



Commonwealth Bank

Open Advice Review program

Sixth Report

Prepared by Promontory

30 September 2016

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Promontory Financial Group Australasia (Promontory) has been engaged by the Commonwealth Bank Group (Bank) as an Independent Expert to oversee the Bank's Open Advice Review program (Program). Promontory is responsible for monitoring, reviewing and reporting on the Program and its progress. This Report provides an update on the Program for the period between 1 May 2016 and 31 August 2016.

A legal representative of the Bank reviewed a draft of this Report to identify any information subject to a claim for legal professional privilege. There were no such instances identified. Promontory also provided a draft of the Report to the Bank for the purposes of identifying any errors. Promontory retained final judgement on all views and information in this Report.

Promontory's role in the Program is limited and may not incorporate all matters that might be pertinent or necessary to a third party's evaluation of the Program or any information contained in this Report. No third party beneficiary rights are granted or intended.

Promontory is neither a law firm nor an accounting firm. No part of the services performed constitutes legal advice, the rendering of legal services, accounting advice, or the rendering of accounting or audit services.

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Abbreviations

ARp	Advice Review program
ASIC	Australian Securities and Investments Commission
CBA/Bank	Commonwealth Bank of Australia (Group)
CAT	Case Assessment Tool
CFPL	Commonwealth Financial Planning Limited
CPD	Continuing Professional Development
Current Period	1 May 2016 to 31 August 2016
Fourth Report	Promontory Fourth Report (published 2 February 2016)
Fifth Report	Promontory Fifth Report (published 1 June 2016)
FOS	Financial Ombudsman Service
FNA	Financial Needs Analysis
FWL	Financial Wisdom Limited
ICA	Independent Customer Advocate
IFE	Independent Forensic Expert
IT	Information Technology
KPI	Key Performance Indicator
OAR	Open Advice Review
Panel	Independent Review Panel
Program	Open Advice Review program
Promontory	Promontory Financial Group Australasia
Report	Sixth Report
Review Period	1 September 2003 to 1 July 2012
RG 146	Regulatory Guide 146
ROA	Record of Advice
SOA	Statement of Advice
SMAT	Special Matters Assessment Team

1. Background

The Commonwealth Bank Group (CBA or Bank) Open Advice Review program (OAR program or Program) is a review and remediation program designed to identify and compensate for poor financial advice that may have been provided to customers of Commonwealth Financial Planning Limited (CFPL) and Financial Wisdom Limited (FWL) between 1 September 2003 and 1 July 2012 (the Review Period). Where customers suffered financial loss as a result of poor advice from CFPL or FWL advisers, the Program aims to put customers back in the position they would have been in had they received suitable advice. The Program aims to be transparent, and aspires to deliver fair and consistent outcomes to customers.

The OAR program commenced on 3 July 2014 and was closed to new expressions of interest from 3 July 2015. The Program continues to review cases for customers who have registered for the Program.

Promontory Financial Group Australasia (Promontory) was appointed as the Independent Expert for the Program in August 2014. Our role in the Program is to monitor, review and report on the Program and its progress. In particular, our scope requires us to:

- monitor the progress of the Program;
- review a sample of customer cases in the Program, and assess whether cases are being reviewed in a manner that is consistent with the Program's documented processes and objectives; and
- make our findings, along with statistics about the Program, available to the public through periodic reports.

This Sixth Report (Report) provides an update on the Program for the four-month period ending 31 August 2016. It includes the latest statistics on the number of cases progressed through each stage of the Program, the outcomes of assessments completed by the Bank and offers of compensation made. It also provides an update on broader aspects of the Program's implementation and findings from our sample review of cases in the Program.

All of Promontory's periodic reports are available on the Bank's OAR program website.¹

In all aspects reported, we have exercised reasonable due diligence to verify facts and interpretations included in this Report.

We acknowledge the co-operation of the Bank in connection with our preparation of this Report and in responding to our information requests.

We expect to release our next periodic report in the first quarter of 2017, which will cover the Program's activities to 31 December 2016.

¹ Refer to: www.commbank.com.au/openadvice.

2. Summary of findings

2.1. Program statistics

2.1.1. Progress of case assessments

The four-month period from 1 May 2016 to 31 August 2016 (the Current Period) saw the Bank make significant gains in progressing cases through the Program.

During the Current Period, the Bank issued assessment outcomes to customers in 2,373 cases and commenced assessments in a further 1,625 cases.² These gains have meant that, since the Program's commencement, a total of 5,411 cases (54% of the 10,110 registered cases in the Program) had been issued an assessment outcome from the Bank as at 31 August 2016, with a further 3,756 cases (37% of registered cases) having either commenced assessment or no longer requiring assessment.³ Consequently, only 9% of registered cases had yet to progress to the Program's Assessment stage as at 31 August 2016.

Table 2.1 below provides an overview of the number of cases that had progressed through the Program's various stages to 31 August 2016.

Table 2.1: Overall Program progress to 31 August 2016

Program statistic	Breakdown by period:			Cumulative Total as at 31/8/2016
	Prior to 1/1/2016	Previous period: 1/1/2016 to 30/4/2016	Current Period: 1/5/2016 to 31/8/2016	
Number of cases:				
Registered	9,346	466	298	10,110
Commenced assessment	4,041	2,084	1,625	7,750
Issued an assessment outcome	1,937	1,101	2,373	5,411
Referred to Independent Review Panel	0	1	0	1
Number of registered cases exited:				
Prior to an assessment outcome issued	1,298	69	67	1,434
After an assessment outcome issued	949	837	1,904	3,690

² The Bank has indicated that a further 617 cases were issued an assessment outcome in the period between 1 September 2016 and 26 September 2016, bringing the total number of cases that had been issued an assessment outcome as at 26 September 2016 to 6,028.

³ As at 31 August 2016, 2,322 cases were in the process of being assessed and 1,434 cases no longer required assessment due to the case having exited the Program prior to an assessment outcome being issued (e.g., due to customer withdrawal from the Program).

As Table 2.1 illustrates, of the total 5,411 cases with assessment outcomes issued, 3,690 of these had subsequently exited the Program as at 31 August 2016. These exits include cases where the customer had either:

- accepted the Bank's assessment outcome and/or offer of compensation (2,414 cases); or
- withdrawn from the Program, after having rejected or not responded to the Bank's assessment outcome (1,276 cases).

During the Current Period, there were no customers who had referred their case to the Program's Independent Review Panel (Panel), while eight cases that had been issued an assessment outcome from the Program subsequently contacted the Financial Ombudsman Service (FOS).⁴ As at 31 August 2016, no case that had been issued an assessment outcome from the Program had subsequently pursued a legal claim against the Bank through the courts.

2.1.2. Assessment outcomes and compensation offered

During the Current Period, the Bank offered compensation totalling \$4,897,571 – more than double the \$2,315,214 that had been offered in the prior four-month period to 30 April 2016. This marked increase in compensation offered during the Current Period reflected the ongoing increase in the number of cases with assessment outcomes issued, and the number of customers who have responded to those assessment outcomes. As at 31 August 2016, the total amount of compensation that had been offered by the Program since its commencement stood at \$9,755,545.

Of the \$9,755,545 offered, the Bank had paid \$6,726,640 to 476 cases in the Program.⁵ The remaining \$3,028,905 in compensation offered but not yet paid related primarily to cases where the Bank's assessment outcome was still under review by the customer (or by the Bank in the event a counter-offer had been made by the customer).

Table 2.2 provides an overview of the compensation offers made and paid to 31 August 2016, as well as a summary of assessment outcomes from the Program.

⁴ This brought the total number of cases that had subsequently contacted FOS after being issued an assessment outcome from the Program to 18 (from Program commencement to 31 August 2016).

⁵ The Bank has indicated that, as at 26 September 2016, the total amount of compensation that had been offered increased to \$10,849,428 and the total amount of compensation that had been paid increased to \$7,779,987 (paid to 571 cases).

