References Committee's Inquiry into the *Scrutiny of Financial Advice* (the Inquiry).

The Inquiry focuses on important issues in the recent past, including unacceptable behaviour by some financial advisers, the role of regulators and ongoing industry responses to adviser misconduct. Its Terms of Reference also provide an opportunity to consider how to shape a future for the financial advice industry.

Commonwealth Bank believes that access to quality, affordable financial advice is important for the financial security and wellbeing of millions of Australians.

Australia's superannuation, tax and benefit systems are complex, and there is a multitude of financial products available in the market. Good financial advice educates and supports customers. It provides the confidence to navigate the complexities, understand the trade-offs and make rational, informed financial decisions that meet individual needs. One study suggests that up to 9.6 million Australians may seek financial advice in the next two years.¹

Industry research² shows that financial advice can:

- increase national savings by \$4.2 billion (or 0.3 per cent of GDP) by 2016-17 if an additional 5 per cent of Australians receive financial advice; and
- save a person an additional \$1,590 each year (after the cost of the initial advice) when compared to a similar person without a financial adviser, equating to an additional \$91,000 upon retirement for a 30 year old.

To deliver on this need for quality financial advice and to ensure Australians have confidence in the financial advice sector, the industry requires well-run, ethical financial institutions and quality advisers operating in an efficient and effective legislative environment regulated by well-resourced and respected regulatory bodies.

The Wealth Management division of Commonwealth Bank delivers superannuation, insurance, asset management and financial advice services to customers. Wealth Management Advice, which is part of the broader Wealth Management division, includes Commonwealth Financial Planning Limited (CFPL) and Financial Wisdom Limited (FWL).

CFPL is one of Australia's largest financial planning licensees with approximately 750 advisers authorised to represent it and provide financial services on its behalf. It provides financial advice to more than 300,000 retail customers.

FWL delivers financial advice through approximately 380 authorised representatives from 150 independently-owned practices.

These advice businesses have different business models under licence arrangements issued by the Australian Securities and Investments Commission (ASIC). The majority of CFPL advisers are salaried employees,³ whereas FWL advisers are not employed by Commonwealth Bank. FWL practices are generally small businesses, with a number in regional and rural areas.

¹ Investment Trends, *Advice and Limited Advice Report*, September 2013.

² KPMG Econtech, *Value Proposition of Financial Advisory Networks Update and Extension*, 2011, pages iv and 9.

³ In this submission, "CFPL advisers" only refers to the employed advisers.

Both entities operate their respective business models consistent with Commonwealth Bank's strategy, values and ethical standards. Appendix A provides an overview of these businesses.

Commonwealth Bank acknowledges that a number of financial advisers within CFPL and FWL failed in their primary obligation to act in the interests of their customers. We sincerely apologise for that breach of trust and for the financial hardship, uncertainty and worry which it caused.

Internal deficiencies contributed to those advisers failing our customers, specifically:

- organisational structures did not create sufficiently clear separation between product and advice functions, nor between business line functions and compliance functions;
- remuneration arrangements created the opportunity for unethical advisers to attain personal reward by not acting in the interests of their customers; and
- quality assurance systems sometimes failed to identify patterns of bad behaviour, which allowed poor advice to go undetected for too long.

In addition, buoyant financial markets for much of the last decade made it more difficult to detect advisers giving poor advice because even poorly advised customers in aggressive growth products saw their investments grow considerably.

Our focus has been to:

- work to put things right for customers who received poor advice;
- transform our advice business; and
- work with other stakeholders, including government and regulators, to ensure customers are supported by the right regulatory environment.

To date, we have paid more than \$52 million under past compensation programs to customers who received poor quality advice. In July this year we broadened our remediation response, establishing the Open Advice Review (OAR) program. The program provides a transparent process of review and remediation with independent oversight for customers who have concerns about advice received from CFPL or FWL between September 2003 and July 2012.

We have also transformed the CFPL and FWL businesses. We undertook management and structural change and overhauled systems and processes to enable early warnings of potentially adverse adviser behaviour. Remuneration arrangements have been changed to focus on quality advice in the customer's interests. In addition, earlier this year, we enhanced professional and education requirements for our financial advisers.

It is important that our actions are complemented by the regulatory environment.

We welcomed legislative initiatives following the Ripoll Inquiry,⁴ the centrepiece of which is a statutory duty for advisers to act in the best interests of the customer. We also support the recently announced public register for all financial advisers.

Unacceptable behaviour by some individuals may occur in any organisation. However the transformation of management, structure, systems, processes, culture, education standards and remuneration we have undertaken provides confidence that any such incidents will be detected quickly and dealt with.

⁴ Parliamentary Joint Committee on Corporations and Financial Services into Financial Products and Services, *Final Report*, November 2009.

This submission provides an overview of Commonwealth Bank's programs to put things right for customers, outlines initiatives undertaken to reform our advice businesses and provides some views on legislative and regulatory reform which will further strengthen confidence in the sector.

2. Looking after customers

Our customers are important to us, and in this section we set out the initiatives and actions we have taken to put things right for customers who received poor advice. We provide information about the OAR program and its progress and summarise remediation actions undertaken prior to the start of the OAR program in July 2014.