Table 2.2: Assessment outcomes and compensation figures to 31 August 2016

Program statistic	Breakdown by period:			Cumulative Total as at 31/8/2016
	Prior to 1/1/2016	Previous period: 1/1/2016 to 30/4/2016	Current Period: 1/5/2016 to 31/8/2016	
Amount of compensation:				
Offered by the Bank ⁶	\$2,542,760	\$2,315,214	\$4,897,571	\$9,755,545
Paid by the Bank	\$2,000,834	\$1,122,717	\$3,603,089	\$6,726,640
Number of cases with an assessment outcome of:				
Advice appropriate	1,684	877	1,484	4,045
Poor or incorrectly implemented advice – no financial loss to customer	54	41	119	214
Poor or incorrectly implemented advice – compensation to customer	122	115	201	438
Fee refund to customer	49	47	64	160
No evidence of advice found by Bank	28	21	505	554

As Table 2.2 illustrates, the large majority of cases that have been assessed by the Bank were found not to have involved poor or incorrectly implemented advice, or the incorrect charging of fees (i.e., 4,045 cases, or 83% of cases with assessment outcomes issued where the Bank found evidence of advice).

In 438 cases, compensation was offered by the Bank for poor or incorrectly implemented advice given to the customer that resulted in the customer suffering financial loss. In a further 160 cases, a fee refund was offered by the Bank for the incorrect charging of advice fees, while 214 cases were assessed to have involved poor or incorrectly implemented advice that did not result in the customer suffering financial loss.

More detailed statistics regarding the Program can be found in Section 3 of this Report.

⁶ The compensation offer amounts in this table include payments offered to 169 cases where the Bank found the advice and fees to be appropriate. These payments were offered following a process of negotiated settlement between the Bank and the customers (and/or their Independent Customer Advocate) after the Bank had issued an assessment outcome to the customer.

2.2. Program implementation

2.2.1. People and governance

The CBA department responsible for implementing the Program (and the Bank's other advice remediation activities) – the Advice Review Program team (ARp team) – stood at 557 team members as at 29 August 2016.⁷ These team members, particularly those with responsibility for assessing advice, remain subject to various training and continuing professional development (CPD) requirements set by the Bank. As at 31 August 2016, all case assessors for the OAR Program had completed their necessary Australian Securities and Investments Commission (ASIC) Regulatory Guide 146 (RG 146) requirements related to the provision of personal financial advice.

Overall oversight of the Program continues to rest with the various boards and management committees described in our previous reports, including the parent CBA board, and the CFPL and FWL licensee boards.

During the Current Period, the ARp team was able to address all outstanding material issues that were identified by the Bank's internal audit and risk management departments discussed in our previous reports.

Further details in relation to the Program's people and governance arrangements are set out in Sections 4.1 and 4.2 of this Report, respectively.

2.2.2. Customer file retrieval

At the time of our Fifth Report, the Program's customer file retrieval initiatives had largely been completed, with the only material retrieval activities outstanding being the collection of advice files related to a limited number of customers in the Program who were advised by *former* FWL advisers.

During the Current Period, the Bank chose to write letters to all remaining former FWL advisers who had not been contacted successfully on previous attempts, and whose customer files (for those customers registered in the Program) remained outstanding. These letters requested any files associated with customers registered in the Program to be submitted to the Bank if they were in the possession of the former adviser.⁸

During the Current Period, close to 500 cases with no advice documentation were assessed by the Bank using one of the Program's assessment approaches for dealing with cases with limited or no advice documentation (refer to Section 4.6.1 of this Report). As at 31 August 2016, only 315 cases remained where no advice file had been retrieved and an assessment outcome was outstanding from the Bank. The Bank has indicated that most, if not all, of these cases were likely to be assessed under the Program's Targeted Assessment approach going forward.⁹

⁷ This figure represents an increase of 6% from the 527 team members employed in April 2016.

⁸ These letters were issued in September 2016 with responses still pending at the time of preparing this Report.

⁹ A description of the Program's Targeted Assessment approach can be found in Section 4.6.1 as well as in our previous reports. In the event that a customer provides the Bank with documents after receiving an assessment outcome under the Targeted Assessment approach, the Bank will consider those documents and, where applicable, issue a revised assessment outcome.

2.2.3. Assessment processes

Section 4.6 of this Report provides an update on two areas of the Program's assessment processes.

The first area relates to the Program's processes for dealing with cases where there is limited or no documentation available on the customer's file. As noted in our previous reports, the Bank had developed three broad approaches for dealing with cases with limited advice documentation – namely, an Insufficient Information Assessment approach, a Targeted Assessment approach and a No Evidence of Advice Assessment approach.

During the Current Period, the Bank made a number of refinements to each of these approaches, including:

- closer integration between the Targeted Assessment and No Evidence of Advice Assessment approaches (whereby cases suspected of having no evidence of advice are now assessed through the Targeted Assessment approach); and
- amending the Insufficient Information Assessment approach to not require calls to customers before an assessment outcome is issued, other than in limited circumstances¹⁰ – this amendment was made due to numerous issues and practical challenges the Bank identified through its experience with earlier calls.¹¹

These refinements, including the practical challenges that resulted in the Bank amending its Insufficient Information Assessment approach, are detailed in Section 4.6.1 of this Report.

The second area discussed in Section 4.6 relates to activities conducted by the Program's Independent Forensic Expert (IFE), McGrathNicol Forensic, during the Current Period. During the Current Period, the IFE completed its initial sampling of cases that were referred to the Bank's Special Matters Assessment Team (SMAT) (due to concerns about potential fraud, forgery or other adviser misconduct) but were not subsequently referred to the IFE. The IFE's approach to, and findings from, its sampling of cases are discussed in Section 4.6.2. The IFE found that SMAT had assessed cases in a manner that was consistent with the Program's documented processes and objectives for IFE referrals.

2.2.4. Measures to address previous sample findings

During the Current Period, the Bank introduced additional guidance for its case assessors to address findings we identified in our Fifth Report in relation to:

- the assessment of possible errors in relation to advice implementation, where we believed that discretion that had been provided to case assessors to resolve these possible errors could have the potential to increase the risk of inconsistent case outcomes in the Program; and

¹⁰ These limited circumstances are when the Program's Special Matters Assessment Team – the Bank's team responsible for conducting specialist forensic investigations – determines that a document should be excluded from a case assessment following its forensic analysis.

¹¹ Under the amended approach, customers are contacted after the issuance of an assessment outcome, providing them with greater visibility as to the Bank's assessment and any indicators of advice the Bank had found. Customers are invited to provide any information to the Bank that may affect their assessment outcome, which the Bank then considers.

- the Program's assessment of fees (particularly in those instances where customers chose to reduce the investment amount that had been recommended by the adviser, and the fees disclosed to the customer were expressed in both percentage and fixed dollar terms).

Details of the guidelines developed in both these areas, which address the findings from our previous sampling, are set out in Section 4.7 of this Report.

2.3. Sample case reviews

2.3.1. Scope and approach to sampling

Promontory's role requires us to review a sample of cases at different stages of the Program to determine if cases have been assessed in a manner that is materially consistent with the Program's documented processes and objectives.

The scope of cases we reviewed for the Current Period included:

- **220 cases that had received assessment outcomes after having progressed through the Program's Assessment stage:** Together with the 464 cases we have sampled at this stage of the Program in prior periods, we have sampled a total of 684 cases (or 13% of the overall population) for this category of cases.¹²
- **100 cases that had exited the Program following receipt of assessment outcomes and having progressed through the Program's Consideration of Assessment Outcome stage:** Together with the 159 cases we have sampled at this stage of the Program in prior periods, we have sampled a total of 259 cases (or 7% of the overall population) for this category of cases.
- **six cases where the customer withdrew from the Program prior to receipt of an assessment outcome from the Bank (customer withdrawals):** Together with the 528 cases we have sampled for this category of cases in prior periods, we have sampled a total of 534 cases (or 33% of the overall population) for this category of cases.
- **443 cases removed from the Program on administrative grounds (administrative exits):** Together with the 265 cases we have sampled for this category of cases in prior periods, we have sampled a total of 708 cases (or 6% of the overall population) for this category of cases.

2.3.2. Sample findings

Based on our sample review of cases in the Current Period, we believe the Bank is continuing to apply the Program's processes in a manner that is materially consistent with the Program's objectives.

¹² The percentage of cases that we will ultimately sample in each category will depend on a number of factors, including the final number of cases that fall into each category and the number of exceptions we find in our sample review of cases. Our sampling for each period involves reviewing new cases that have entered the Program's various stages.

During the Current Period, our sampling identified three exceptions. We note that, during the Current Period, we amended our classification of “exceptions” to take greater account of the impact of any process non-adherence on the customer’s assessment outcome or offer of compensation. In particular, we amended our classification of exceptions to include only those cases where we were satisfied that, had the Program’s documented processes been properly performed by the Bank, either the customer’s assessment outcome or the amount of compensation due to the customer would have changed (i.e., the non-adherence to process was material to the case concerned).¹³

The three cases where we identified exceptions during this Current Period related to cases that we sampled from the Program’s Assessment stage (i.e., cases that had progressed through the Assessment stage). The three exceptions involved:

- two cases where the Bank’s original assessment did not identify incorrectly implemented advice as required under the Program’s documented processes; and
- one case where the Bank did not identify a relevant personal circumstance in its assessment of the customer’s advice as required under the Program’s documented processes.

In relation to all three cases with exceptions, the Bank has notified the customers of changes to their assessment outcomes and, where relevant, offers of compensation.¹⁴

We also note that our sampling for this period identified 11 other cases where there were instances of non-adherence to the Program’s documented processes. In each of these cases, we were satisfied that, had the documented processes been properly performed, it would not have changed either the assessment outcome or the amount of compensation due to the customer (i.e., the non-adherence to process was not material to the case concerned).

We found no exceptions in relation to our sampling of other categories of cases – namely, cases progressed through the Consideration of Assessment Outcome stage, customer withdrawals and administrative exits.

Further details of our sample findings, including the approach we undertook to review cases from each category, are set out in Sections 5.2 and 5.3 of this Report.

¹³ As the Program has evolved, the Bank has been more proactive and efficient in responding to any cases with instances of non-adherence to documented processes we identified from our sampling. In light of this development, our sample findings in relation to cases with non-adherence to process have been refined to take greater account of the outcomes of the Bank’s further assessments. We consider this amended approach to be more closely aligned with our role of assessing whether cases have been reviewed in a manner that is materially consistent with the Program’s documented processes and objectives.

¹⁴ To be clear, not all changes in assessment outcomes will necessarily lead to a change in offer of compensation (e.g., instances where the customer did not suffer financial loss even with the change in assessment outcome). Conversely, there may also be circumstances where there is no impact on the assessment outcome for the exception we identify, but there is a change in compensation offer (e.g., where a case has already been assessed as involving poor advice but additional issues identified may result in the offer of compensation being increased).

3. Program statistics

This section of the Report provides updated statistics on cases that have progressed through the Program's various stages as at 31 August 2016. It also includes the latest statistics on assessment outcomes issued and offers of compensation made by the Program.

As per our previous reports, the figures quoted in this Report refer to cases rather than customers. For the purposes of the Program, customers who have expressed interest in the Program are assigned a "case number". A "case" may include more than one customer and more than one instance of advice.

Appendix 1 to this Report provides a description of each "stage" of the Program used in the presentation of the statistics in this Report.

3.1. Expressions of interest

The total number of expressions of interest in the Program stood at 22,815 cases as at 31 August 2016. This figure represents a decrease of 199 cases from the 23,014 expressions of interest reported as at 30 April 2016 (refer to Table 3.1). The reduction in the number of expressions of interest during the Current Period was due to the Bank's identification of further duplicate cases.¹⁵

Table 3.1: Expressions of interest

Number of:	Prior Total as at 30/4/2016	New	Total as at 31/8/2016
Expressions of interest	23,014	-199	22,815

As the Program closed to new expressions of interest on 3 July 2015, the number of expressions of interest in the Program is not expected to increase.

3.2. Customer contact

Under the Program's processes, once a customer makes an expression of interest in the Program, the Bank attempts to send the customer an information pack about the Program, which includes a *You and Your Advice* form that the customer must complete to confirm registration in the Program.

During the Current Period, the Bank was able to deliver all remaining information packs that were required to be sent to customers who expressed interest in the Program. As at 31 August 2016, the total number of cases

¹⁵ Duplicate cases are those where the customer had registered or expressed interest in the Program more than once. As at 30 April 2016, the Bank had identified 1,831 duplicate cases. As at 31 August 2016, the overall number of duplicate cases identified increased to 2,039. The increase in duplicate cases of 208 during the Current Period was offset by nine additional expressions of interest. The Bank may continue to find additional duplicates as it undertakes further reviews of customer files.

where information packs were sent to customers stood at 21,676.¹⁶ For the remaining 1,139 expressions of interest in the Program, an information pack was not required to be sent to the customer due to, for example, the customer having withdrawn from the Program.¹⁷

Table 3.2: Information packs

Number of cases where:	Total as at 31/8/2016
Information pack had been sent	21,676
Information pack had not been sent	0
Information pack is not required	1,139
TOTAL	22,815

3.3. Case progression

3.3.1. Cases registered and assessed

During the Current Period, an additional 298 cases registered for the Program after customers who had earlier expressed an interest in the Program returned their completed *You and Your Advice* forms to the Bank. This addition during the Current Period brought the total number of registrations in the Program to 10,110 since its commencement.

Of the 10,110 registered cases, 77% (7,750 cases) had either entered into or progressed through the Program's Assessment stage as at 31 August 2016 (i.e., either commenced an assessment or been issued an assessment outcome). In 14% of registered cases (1,434 cases), an assessment was not required to be completed by the Bank due to the customer having exited the Program prior to a receipt of an assessment outcome (e.g., due to customer withdrawal).¹⁸ This left only 9% of registered cases (943 cases) that had yet to progress through to the Program's Assessment stage as at 31 August 2016.

Table 3.3 below provides an overview of the number of cases progressed through each of the Program's various stages as at 31 August 2016. Table 3.3 also includes cases that had exited the Program (with or without an assessment outcome from the Bank).

¹⁶ In our Fifth Report, we noted that 21,881 cases had been sent an information pack as at 30 April 2016. The decrease of 205 cases during the Current Period reflected additional duplicate cases being identified by the Bank (which are excluded from the statistics in this section).

¹⁷ Other cases that fall into this category include cases where the Bank had deemed the case to be non-genuine or ineligible for the Program, as well as cases that had progressed to the Program's Assessment stage without having previously been sent an information pack (e.g., because the customer had submitted their details to the Program through an Independent Customer Advocate).

¹⁸ Of the total of 1,434 cases, 17 had entered the Program's Assessment Stage and withdrew from this stage prior to the receipt of an assessment outcome. These 17 cases are counted in both the 7,750 cases that had entered into or progressed through the Program's Assessment stage, as well as the 1,434 cases that had exited the Program prior to receipt of an assessment outcome.

Table 3.3: Cumulative number of cases progressed to each stage of the Program since Program commencement¹⁹

Stage	Prior Total as at 30/4/2016	New	Total as at 31/8/2016
Registration	9,812	298	10,110
Assessment	6,125	1,625	7,750
Consideration of Assessment Outcome	3,038	2,373	5,411
Panel Review	1	0	1
Exits at Registration or Assessment stage (cases exited without an assessment outcome issued)	1,367	67	1,434
Exits after assessment outcome issued	1,786	1,904	3,690

As Table 3.3 illustrates, the Current Period saw a significant increase of 2,373 new cases being issued an assessment outcome from the Bank – more than double the 1,101 assessment outcomes issued in the prior four-month period to 30 April 2016. This marked acceleration in new assessment outcomes issued during the Current Period is reflective of a number of factors, including:

- the Program’s mature state, where case assessors’ experience with the Program’s assessment processes continued to increase with time (allowing for more case assessments to be conducted efficiently with less rework);
- ongoing continuous improvement initiatives implemented by the Bank, such as those described in Sections 4.2.1 and 4.4 of this Report on the Program’s case approval procedures and assessment tools; and
- the Bank’s implementation of the Program’s assessment processes for dealing with cases with limited or no documentation to a larger volume (and broader range) of cases during the Current Period (refer to Section 4.6.1 of this Report).²⁰

Taking into account the most recent number of cases issued an assessment outcome during the Current Period, the Bank had, as at 31 August 2016, issued assessment outcomes to a total of 5,411 cases since the Program commenced.²¹

¹⁹ Note that, although case exits are reported as separate line items in this table, the figures quoted for the Registration, Assessment, Consideration of Assessment Outcome and Panel Review stages include those cases that had progressed through these stages, then exited the Program.