A fundamental principle is that where customers received financial advice that was not aligned with their financial goals, attitude to risk and personal circumstances we will restore those customers to the position they would have been in had they received appropriate advice. Offers of compensation will include a payment of interest to ensure customers are not disadvantaged by the time taken for us to conduct the review.

We have sought to balance the need for a rigorous and consistent process with customers' need for timely resolution and finality.

We acknowledge that at times our belief that we were pursuing the right approach caused us to ignore suggestions that more needed to be done. This defensiveness occurred at a time when some affected customers were feeling frustrated by their discussions with us.

Our clear and unequivocal approach at Board and senior executive level is to ensure that our people listen closely to the genuinely held concerns of customers who received poor advice and find solutions that address their legitimate concerns.

Open Advice Review program

Commonwealth Bank's OAR program was announced in July 2014. The program offers a fair, independent, accessible and transparent mechanism for customers to have their concerns investigated and any remediation determined. We are providing all the necessary resources and expertise to ensure the program's success.

The objectives of the OAR program include that it should be:

- fair and transparent for customers;
- subject to internal and independent external oversight; and
- aligned to Commonwealth Bank vision and values.

TABLE I: Key elements of the OAR program and process

		Open Advice Review program						
		Independent expert oversight and provision of public reports						
Commonwealth Bank Process	(1) Registration	(2) Review and Assessment	(3) Assessment	(4) Independent Customer Advocate	(5) Independent Review Panel	External		
		The customer registers to have their advice reviewed; online, telephone or by mail. Registrations can be made by another person on behalf of a customer.	The customer is assigned a Review Manager , who is their main point of contact throughout the program and will provide updates.	The customer will receive a letter that outlines the assessment of their advice. The letter will outline:	The customer may choose whether or not to contact an ICA to assist in the consideration of their assessment.		Where the customer and CBA do not agree, an ICA may advise the customer to have their case reviewed by the Independent Review Panel .	The customer may:
		The customer receives a telephone call from the Open Advice Review program to acknowledge registration and confirm contact and address details.	A CBA dedicated team will review the advice received by the customer.	1. The assessment of the advice provided to the customer.	The ICA may, on behalf of the customer, engage with CBA in relation to an assessment or any offer of compensation.		Customers must be represented by an ICA at the Independent Review Panel stage.	<ul style="list-style-type: none"> reject an assessment and elect to exit the Open Advice Review program; reject the Independent Review Panel's decision; or otherwise choose to exit the Open Advice Review program at any time.
		The customer receives a Customer Information Pack by courier, post or email and is asked to provide some initial documentation, and information about themselves and the advice they received.	The assessment will determine whether the advice received by the customer was appropriate or inappropriate for their circumstances at the time.	2. For customers who are eligible, an offer of compensation .			The Independent Review Panel will review and consider the customer's assessment and any offers of compensation that have been made.	The customer may then:
		If the advice received by the customer was inappropriate, CBA will determine the position that customer would have been in if they had received appropriate advice. Where applicable, this assessment will involve the calculation of compensation.	3. Instructions on obtaining the services of an Independent Customer Advocate (ICA) .				The Independent Review Panel will make a decision that binds CBA, but not the customer.	<ul style="list-style-type: none"> seek to have their case determined by the Financial Ombudsman Service (FOS); or pursue separate legal action.
Customer Participation	Customer Information Pack returned to CBA	Review Manager	Customer consideration of assessment	Customer consideration of assessment	Customer consideration of decision			
	The customer receives a telephone call from the Open Advice Review program to acknowledge receipt of the Customer Information Pack and discuss next steps of the review process.	From the time their assessment starts, customers can contact their Review Manager if they have any queries.	The customer considers the assessment and: 1. Accepts the assessment; or 2. Rejects the assessment; and/or 3. Discusses with CBA; and/or 4. Obtains the services of an ICA.	The customer considers the assessment. The customer: 1. Accepts or rejects the assessment.	The customer considers the Independent Review Panel's decision. The customer: 1. Accepts or rejects the decision.			
Dedicated Open Advice Review Call Centre 1800 507 281								

Promotion and registration

To ensure the greatest possible number of potentially affected CFPL and FWL customers are aware of the program and can register for a review we are conducting a national advertising and public awareness campaign, and stakeholder meetings.

The extensive national advertising campaign has reached millions of Australians since July 2014. This has included advertising on radio, in foreign language publications and publications targeting seniors and communities with special needs. We have also placed full and half page newspaper advertisements in major metropolitan newspapers. The aggregate reach of the media through which we have advertised has been approximately 14.8 million people.

We have promoted the program through *Netbank* which receives millions of logins per month. We have also advertised on our internet homepage, used search engine marketing to drive online search traffic to the program landing page and placed a static advertisement on the Financial Planning landing page.

We have focused on getting the message out to senior Australians in particular given the more pronounced impact of poor quality advice on this group. We are meeting with a range of community organisations and advocates and are providing materials including brochures and posters that contain further information about the program and registration. This has been assisted by Ms Fiona Guthrie, Executive Director, Financial Counselling Australia, who has been appointed as the Consultant Expert Adviser to the program.