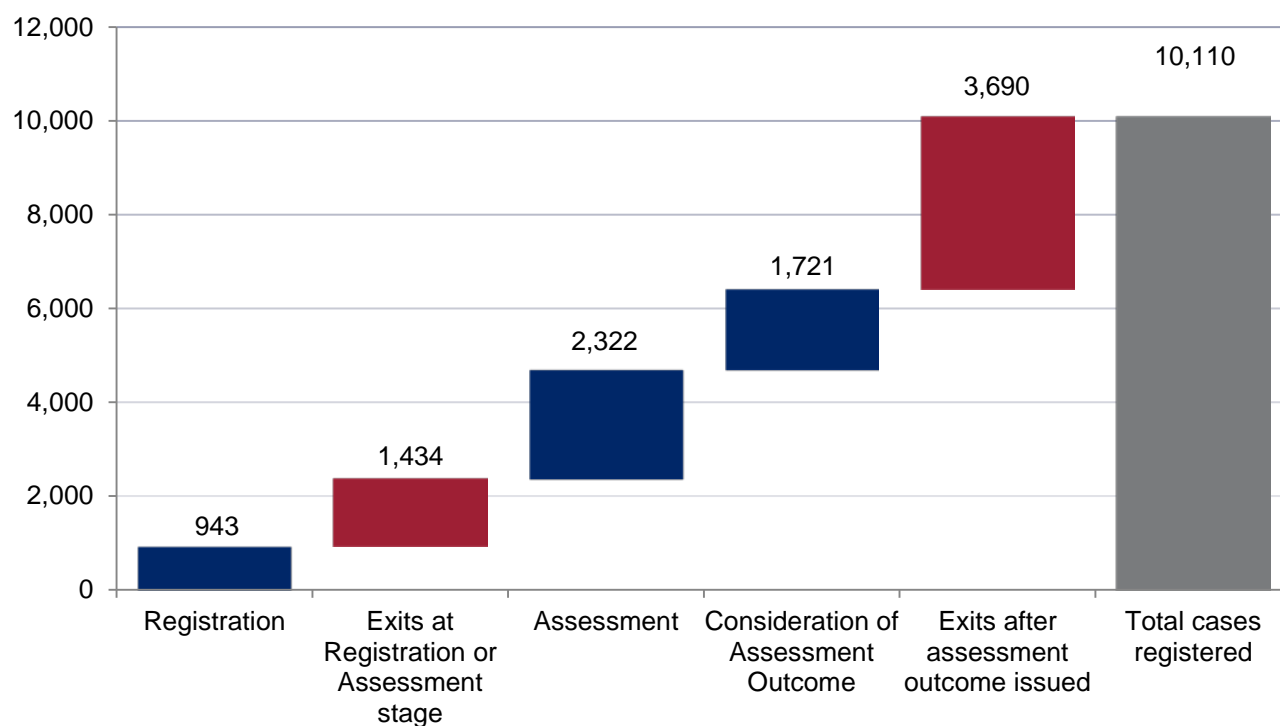
²⁰ More specifically, the Current Period saw a significant increase in the number of cases that were assessed using the “Targeted Assessment” approach.

²¹ The Bank has indicated that, as at 26 September 2016, the total number of cases that had been issued an assessment outcome stood at 6,028.

Table 3.3 also illustrates the marked increase in the number of cases that exited the Program after having been issued an assessment outcome from the Bank during the Current Period (1,904 cases). This increase (more than double the 837 cases that had exited with an assessment outcome in the prior four-month period to 30 April 2016) is reflective of the maturity of the Program, which has seen more customers receiving assessment outcomes. As the Program continues to progress and more customers receive their assessment outcomes, these case exits will continue to grow in number.

Figure 3.1 below provides a point-in-time snapshot of the number of cases that are active in each stage of the Program as at 31 August 2016. Figure 3.1 also includes (in red bars) the number of registered cases that had exited the Program. Further details regarding the case exits are set out in Section 3.3.2 below.

Figure 3.1: Number of cases in each stage of the Program as at 31 August 2016 (including registered cases exited from the Program)



During the Current Period, no additional cases had been referred to the Panel.

3.3.2. Cases exited

Customers may exit the Program during any stage, including both prior to or after having received an assessment outcome from the Bank.

As at 31 August 2016, a total of 5,124 registered cases had exited the Program (from a total of 10,110 registered cases). As noted in Section 3.3.1 above, the majority of these cases exited after having received an assessment outcome from the Bank.

Commonwealth Bank Open Advice Review program

Sixth Report

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In addition to those registered cases that have exited, a further 12,680 cases that had expressed interest but did not subsequently register for the Program (by submitting their completed *You and Your Advice* form to the Bank) had also exited the Program as at 31 August 2016. Consequently, the total number of cases (both registered and non-registered) that had exited the Program as at 31 August 2016 stood at 17,804 (from a total of 22,815 cases that had expressed interest in the Program).

Table 3.4 below provides a breakdown of the number of cases that had exited the Program in each of the Program's stages.

Table 3.4: Number of cases exited from the Program

Reason for exit	Prior Total as at 30/4/2016	New	Total as at 31/8/2016
Exits prior to Registration stage			
Customer withdrew from Program	1,136	70	1,206
Case deemed ineligible for the Program	64	0	64
Case removed on administrative grounds	9,517	1,893	11,410
Exits at Registration stage			
Customer withdrew from Program	399	12	411
Case deemed ineligible for the Program	11	0	11
Case removed on administrative grounds	951	44	995
Exits at Assessment stage			
Customer withdrew from Program	6	11	17
Exits at Consideration of Assessment Outcome stage			
Customer accepted assessment outcome ²² – compensation was offered	194	275	469
Customer accepted assessment outcome – no compensation was offered	1,091	853	1,944
Customer withdrew from Program	500	776	1,276
Exits at Panel Review stage			
Panel decision accepted by customer	0	0	0
Panel decision rejected by customer	0	0	0
Case resolved by agreement prior to Panel decision	1	0	1
TOTAL	13,870	3,934	17,804

²² This includes cases where the customer accepted the Bank's offer of compensation without accepting the assessment outcome.

As Table 3.4 illustrates, the category of cases with the most exits during the Current Period included:

- **Cases removed on administrative grounds prior to the Program’s Registration stage:** These were cases that were removed on administrative grounds due to the customers not returning their completed *You and Your Advice* forms within one year from their original expression of interest. During the Current Period, 1,893 cases were exited from the Program for this reason.²³
- **Cases exited at the Consideration of Assessment Outcome stage:** These cases related to those customers who had received an assessment outcome from the Bank and subsequently accepted, rejected or withdrew from the Program after having reviewed their assessment outcome (including customers who may have made a counter-offer to the Bank prior to exiting). During the Current Period, 1,904 cases were exited from the Program for this reason. As Table 3.4 illustrates, the majority of the cases that had exited with an assessment outcome accepted the Bank’s assessment outcome and/or offer of compensation.

The remainder of the cases exited during the Current Period included customers who withdrew (opted out) from the Program prior to or at the Assessment stage.

3.3.3. FOS referrals and legal claims

Of the total of 5,411 cases that had been issued assessment outcomes since the Program’s commencement, a total of 18 cases had subsequently contacted FOS as at 31 August 2016.²⁴ Eight of these cases had referred their case to FOS during the Current Period.

As at 31 August 2016, no case that had been issued an assessment outcome from the Program had subsequently pursued a claim against the Bank through the courts (refer to Table 3.5 below).

Table 3.5: FOS referrals and legal claims

Number of cases with an assessment outcome issued that:	Prior Total as at 30/4/2016	New	Total as at 31/8/2016
Referred a complaint to FOS	10	8	18
Pursued a claim against the Bank	0	0	0

²³ As noted in our Fifth Report, the bulk of these removals occurred in April 2016. During the Current Period, the Bank continued to remove cases in circumstances where the customers did not provide their *You and Your Advice* forms to progress their cases through the Program. Consistent with previous cases removed on administrative grounds, the Bank reminded customers of the need to return their *You and Your Advice* forms prior to closing their case from the Program.