Widespread and sustained advertising and targeted awareness was in our view the highest impact and most consistent approach for raising customer awareness given:

- a combination of customers moving address, expiry of record retention periods and historic poor record keeping create specific challenges in contacting those customers; and
- Commonwealth Bank does not have the contractual right to contact customers of the independently-owned FWL practices directly where there is no identified concern with the advice a customer previously received.

We continue to assess and implement other initiatives to maximise customer awareness:

- On 2 November 2014 we announced that details of the program will be sent to more than 300,000 current CFPL customers.
- We will seek permission from each individual FWL practice to contact their customers directly or request that they notify their customers themselves of the OAR program, recognising that under the contractual conditions described above, Commonwealth Bank cannot compel them to do so. In addition, Commonwealth Bank will, in the event of identifying issues with specific advisers, act on its rights under those contracts and directly contact customers.
- We will continue to explore ways to make past customers aware of the program.

As at 2 December 2014, we have received registrations from approximately 4,500 current and former customers of CFPL and FWL advisers.

Review, assessment and independent oversight

Following registration, there are three main steps:

1. *A dedicated Commonwealth Bank team will provide a free assessment of the previous advice provided to the customer.*
 - Once their advice assessment has commenced, each customer will be assigned a dedicated review manager as their consistent Commonwealth Bank point of contact.
 - This review manager will be responsible for the delivery of the Group's assessment of the financial advice the customer has received and will guide and assist the customer through the review.
 - The dedicated team will review whether the advice was appropriate for the customer's circumstances at the time it was given. If it was not, the team will consider what the appropriate advice should have been and look at the difference between the two outcomes.
 - The assessment principles used to determine the appropriateness of financial advice to individual customers have been agreed with the three Independent Customer Advocate firms (see Step 2 below) and reviewed by the Independent Review Panel (see Step 3 below).
 - The customer will receive a letter detailing the outcome of this review.
 - Where instances of poor advice are identified and this caused customers to lose money, Commonwealth Bank will put customers back into the financial position they would have been in had they received appropriate advice. This means that offers of compensation will include a payment of interest to ensure customers are not disadvantaged by the time taken for us to conduct the review.
 - Concerns about possible fraud in relation to a customer's advice documentation will be referred to the program's Independent Forensic Expert, McGrathNicol, to investigate and, where appropriate, the police will be informed.
 - A customer can at any time pursue a claim through any other avenue.
2. *The customer will be offered access to an Independent Customer Advocate to represent them at no cost.*
 - Each customer will be offered access to an Independent Customer Advocate once they receive their assessment of advice. The Independent Customer Advocate can help them consider the assessment, as well as any offer of compensation. The Independent Customer Advocate firms are Maurice Blackburn, Shine Lawyers and Slater and Gordon.
 - The agreement between the Independent Customer Advocates and Commonwealth Bank requires that they act in the customer's best interests.
 - The Independent Customer Advocate can represent customers in any discussions with Commonwealth Bank and before the Independent Review Panel.
3. *If a customer and the Independent Customer Advocate are not satisfied with the outcome of the assessment, they can request the program's Independent Review Panel to reconsider the customer's claim.*

- Chaired by the Hon. Ian Callinan AC, the Panel also includes retired Justice of the Queensland Court of Appeal, the Hon. Geoffrey Davies AO as Deputy Chairman and retired Justice of the Federal Court and the Victorian Court of Appeal, the Hon. Julie Dodds-Streecon QC, as Panellist.
- The Panel will provide independent, expert adjudication on customer claims and can make decisions that are binding on Commonwealth Bank but not on the customer.
- If a customer is not satisfied with the outcome they receive including at the Panel stage, they can pursue a claim outside the program such as through the Financial Ombudsman Service or through the courts. Importantly, we will make concessions in relation to limitation periods to ensure customers are not disadvantaged by their participation in the program.

The OAR program is provided at no cost to the customer.

The program's independence is further strengthened by the appointment of Promontory Financial Group as the Independent Expert to the program. Promontory will conduct regular reviews of the program and make its periodic reports public. Full details of the independent process are detailed in Appendix B.

Past remediation programs

The OAR program builds upon previous remediation efforts which targeted specific advisers known to have provided poor advice. Past events came to light over a period of time. As information and customer concerns unfolded, a series of responses were established to put things right for customers who received poor advice.

In 2008, following complaints from clients to Commonwealth Bank and ASIC, CFPL became concerned about the advice provided by then adviser Don Nguyen. At that time, each of these complaints was dealt with on a case-by-case basis.

Around the same time CFPL and FWL commenced the Continuous Improvement Compliance Program, focussed on improving compliance and risk management processes in response to concerns reported to CFPL and FWL by ASIC in February 2008.

In 2010 *Project Hartnett* was established to remediate clients of Don Nguyen and in November 2010 CFPL agreed with ASIC to a compensation program in relation to those clients.

In December 2010 *Project Hartnett* was expanded to include the remediation of clients of a second ex-CFPL adviser, Anthony Awkar.

On 25 October 2011 ASIC accepted an Enforceable Undertaking (EU) from CFPL. The EU included an obligation to provide that where, in the course of implementing the EU, CFPL identified a customer that had been adversely affected as a result of receiving poor quality advice from a CFPL adviser, CFPL would consider the circumstances and appropriately remediate the customer.