²⁴ In three of these cases, the referral to FOS was not related to advice within the scope of the OAR Program.

3.4. Assessment outcomes

3.4.1. Assessment outcomes issued

As noted earlier, a total of 5,411 cases had been issued assessment outcomes since the Program's commencement as at 31 August 2016 (up from 3,038 cases as at 30 April 2016).

In 554 of these cases, the Bank was unable to find evidence of advice received by the customer from a CFPL or FWL adviser during the Program's Review Period. These cases were assessed using one of the Bank's processes for dealing with cases with limited or no advice documents (discussed in Section 4.6.1), and involved cases where the Bank found no indicators of advice (eligible for review under the Program) based on its review of customer data and other files available.

The 554 cases assessed as having no evidence of advice by the Bank as at 31 August 2016 compared to a corresponding figure of 49 cases as at 30 April 2016. The significant increase in the number of cases with an outcome of no evidence of advice during the Current Period reflected the Bank's implementation of its Targeted Assessment approach to a larger number (and broader range) of cases (refer to Section 4.6.1).

After taking into account the 554 cases with no evidence of advice, the remaining 4,857 cases with assessment outcomes issued as at 31 August 2016 related to those cases where the Bank found evidence that advice had been given to the customer by a CFPL or FWL adviser during the Review Period. A breakdown of the assessment outcomes for these 4,857 cases is set out in Figure 3.2 below.

Figure 3.2 breaks down the assessment outcomes into the following categories:²⁵

- **Advice appropriate:** This category refers to cases where the Bank found no evidence of poor advice being provided to the customer, nor any evidence of incorrectly implemented advice or incorrect fees being charged.²⁶
- **Poor or incorrectly implemented advice – no compensation offered because no related financial loss:** This category refers to cases where the Bank found poor or incorrectly implemented advice, but where no offer of compensation was made because the Bank assessed that no related financial loss was suffered by the customer.²⁷
- **Poor or incorrectly implemented advice – compensation offered:** This category refers to cases where the Bank found poor or incorrectly implemented advice, and where compensation was offered

²⁵ The statistics in Figure 3.2 are based on the most recent assessment outcomes issued by the Bank to customers. The Bank may choose to change its assessment outcome following a customer's counter-offer to the Bank. Where the Bank accepts a customer's counter-offer, Figure 3.2 captures only the most recent assessment outcomes issued to customers as at 31 August 2016.

²⁶ This category also includes cases where the Bank found no evidence of inappropriateness in relation to potential instances of advice identified under the Bank's Targeted Assessment approach (discussed in Section 4.6.1).

²⁷ The Bank takes into account any previous compensation that may have been paid to a customer, including compensation payments made under past CBA remediation programs. Where poor advice has been identified during the Review Period and compensation has been paid by the Bank for the poor advice identified previously, the Bank will offset its compensation under the Program against the previous amount paid. To the extent the offset completely eliminates the amount of compensation payable under the Program, such cases are captured in this category.

because the Bank assessed the customer to have suffered financial loss as a result of the poor or incorrectly implemented advice.²⁸

- **Fee refund offered:** This category refers to cases where the compensation offered related solely to a fee refund.²⁹

Figure 3.2: Breakdown of assessment outcomes issued for cases where there was evidence of advice (from Program commencement to 31 August 2016)

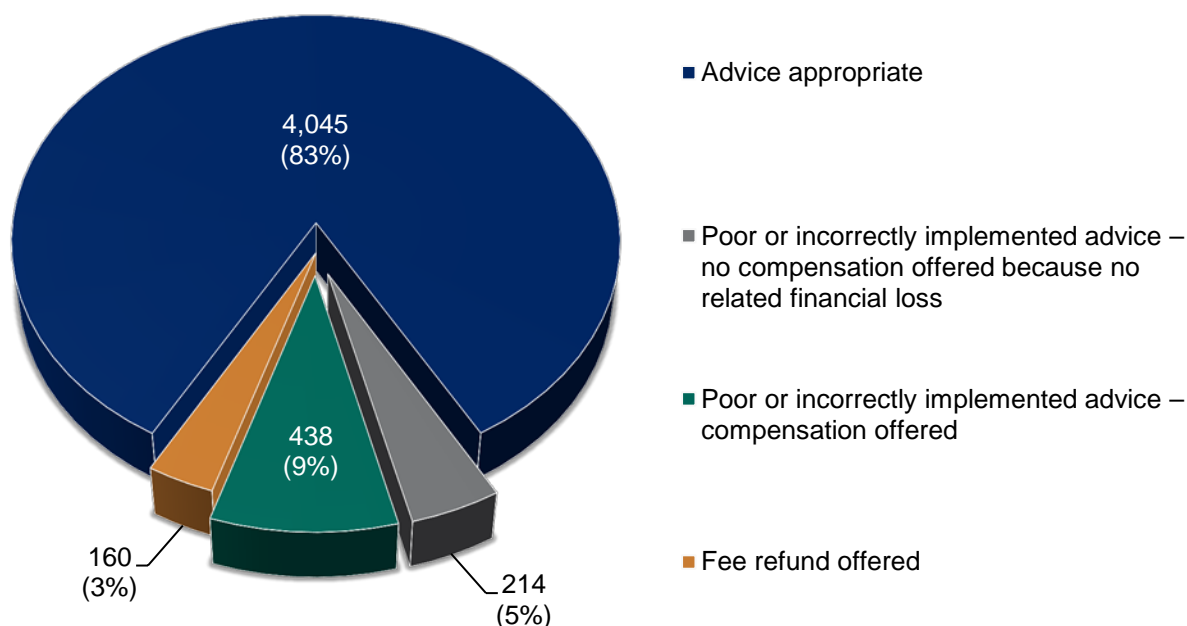


Figure 3.2 shows that, from the Program’s commencement to 31 August 2016, the Program had:

- Identified 4,045 cases where the advice and fees assessed by the Bank were found to be appropriate (compared with 2,561 cases as at 30 April 2016). The figure of 4,045 cases represents 83% of all cases with assessment outcomes issued where advice (eligible for review under the Program) was identified in the Bank’s assessment.
- Identified 214 cases where poor or incorrectly implemented advice was found, but where that advice was assessed to have not resulted in the customer suffering financial loss and no offer of compensation was made (compared with 95 cases as at 30 April 2016). The figure of 214 cases

²⁸ This category also includes cases where the Bank found potential instances of advice identified under its Targeted Assessment approach (discussed in Section 4.6.1) that were likely inappropriate.

²⁹ Cases that involved poor or incorrectly implemented advice (which resulted in the customer suffering financial loss) and a fee refund are covered in the "Poor or incorrectly implemented advice - compensation offered" category and excluded from this category.

represents 5% of all cases with assessment outcomes issued where advice (eligible for review under the Program) was identified in the Bank's assessment.

- Offered compensation in 598 cases due to the Bank finding poor advice, incorrectly implemented advice or the incorrect charging of fees in its assessment (compared with 332 cases as at 30 April 2016). The figure of 598 cases represents 12% of all cases with assessment outcomes issued where advice (eligible for review under the Program) was identified in the Bank's assessment. The 598 cases include:
 - 323 cases where poor advice was found by the Bank, which resulted in the customer suffering financial loss; (54% of cases where compensation was offered);
 - 115 cases where incorrectly implemented advice was found by the Bank, which resulted in the customer suffering financial loss; and (19% of cases where compensation was offered); and
 - 160 cases where the Bank identified the incorrect charging of fees, where the advice was found to be otherwise appropriate. (27% of cases where compensation was offered).³⁰

We note that, of the 4,045 cases where the Bank found the advice and fees to be appropriate, the Bank subsequently offered payments to 169 cases, despite there being no change to the Bank's assessment that the advice was appropriate. These payments were offered following a process of negotiated settlement between the Bank and the customers (and/or their Independent Customer Advocate (ICA)), after the Bank had issued an assessment outcome to the customer. All offers of payments made in relation to these cases were at the sole discretion of the Bank, following consideration of the customer's specific personal circumstances.

3.4.2. Response to assessment outcomes

As noted earlier, the Current Period saw a material increase in the number of cases exiting the Program after having received an assessment outcome from the Bank.

Of the 5,411 cases that had been issued an assessment outcome as at 31 August 2016, 2,414 cases (45%) had exited after having accepted the Bank's assessment outcome or offer of compensation, and 1,276 cases (23%) had subsequently withdrawn from the Program after rejecting or not responding to the Bank's assessment outcome.

In 383 cases (7%), counter-offers had been made by the customer to the Bank, with the Bank reviewing those counter-offers as at 31 August 2016. These 383 cases included 78 cases where the Bank had made an offer of compensation to the customer (i.e., where the customer's counter-offer sought an increase in the amount of compensation offered), and 305 cases where the Bank made no offer of compensation.

The remaining 1,338 cases (25%) in the Consideration of Assessment Outcome stage related to cases that were under review by the customer as at 31 August 2016.

³⁰ Included in this category is one case that involved the incorrect charging of fees where the customer was offered compensation under the Bank's remediation activities related to CFPL's licence conditions. No separate compensation was offered under the OAR program for the incorrect charging of the same fees.

Table 3.6 below provides a breakdown of the status of cases that had been issued assessment outcomes as at 31 August 2016.

Table 3.6: Status of cases that had been issued assessment outcomes as at 31 August 2016

Case status	Total as at 31/8/2016
Offer of compensation made by Bank³¹	
Offer accepted by the customer	470
Offer under review by the customer	212
Offer rejected by the customer and counter-offer made to the Bank	78
Customer withdrew from the Program ³²	6
No offer of compensation made by Bank	
Assessment outcome accepted by the customer	1,944
Assessment outcome under review by the customer	1,126
Assessment outcome rejected by the customer and counter-offer made to the Bank	305
Customer rejected or did not respond to the assessment outcome and withdrew from the Program	1,270
TOTAL	5,411

During the Current Period, a total of 329 cases chose to retain the services of an ICA. As at 31 August 2016, the total number of cases that had retained an ICA since the Program's commencement stood at 1,339.

3.5. Compensation

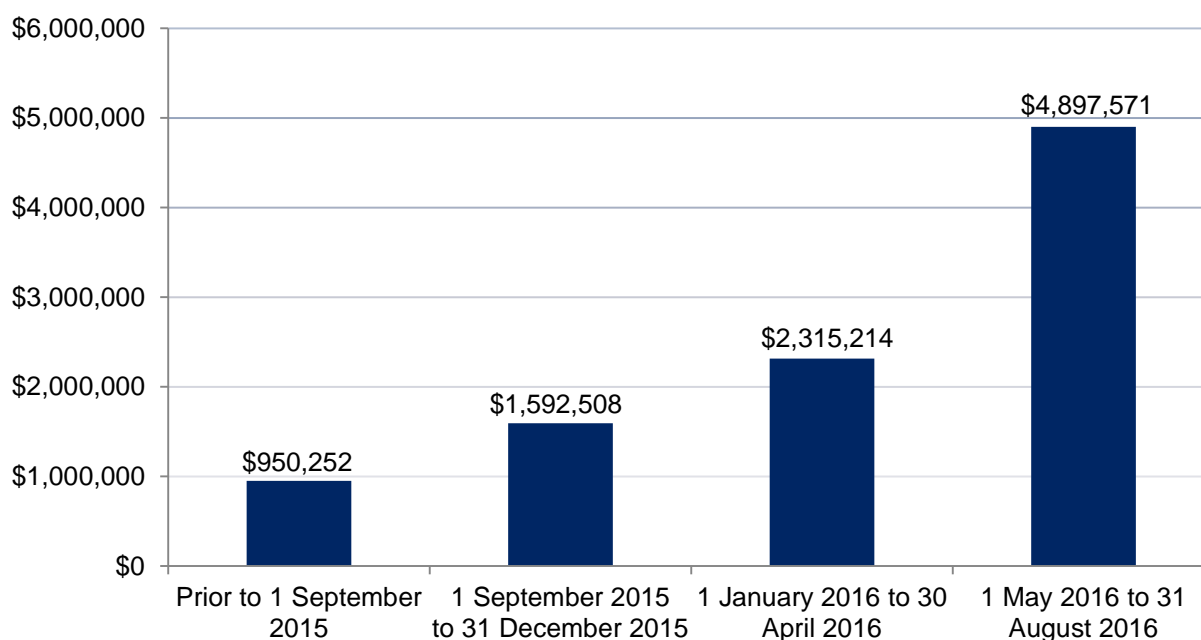
The ongoing increase in the number of cases assessed and the larger number of customers who have responded to their assessment outcomes saw a marked increase in the amount of compensation offered and paid by the Program during the Current Period.

In particular, during the Current Period, the Bank offered compensation totalling \$4,897,571 – more than double the \$2,315,214 that had been offered in the prior four-month period to 30 April 2016. Figure 3.3 provides an overview of the increases in compensation offers made by the Program over time.

³¹ The number of cases with compensation offered in this table includes the 169 cases noted earlier where the Bank found the advice and fees to be appropriate, but where an offer of payment was made following issuance of an assessment outcome.

³² In five of these cases, the Bank made offers of payment to the customers which were not accepted (with the customers subsequently withdrawing from the Program). In the other case, an interim payment was made to the customer, but the customer subsequently withdrew from the Program without accepting the Bank's assessment outcome.

Figure 3.3: Amount of compensation offered by reporting period



Taking into account the most recent compensation offered during the Current Period, the Program had offered total compensation of \$9,755,545 since its commencement (an increase of 101% from the \$4,857,974 that had been offered to 30 April 2016).³³

Table 3.7 below summarises the compensation offers made and paid to 31 August 2016.

Table 3.7: Compensation amounts

Compensation	Prior Total as at 30/4/2016	New	Total as at 31/8/2016
Offered by the Bank	\$4,857,974	\$4,897,571	\$9,755,545
Paid by the Bank	\$3,123,551	\$3,603,089	\$6,726,640

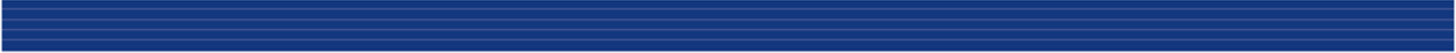
As Table 3.7 illustrates, the Bank had paid \$6,726,640 in compensation out of the \$9,755,545 it had offered to 31 August 2016 (69% of total compensation amounts offered). The remaining \$3,028,905 in compensation offered but not yet paid as at 31 August 2016 primarily related to cases where the Bank's assessment outcome was still under review by the customer (or by the Bank in the event a counter-offer had been made by the customer).

³³ The Bank has indicated that the total amount of compensation offered as at 26 September 2016 was \$10,849,428.

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The total amount of \$6,726,640 in compensation paid to 31 August 2016 consisted of payments made to 476 cases in the Program.³⁴ The 476 cases include:

- 470 cases where the customer had accepted the Bank's assessment outcome or offer of compensation;
- five cases where the Bank had issued an interim payment to the customer prior to the customer making a final decision regarding his/her acceptance of the Bank's assessment outcome;³⁵ and
- one case where the Bank had issued an interim payment of compensation to the customer where the customer subsequently withdrew from the Program without accepting the Bank's final assessment outcome.

³⁴ The Bank has indicated that the total amount of compensation paid as at 26 September 2016 was \$7,779,987 (paid to 571 cases).

³⁵ The Bank may offer interim payments of compensation to certain customers in the Program to facilitate more efficient payments. Interim offers of compensation are made without prejudice to a customer's right to make a counter-offer under the Program, or pursue other actions outside of the Program.

4. Program implementation

This section provides an update on the Program's implementation for the period to 31 August 2016, including the people, governance and processes used to support the Program.

In providing these updates on the Program's implementation, we note that our role as Independent Expert has dual objectives: i) to provide assurance that the outcomes of the Program are consistent with its objectives and the Bank has adhered to its documented processes; and ii) to provide transparency to the public regarding the Bank's internal processes, structures and systems. Our remit excludes an assessment or audit of the specific design elements of the Program (i.e., our scope does not entail forming opinions on how elements of the Program have been designed). We do, however, provide the information in this section in the interest of transparency.

While our scope excludes a formal audit of the Program's design elements, our detailed review of individual cases through the sampling that we undertake provides us with the opportunity to identify issues regarding the Program's design or implementation that could affect the Program's objectives. Comments on the Program design inferred from our case sampling work are set out in Section 5.3 of this Report.