To give effect to this EU obligation, CFPL implemented a CFPL Customer Remediation Policy and Process Guideline (Remediation Policy) in February 2012. CFPL agreed with ASIC to review the circumstances of CFPL advisers who had been the subject of breach notices lodged with ASIC from June 2008 to October 2011 under the new Remediation Policy. Customers found to have been adversely affected by poor quality advice were remediated. Progressively, the project was also expanded to include the remediation of clients of other CFPL and FWL advisers identified during the course of ongoing adviser

supervision and monitoring activities, though it is recognised the process was not always consistent. All of these past remediation programs were collectively referred to as the *Past Business Reviews* or *Project Baringa*.

The CFPL EU concluded on 25 October 2013 with the delivery of a report by the Independent Expert to ASIC. Under *Project Hartnett* and the *Past Business Reviews* we paid more than \$52 million in compensation to affected CFPL and FWL customers. During the period March 2011 to April 2014 ASIC banned a total of eight former advisers included in these programs.

Customers who participated in any of these programs remain eligible to request that their advice is reviewed under the OAR program.

Varied licence conditions to ensure consistency for customers

In 2014, Commonwealth Bank agreed with ASIC to vary the Australian Financial Services Licence (AFSL) conditions for CFPL and FWL, to ensure that affected customers of identified advisers who were subject to past remediation programs are treated consistently.

The varied conditions became effective on 19 August 2014 and include that CFPL and FWL will contact and inform more than 4,000 customers that the advice they had previously received was subject to a review and offer them the support of a qualified independent adviser with fees up to \$5,000 being met by the Commonwealth Bank. These customers are also eligible to register for the OAR program.

Customers will have the confidence of additional independence in the process with KordaMentha Forensic appointed by ASIC to prepare expert reports on compliance with the licence conditions.⁵ KordaMentha Forensic will prepare three reports:

- a report that will identify whether the customer engagement processes adopted for the purposes of the licence conditions are consistent with those used in *Project Hartnett*. Following receipt of this report contact will be made with customers;
- a report that identifies whether the processes used to identify adversely affected customers for the purposes of past remediation programs were reasonable. If this report identifies additional affected customers whose matters ought to have been reviewed under prior compensation programs, further reviews will then be conducted under the licence conditions; and
- a report that confirms compliance with the additional licence conditions.

Financial Ombudsman Service

In addition to these remediation programs, the Financial Ombudsman Service (FOS) is an important element of the consumer protection framework. It offers consumers a free and independent dispute resolution process covering financial services and other disputes and is an alternative to going to court. FOS is funded by its members, including Commonwealth Bank.

In the event a customer is not satisfied with the outcome of the OAR process, or any other remediation exercise, they would be able to pursue other avenues such as FOS.

⁵ Australian Securities and Investments Commission, *ASIC appoints compliance expert to monitor CBA financial planning businesses*, Media Release, 14 November 2014.

3. Transforming the business

This section outlines the initiatives undertaken by Commonwealth Bank to learn from the past, transform the advice businesses and address the issues identified in this submission. These include transformations across the advice businesses to:

- management and structure;
- systems and processes; and
- culture, remuneration and training.

Appendix C provides an overview of key business transformation initiatives.

Management and structure

Historically the Wealth Management Advice business, and the platform and superannuation businesses were part of Colonial First State (CFS). Structures were improved to better support good governance and manage perceived conflicts of interest. These changes included:

- Wealth Management Advice is no longer within CFS, but from May 2012 directly reports to the Group Executive of Wealth Management;
- two new Executive General Manager roles were created; one for the advice business and another for the platform and superannuation businesses. Both these positions report to the Group Executive of Wealth Management; and
- an Advice Licensee Services function was created in the advice business. This function provides enhanced risk and compliance capability in the business.

Systems and processes

Management information systems

Previous management information systems had a number of deficiencies:

- they were product-centric and lacked sufficient data analysis and reporting capabilities;
- there was not a consolidated view of the number nor type of customer complaints relating to a particular adviser;
- CFPL customer files were not electronically centralised but located in Commonwealth Bank branches where CFPL advisers operated or in physical offsite archive storage facilities;
- a lack of effective document management systems led to poor record keeping; and
- FWL customer files were with advisers throughout the country. For advisers who left FWL, no copies of the files were kept by the licensee.

These issues reduced the capacity to identify early warning indicators of poor adviser behaviour.

Transformed risk management and proactivity

We have implemented new systems and processes across the CFPL and FWL businesses, to improve compliance, monitoring and risk management with an investment of more than \$25 million.

The new 'Connect' framework enables a single view of an adviser. It enables the supervision and monitoring of advisers and the advice they provide. It also provides information on, and monitors, the areas where advisers may need support and coaching, consolidated onboarding, maintenance and offboarding information on each CFPL and FWL adviser.

The system overhaul also includes the implementation of new electronic Document Management Systems within CFPL and new procedures which include the requirement for FWL practices to scan and supply copies of files of any departing FWL adviser to the licensee.