4.1. People

Our previous reports have detailed the structure of the team, resources and governance arrangements that have been established by the Bank to implement the Program.³⁶ The sections below provide an update on key movements and changes in these areas during the Current Period.

4.1.1. Team structure and resources

The ARp team within the Bank's Wealth Management division remains responsible for managing the Bank's advice remediation activities, including the OAR Program. As noted in our previous reports, the ARp team is made up of various "streams" that deal with different aspects of the Program's delivery (including streams responsible for dealing with customer case assessments, information management, legal, operations and other functions). The number of resources as at 29 August 2016 across the ARp team, as well as those within the various streams, is set out in Figures 4.1 and 4.2, respectively.³⁷

³⁶ Readers interested in understanding further details about the Program's team structure and setup should refer to our Fourth Report.

³⁷ Statistics in relation to people resources are compiled prior to each month-end (hence the reference to the number of resources as at 29 August 2016).

Figure 4.1: Total number of resources in ARp team

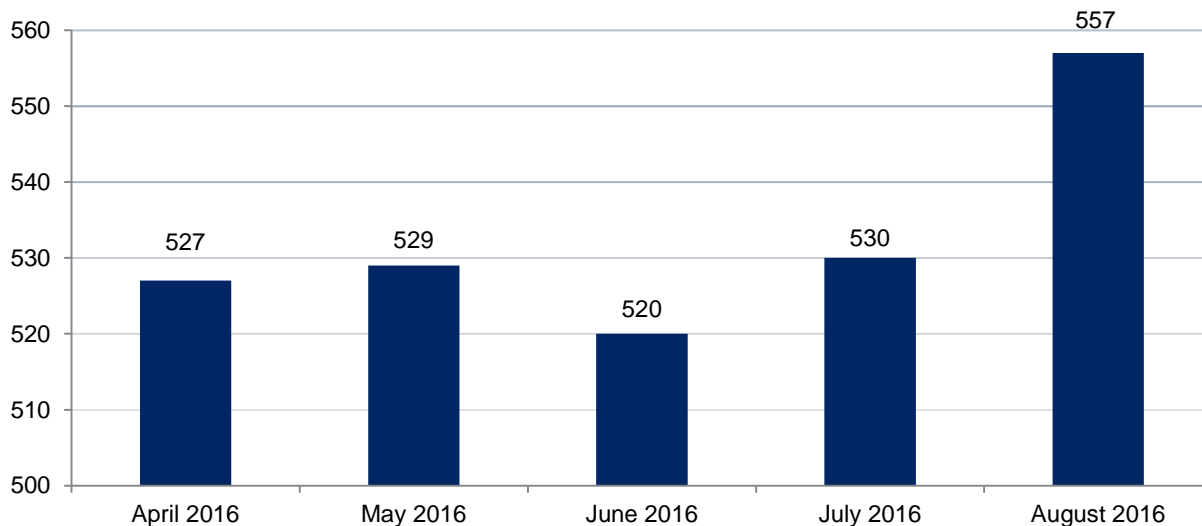
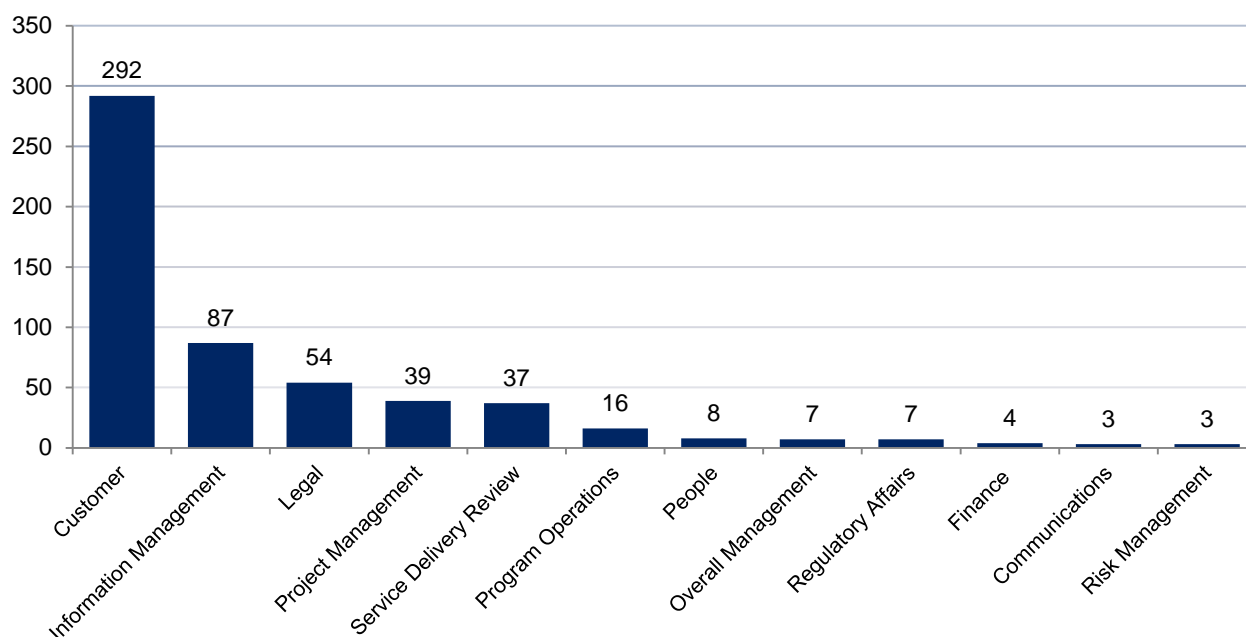


Figure 4.2: Number of resources in each ARp stream (August 2016)



As Table 4.1 illustrates, the total number of resources within the ARp team stood at 557 as at 29 August 2016 – an increase of 6% from the 527 resources that were in the ARp team as at April 2016. This increase in resources during the Current Period was mainly driven by increased hiring in the Project Management and Information Management streams to support the Bank’s other advice remediation activities outside of the OAR Program (e.g., work related to CFPL and FWL licence conditions).

As Table 4.2 illustrates, the Customer stream remains the largest stream within the ARp team. This stream is responsible for dealing with various aspects of a customer's case, including advice assessment, customer contact/communications, forensic accounting, operations and advice technical support.³⁸

During the Current Period, there was a slight reduction in the number of resources within the Customer stream, with the stream employing 292 resources as at 29 August 2016 against a total of 316 resources as at 11 April 2016. This slight reduction was driven mostly by some staff turnover across a number of the Customer sub-streams (including the Advice Assessment sub-stream that is responsible for conducting case assessments of customer advice), which the Bank has sought to address through recent new hires and other staff retention initiatives.

As at 29 August 2016, the Advice Assessment sub-stream (responsible for conducting case assessments of customer advice) employed 154 team members (compared with 165 team members as at 11 April 2016).³⁹

4.1.2. Training

A range of training courses were offered to ARp team members during the Current Period, mainly targeted at the Advice Assessment sub-stream (i.e., case assessors). Training offered and conducted for ARp team members during the Current Period included courses in relation to:

- processes for dealing with cases with limited or no advice documentation, including refinements to the Targeted Assessment approach/tools and the Insufficient Information assessment approach (discussed in Section 4.6.1 below);
- upgrades to the Program's Case Assessment Tool (CAT), discussed in Section 4.4 below;
- processes for dealing with cases involving less common products (e.g., foreign pension transfers, annuities and defined benefit schemes);
- refinements to the assessment of advice fees (refer to Section 4.7.2 below); and
- leadership training in relation to change management and transition.

As noted in our previous reports, all case assessors in the ARp team (Assessment Officers and Assessment Managers) are required to comply with ASIC's RG 146 requirements related to the provision of personal financial advice. As at 31 August 2016, all case assessors had completed their necessary RG 146 requirements.

Once RG 146 requirements are completed, individuals are enrolled in mandatory CPD training to keep their accreditation current. At the end of the CPD year running from 1 July 2015 to 30 June 2016, all ARp team members working on the OAR Program had completed their relevant CPD targets. CPD plans for the 2017 financial year were also established in August 2016.

³⁸ Our Fourth Report provides further details about the specific responsibilities of each Customer sub-stream.