The transformation of the business progressed in conjunction with the EU entered into by CFPL with ASIC in October 2011. PricewaterhouseCoopers was appointed as the Independent Expert who supervised and then validated CFPL's compliance with the implementation plan (in October 2013).

These systems and processes are significantly improved from those in place previously.

Past compliance issues

In February 2008 ASIC wrote to CFPL and FWL regarding past compliance issues that arose under those systems and processes, and 38 advisers who were rated 'critical risk' by CFPL and FWL's own internally-set rating system. At the time, a critical rating through this internal system did not necessarily mean that unacceptable advice was provided, nor that a customer suffered loss, nor that employment should be terminated for any other reason. The rating could indicate, for example, gaps or lateness in preparing or finalising file documentation due to basic clerical errors.

Nevertheless, a critical rating was an important compliance outcome and taken seriously by the business. Where file reviews concluded that there was an absence of sufficient advice documentation, these matters were recorded and the review team worked with the adviser and their manager to remediate compliance gaps and educate the adviser on the expected standards.

Twenty-nine of these advisers have since left the business. As is the case with all CFPL and FWL advisers, the remaining nine advisers are actively monitored under the new Connect framework and processes described above to ensure that they are providing quality advice.

Culture and remuneration

We have undertaken extensive work to ensure the conduct of the advice business at every level contributes to the delivery of quality advice to individual customers. Key cultural initiatives include:

- employee recognition awards established for individual and team achievements in securing and enhancing the financial wellbeing of customers and communities, with nominations based on criteria which reflect desired Commonwealth Bank behaviours;
- the SpeakUp Hotline, operated by qualified independent consultants enables employees to raise issues impacting their role, wellbeing at work, or issues affecting

the organisation. Employees are encouraged to feel safe to speak up about and take ownership of issues that otherwise might go unreported; and

- the Whistleblower Hotline which built on an existing line for the reporting of conduct such as fraud or unethical behaviour. Any employee in Australia or overseas can report 24/7 via a dedicated telephone number, email or by post. The policy stipulates that no employee is discriminated against as a result of reporting in good faith and callers may remain anonymous.

We have transformed CFPL remuneration models to ensure that remuneration and promotions at all levels across the advice business are consistent with our ethics, vision and strategy and comply with regulatory requirements.

Our CFPL remuneration models are based on the following principles:

- performance in delivering customer satisfaction through a needs-based approach when providing advice;
- compliance with and respect for relevant statutes and any appropriate non-statutory practice codes and Commonwealth Bank behavioural standards; and
- legal and ethical obligations to act in the best interests of the customer, consistent with the reinforcement from senior leadership that responsible, ethical, compliant behaviour is a mandatory requirement (sometimes referred to as a 'gate opener') in remuneration considerations.

To give effect to these principles, remuneration plan changes have been implemented for CFPL advisers with plans now being both Future of Financial Advice (FoFA) compliant and focussed on the provision of quality advice both initially and ongoing. The new adviser remuneration structure across CFPL replaces previous conflicting signals with a new 'balanced scorecard' system.

Under the new CFPL variable remuneration plan, mechanisms exist as enforcements for good behaviour and disincentives for unacceptable behaviour. For example:

- an adviser cannot participate in the plan if they have received an unsatisfactory performance rating on outcomes including quality of advice, customer satisfaction, risk management and training; and
- open ended clawback of variable remuneration which could be triggered for customer complaints relating to inappropriate advice.

FWL advisers are not Commonwealth Bank employees and they are not covered by a Commonwealth Bank remuneration plan. However, like CFPL advisers, FWL authorised representatives must act in the best interest of the customer and prioritise customer interests ahead of their own when giving advice. FWL practices operate under a revenue sharing arrangement with FWL which is FoFA compliant. FWL practices are also required to attest to FWL that the remuneration within their practices is also FoFA compliant.

Adviser education, training and recruitment

Training obligations required for financial product advisers are outlined by a Regulatory Guide issued by ASIC, known as RG 146.

Commonwealth Bank has chosen to set additional educational standards for its advice businesses to those currently required by law.

In July 2014 we announced new minimum education standards for CFPL financial advisers, supervisors and managers of advisers. This continues our investment in the professionalism of the advice industry to help build greater trust between financial advisers and their customers.

In October 2014, Commonwealth Bank announced it was applying new adviser education standards across the Wealth Management Advice businesses, to all advisers and licensee employees in supervision and monitoring roles. The new education standards will apply to FWL advisers and licensee support employees.

In addition, as a minimum standard Wealth Management Advice advisers and relevant licensee employees will have to be a member of a relevant financial services industry association.

An overview of these new standards can be found in Table II.

CFPL and FWL have also put in place a rigorous recruitment, induction and continuous professional development program that tests and seeks to enhance the knowledge and skills of each financial planner.

The recruitment process for CFPL includes a technical knowledge assessment delivered by an external registered training organisation, a behavioural interview to assess the cultural fit of the individual, a people capabilities questionnaire and a role play by the hiring manager to assess the individual's financial planning skills.

Soon after the financial planner joins CFPL, they undertake a 12 week induction and orientation program which includes one week of classroom training and 11 weeks of on the job experience. The program is focussed on the end to end advice process including internal policies and procedures and technology.

For FWL, the recruitment and induction program for authorised representatives follows similar principles but varies according to the level of an authorised representative's experience.

On an annual basis, each CFPL and FWL adviser is required to undertake a minimum of 30 continuous professional development (CPD) points including a mandatory ethics component. If an adviser also provides advice in specialist technical areas they are required to undertake additional points. CPD points are approved by the CPD assessors who are authorised by the Financial Planning Association.

Structurally, more than 25 new financial planning manager roles have been created in CFPL to support, supervise and coach advisers. In an equivalent initiative FWL has also increased the number of practice development managers to help support advisers. FWL has also had a new dedicated risk management and compliance team since 2012.

TABLE II: Newly implemented Professional and Educational Standards for CFPL and FWL

	New Applicants	Existing Advisers
CFPL Financial Advisers	<p>Degree qualified in finance, business, commerce or a related field</p> <p><i>(effective 18 July 2014)</i></p>	<ul style="list-style-type: none"> Advanced Diploma in Financial Planning or equivalent; or a Degree in finance, business, commerce or a related field <p><i>(effective 18 July 2014, transition ends 30 June 2017)</i></p> <ul style="list-style-type: none"> For senior advisers, a Certified Financial Planner by the Financial Planning Association of Australia <p><i>(effective 18 July 2014, transition date to be determined)</i></p>
All CFPL and FWL Advisers	<p>Membership of a relevant industry association required by 30 June 2015.</p>	
FWL Advisers	<p>Required to hold either:</p> <ul style="list-style-type: none"> a Degree in finance, business, commerce or a related field; or a Certified Financial Planner professional designation; or a Fellow Chartered Financial Practitioner; or a Master's in Financial Planning; or a degree in any field plus an accounting designation with one of the Joint Accounting Bodies; or a minimum of three years full-time (or part time equivalent) experience within the preceding five years, as an adviser or paraplanner that included substantial involvement in the preparation or presentation of financial planning advice, plus attainment of the Advanced Diploma in Financial Planning by 31 December 2017. <p><i>(effective 22 October 2014)</i></p>	<p>Required to hold either:</p> <ul style="list-style-type: none"> an Advanced Diploma in Financial Planning or equivalent; or a Degree in finance, business, commerce or a related field; or a Certified Financial Planner professional designation; or a Fellow Chartered Financial Practitioner; or a Master's in Financial Planning; or a degree in any field plus an accounting designation with one of the Joint Accounting Bodies. <p><i>(effective 22 October 2014, transition ends 31 December 2017)</i></p>

4. Regulatory settings

Commonwealth Bank believes that Australia has one of the world's best financial systems with bi-partisan support for strong and effective regulatory oversight. We support that strong and effective regulation.

While Australia's financial system regulators engage in constructive stakeholder consultation on whole-of-sector issues, we are confident that regulators pursue monitoring, compliance and enforcement duties with independence and impartiality.

However, regulation alone cannot make any business a highly ethical, high integrity business and does not substitute for leading and managing an organisation well. We believe best practice in financial advice can be achieved through a four part approach which includes:

- ethically managed and well-governed businesses;
- legislation (including FoFA);
- well-resourced regulators with robust tools; and
- strong professional standards initiated by industry.

Future of Financial Advice

The former Government's initiatives following the Ripoll Inquiry brought a timely and appropriate regulatory focus on customer interests and generated a statutory duty for advisers to act in the best interests of the customer. Commonwealth Bank strongly supports the statutory 'best interests' duty and the values it reflects.

The introduction of the Future of Financial Advice (FoFA) reforms fundamentally changed the personal advice industry in a number of key areas. The introduction of a statutory best interests duty provision changed the way advisers provide advice to retail clients. Prior to FoFA, advice provided to retail clients would be judged as suitable so long as it was appropriate for the client. The introduction of the best interests duty and safe harbour provisions constituted a far more rigorous advice process including the obligation for advisers to prioritise the client's interests over their own.

FoFA established a ban for any remuneration deemed conflicted which broadly entailed any remuneration that potentially influenced the recommendation of an adviser in respect of superannuation or investment products. Previously, licensees and their advisers could enter into arrangements that would provide a payment in respect of product sales. Such product manufacturers often provided as part of their product offering a payment, commonly known as a commission, to the licensee or adviser when a client acquired the product through an adviser. Advisers are also no longer able to charge an asset based fee where a client borrows their money for investment. These bans on specific types of remuneration forced advisers, who had not already done so, to move to fee for service models where the clients are charged directly for the advice provided to them and advice was no longer able to be remunerated by a product manufacturer.

Finally, FoFA introduced two additional obligations for advisers who have clients they regularly service under an ongoing arrangement. Prior to FoFA there were no direct legal obligations on advisers in relation to their ongoing service relationships. Now, for clients who pay advisers fees on a recurring basis for service, the adviser must provide these clients with an annual fee disclosure statement that sets out the fees charged for the year, the

services promised under that arrangement and the services the adviser actually delivered within the period. In addition, for new clients who entered into these arrangements after 1 July 2013, every two years the adviser must ensure clients opt back into an arrangement and obtain consent to continue to charge ongoing service fees.

Commonwealth Bank expects legislative and regulatory settings to continue to evolve and to continue to be an important focus of discussion.

Commonwealth Bank advocates a principles-based approach to this discussion. These principles should include:

- recognition of the value of affordable quality financial advice to individuals and the economy;
- upholding the best interests duty as the centrepiece of financial advice regulation;
- clarity and simplicity in the regulatory environment to avoid duplicative and potentially confusing signals to the sector; and
- regulatory settings which enable competitive innovation while safeguarding the customer.

Adviser register

Commonwealth Bank supports the establishment of a public register for all financial advisers and believes such a register will provide information for customers and the industry. We welcome the Government's commitment that such a register will be operational by March 2015.

We understand that the Government's proposed register will enable customers, investors and employers to source the credentials of financial advisers.

We believe consumer access to the details of an individual adviser's name and registration number, along with any bans, disqualifications or enforceable undertakings, and details around ownership of the licensee and parent company where applicable, will enable them to make more informed choices about the adviser.

As noted in our submission to the FSI Inquiry⁶ there is a risk under existing arrangements that financial planners who do not adhere to appropriate standards of advice can re-enter the industry and customers may not be aware of their previous advice history. This register will allow customers to view an adviser's history within the advice industry and make an informed decision on dealing with them.

Commonwealth Bank looks forward to providing any assistance to the Government, or ASIC, as details of the register are finalised.

Adviser reference checking

In addition to the adviser register, Commonwealth Bank recommends enhancements to reference checking practice for advisers entering the industry, or changing licensees.

Barriers to sharing information between licensees exist. There are concerns in the industry that the sharing of information, in particular adverse information about a candidate, may

⁶Commonwealth Bank of Australia 'Wellbeing, Resilience and Prosperity for Australia' Final Submission the Financial System Inquiry August 2014, page 29

open up the licensee to potential liability or claims. Any enhancement to protections for licensees, when engaging in reference checking processes, to facilitate a greater sharing of information between licensees will assist in ensuring that only quality advisers remain in the industry.

Definition of financial advice and sales information

The *Financial System Inquiry* (FSI) observed that “[c]onsumers should have access to the information, advice and education necessary to make effective decisions about products and services...services should be accurately described, and perform as they are described”.⁷

Commonwealth Bank recommended to the FSI⁸ that general advice should be renamed as ‘sales’ or ‘product information’ and the term ‘advice’ should be used only in relation to personal advice. Providers of sales or product information should not be regulated as advice providers, as they are not providing financial advice.

We believe such an initiative is consistent with the principles outlined earlier, would increase professionalism and accountability in the sector, and would strengthen consumer protection to help ensure that the growing number of people seeking financial advice can make confident and informed decisions.

⁷ Financial System Inquiry, *Interim Report*, July 2014 page 3-50.

⁸ Commonwealth Bank, *Wellbeing, Resilience and Prosperity for Australia: Financial System Inquiry, Final Submission*, August 2014, page 30.

APPENDIX A: Overview of CFPL and FWL businesses

	 Commonwealth Financial Planning Limited (AFSL No 231139)	 Financial Wisdom Limited (AFSL No 231138)
Entity details	<ul style="list-style-type: none"> Business unit of Wealth Management Advice division. Separated Advice from CFS Product. Two models operate: <ul style="list-style-type: none"> (i) employed advisers; (ii) self employed under CFPL Pathways This submission refers to the CFPL employed advisers. 	<ul style="list-style-type: none"> Wholly owned subsidiary of Commonwealth Bank. Separated Advice from CFS Product in May 2012.
Approximate scale	<ul style="list-style-type: none"> 750 advisers nationwide. 300,000 retail customers. 	<ul style="list-style-type: none"> 380 advisers nationwide.
Business model	<ul style="list-style-type: none"> Advisers are employed by a CFS entity or Commonwealth Bank and are representatives of Commonwealth Financial Planning which provides financial services pursuant to Australian Financial Services Licence No 231139. 	<ul style="list-style-type: none"> Independently owned and operated businesses ("FWL Practices") are authorised by FWL. Advisers are not employees, they are authorised representatives of FWL for giving financial product advice.
Remuneration structure	<ul style="list-style-type: none"> Participation in the Variable Remuneration Plan (commenced 1 July, 2013) is contingent on the achievement of threshold KPI and people capability ratings (balanced scorecard) as well as meeting the requirements of a Sound Risk Management Gate Opener (contained in the KPIs). 	<ul style="list-style-type: none"> Owners of FWL Practices receive all revenue they have generated net of FWL licensee fees.
Structural changes	<ul style="list-style-type: none"> 25 additional financial planning managers (FPMs). Eliminated Advice Practice Manager and Senior Manager roles so that every planner reports into an FPM. Implemented centralised para planning and pre vet functions. New minimum education standards for advisers announced July 2014. 	<ul style="list-style-type: none"> Responsibilities of supervisor role (Practice Development Managers) has widened to include additional supervision and monitoring activities. Dedicated Risk Management and Compliance team established to focus on needs of FWL practices. Enhanced pre vet function (WIP). New minimum education standards for advisers began in October 2014.

APPENDIX B: Multiple levels of independence in the OAR program

Program function	Key appointments	Role in the program
Independent Review Panel	<ul style="list-style-type: none"> Chair: The Hon Ian Callinan AC (appointed 11 July 2014). Deputy Chair: The Hon Geoffrey Davies AO (appointed 24 August 2014). Panellist: The Hon Julie Dodds-Streeton QC (appointed 24 August 2014). 	The Independent Review Panel will review individual cases where a customer and their Independent Customer Advocate do not agree with the assessment the program makes of their advice. Customers will be represented by an Independent Customer Advocate. Commonwealth Bank will be bound by the outcome of Panel determinations. However, the customer will not be bound and will still have the option of seeking to take the matter to FOS or court.
Independent Expert	<p>Promontory Financial Group (appointed 10 August 2014)</p> <p>Dr Jeffrey Carmichael AO, Chief Executive Officer of Promontory Financial Australasia.</p> <p>Dr Carmichael was the inaugural Chairman of APRA and a member of the Wallis Inquiry into the Australian financial system.</p>	Promontory Financial Group (Promontory), a leading global expert in financial risk, regulation and compliance, is providing independent oversight of the program. Promontory is monitoring, reviewing and reporting on the program, and providing transparency by periodic public reporting.
Independent Customer Advocates	<p>Law firms (appointed 2 November 2014)</p> <ul style="list-style-type: none"> Maurice Blackburn Shine Lawyers Slater and Gordon 	These firms, as Independent Customer Advocates, will be made available to customers who wish to retain them for support through the program. Services of the Independent Customer Advocates are offered free of charge to program participants.
Consultant Expert Adviser	<p>Fiona Guthrie (appointed 24 August 2014). Executive Director of Financial Counselling Australia and a member of the Australian Competition and Consumer Commission's Consumer Consultative Committee. Ms Guthrie has had an extensive career as an advocate for consumers of financial services. She is a former Director of the Financial Ombudsman Service and former Chair of the Consumer Advisory Panel to the ASIC</p>	Ms Guthrie will provide assistance to the program and also to the Independent Review Panel at its request. Ms Guthrie will also provide expert assistance to the program on how it might best meet the needs of vulnerable customers and those in financial or other difficulty.
Independent Forensic Expert	<p>McGrathNicol (appointed 24 August 2014)</p> <p>McGrathNicol is a leading independent Australian advisory firm with extensive experience in forensic investigation.</p>	McGrathNicol's role as Independent Forensic Expert to the program is to establish and implement a robust process to independently investigate any customer concerns about possible fraud relating to financial advice they received.

APPENDIX C: Overview of business transformation

Change	Previous	New	Issue addressed
Organisational structure	CFPL and FWL businesses previously reported into CFS.	Wealth Management Advice was separated from CFS in May 2012.	<ul style="list-style-type: none"> Separating 'providers' of advice from the 'manufacturer' of product enabled advisers to more clearly focus on delivering quality advice.
Risk management and compliance functions	Reported to the CFS Distribution business unit of CFS prior to October 2008.	Post October 2008, this function was aligned to report to Wealth Risk Management (Line 2). From October 2010, CFS Chief Risk Officer was included in the leadership team, a Dedicated Chief Risk Officer for Wealth Management Advice was appointed in June 2014.	<ul style="list-style-type: none"> Removed structural conflict by introducing independence from the 'business'.
Management information systems	Legacy systems were: product-centric; had basic supervision and monitoring capability and lack of central or automated adviser file management.	Systems overhaul introduced: <ul style="list-style-type: none"> New CFPL document management system (DMS); and New adviser relationship management system 'Connect' 	<ul style="list-style-type: none"> Holistic view of an adviser. Greater ability to identify internal systemic problems and patterns of activity.
Supervision and monitoring	Managed by Compliance function which was highly compliance- and process-driven with a complex file review methodology not well understood by advisers and line management.	Revised Supervision and Monitoring Framework that include risk-based advice quality reviews conducted at least annually and the introduction of the Adviser Early Warning System and a dedicated Quality Advice Assurance team.	<ul style="list-style-type: none"> Introduction of risk-based supervision framework and tools allows early detection of internal systemic issues and patterns of undesired behaviours.
Culture	Sales focussed culture could create conflict with provision of quality advice and customer outcomes.	Transformation of CFPL incentive and remuneration framework with a shift to balanced scorecard system with introduction of the Whistleblower and SpeakUp Hotlines.	<ul style="list-style-type: none"> Focus on quality outcomes and removing the link to volume-based sales results plus a leadership-led focus on the ethical values of the Bank instrumental to cultural shift.
Training	The training programs did not provide a full overview of the supervision and monitoring framework across all supporting teams and the responsibilities of the adviser, nor was there a clear message for a 'safe to speak up' culture and environment.	Training incorporates the Connect system (including adviser certification, accreditations) and CFPL Document Management, the Supervision & Monitoring framework and associated processes, revised content for the QAA team and the 'safe to speak up' message.	<ul style="list-style-type: none"> Gaps in understanding of the Supervision and Monitoring framework and the responsibilities of the adviser due to inconsistent or incomplete messaging. No clear message for a 'safe to speak up' culture.