³⁹ The figure of 154 team members as at 29 August 2016 includes 79 Assessment Officers, 51 Assessment Managers and 24 other team members (e.g., senior managers, team leaders and administrative support staff).

4.1.3. Incentive structures

In July 2016, the CBA Group model for assessing the performance of its employees was revised to help increase focus on employees meeting the Bank's values related to integrity, accountability, collaboration, excellence and service. The revised performance model measures employees on:

- what employees achieve as demonstrated through Key Performance Indicator (KPI) outcomes;
- how employees achieve these outcomes through values-based behavioural assessments; and
- how employees have met their risk management responsibilities.

In light of the changes made at the CBA Group level, the ARp team reviewed its KPIs at the start of the new performance year beginning in July 2016. This review identified some changes required to the KPIs set for ARp team members in order to align to the CBA Group performance model (e.g., allocating KPIs to the model's key result areas). For the ARp team, the revised KPIs remain weighted towards customer outcomes over other performance outcomes, with KPIs associated with customers having the largest weighting in performance assessments (50% or above) across all levels. Customer-associated KPIs also remain focused on both the quality and timeliness of case assessments (with equal weighting applying to each measure).

4.2. Governance

4.2.1. Program oversight

Oversight of the OAR Program remains the responsibility of the various executive committees and boards described in our previous reports, including the parent CBA board, the boards of CFPL and FWL, and the Program's Executive Steering Group (ESG) and Program Steering Group (PSG).

During the Current Period, the responsible governance committees and bodies met and were updated on developments in relation to the Program on the following occasions:

- the parent CBA board was updated on developments in relation to the Program on two occasions (in June and August 2016) and the CBA board oversight committee on financial planning on one occasion (in June 2016);
- the CFPL and FWL boards were updated on developments in relation to the Program on two occasions (in May and June 2016);
- the Executive Steering Group met on two occasions (in May and August 2016) and was provided with an update on the Program on one other occasion (in July 2016); and
- the Program Steering Group met on four occasions.

The Current Period also saw the Bank refine its internal review structures in relation to individual case assessments. These internal review structures include the need for each case to be peer reviewed and

subject to a structured approvals process that aims to assist with the quality and consistency of individual case assessments.⁴⁰

During the Current Period, the Bank made a number of changes to the workflow arrangements between case assessors and approvers to improve the timeliness of case assessments without compromising on the quality of outcomes. For example, workflow arrangements were amended to provide case assessors with greater real-time support from approvers and other specialist teams on issues that arose during the course of an initial assessment (as opposed to support provided after a case assessment had been placed on hold pending additional assistance). This change sought to prevent blockages and delays from occurring on cases where technical assistance may be required to complete the assessment. During the Current Period, case approvers were also provided with greater authority to finalise assessment outcomes for a wider range of case types.⁴¹

4.2.2. Risk management and audit

As noted in our previous reports, the Bank's internal audit and risk management functions undertake regular reviews of the ARp team's activities to provide an additional layer of governance and assurance over the Program's systems and controls.

During the Current Period, the ARp team was able to address all remaining material issues that were identified by the Bank's internal audit and risk management departments in previous reviews outlined in our Fifth Report.⁴² The internal audit and risk management issues addressed included those in relation to reviews of the ARp's information technology (IT) supplier and data loss prevention controls, as well as internal management reporting.

During the Current Period, both the internal audit and risk management departments also identified new areas where controls relied upon by the ARp team could be enhanced. These areas included:

- strengthening user access design and controls to certain databases and systems that are relied upon by the ARp team (a finding identified by internal audit);
- strengthening physical access controls and monitoring of the Program's premises (a finding identified by risk management); and
- reviewing and testing of the ARp team's business continuity and recovery plans (a finding identified by risk management).

⁴⁰ As noted in our previous reports, the structured approvals process requires each case assessment to be approved by a designated member of the ARp team (known as an "approver" or "Case Sponsor") who has the appropriate delegated authority to finalise an assessment outcome.

⁴¹ Greater authority was provided to case approvers to finalise assessment outcomes with referrals to Case Sponsors now limited to an exceptions basis. Case assessors and approvers may still refer complex cases to relevant governance forums and committees for review or approval where required (subject to Case Sponsor agreement).

⁴² For the purpose of this Report, material issues refer to those issues that were classified as medium risk or higher by the internal audit or risk management departments.

During the Current Period, management actions were identified and implemented for each of the new areas noted above – meaning that all outstanding material internal audit and risk management issues for reviews conducted to 31 August 2016 had been closed.

4.3. Customer file retrieval

Our Fifth Report noted that the Program's customer file retrieval initiatives had been largely complete, with the only material retrieval activities outstanding being the collection of advice files for a limited number of customers in the Program who were advised by *former* FWL advisers (i.e., advisers who were formerly authorised representatives of an FWL licensee who are no longer with an FWL licensee).⁴³

Due to difficulties in retrieving the relevant customer advice files from former FWL advisers using the contact procedures described in our previous reports, the Bank opted to write letters to all remaining former FWL advisers where files remained outstanding and where contact had not been previously established by the Bank.⁴⁴ These letters requested any files associated with previous customers of the former adviser in the Program to be submitted to the Bank if they were in the possession of the former adviser.⁴⁵

Taking into account the most recent file retrieval activities conducted (including the ongoing search for files stored on the Bank's systems for cases where files had not been previously found) the Bank had retrieved an advice file for 8,536 registered cases as at 31 August 2016 (up from approximately 8,100 cases as at 30 April 2016).⁴⁶ In addition:

- in 683 cases, file retrieval was no longer required, as the case had already exited the Program prior to receipt of an assessment outcome (e.g., due to the customer withdrawing or due to ineligibility for the Program); and
- in 576 cases, the Bank had already issued an assessment outcome to the customer using one of its assessment approaches for dealing with cases with limited or no advice documentation (see Section 4.6.1).

Consequently, as at 31 August 2016, only 315 cases remained where an advice file had not been retrieved and an assessment outcome had not been issued by the Bank. The Bank has indicated that most, if not all, of these cases were likely to be assessed under the Program's Targeted Assessment approach going forward (unless critical advice documents for the case are found by the Bank or provided by the customer prior to the case's assessment). In the event that a customer provides the Bank with documents after receiving an assessment outcome under the Program's Targeted Assessment approach, the Bank will consider those documents and, where applicable, issue a revised assessment outcome.

⁴³ File retrieval initiatives for customers in the Program who were advised by CFPL or current FWL advisers were effectively complete at the time of our Fifth Report (with retrieval initiatives limited to any new cases that may have registered during the period). As at 31 August 2016, 52 registered cases in the Program were affected by file recovery attempts relating to former FWL advisers.

⁴⁴ The Bank also continued to attempt phone contact with former FWL advisers during the Current Period, as per the processes described in our Fifth Report.

⁴⁵ These letters were issued in September 2016, with responses still pending at the time of preparing this Report.

⁴⁶ We note that not all of the 8,536 cases will have a "critical advice document" available on file (refer to Section 4.6.1 for the Bank's definition of a critical advice document).

4.4. Systems and tools

The Current Period saw the Bank make a number of improvements to the main assessment tool used to document and conduct assessments of cases in the Program (the CAT). In particular, during August 2016, the Bank released an upgraded version of the CAT to:

- incorporate changes that would enable better data integration between the CAT and the Program's underlying databases;
- reduce redundancies in the assessment tool that did not impact or influence case assessments; and
- introduce additional controls to assist with the prevention of process errors (e.g., additional checks around the assessment of advice implementation which may help reduce the frequency of advice implementation errors being missed in case assessments).

The enhancements were aimed at reducing the amount of time required by the Bank to assess cases, as well as assisting with the consistency and quality of assessment outcomes. Prior to the implementation of the revised CAT, data integrity and sample testing was performed by the Bank to ensure that the tool was working as intended.

4.5. Communications

Given the closure of the Program to new expressions of interest from 3 July 2015, the Bank's main communication initiatives since this date have focused on providing periodic Program updates to customers who remain in the Program.

In July 2016, the Program issued a third update on the Program's progress to approximately 5,660 customers who had yet to receive their assessment outcome from the Bank at the time.⁴⁷ This Program update, issued via direct mail and email formats to customers, provided a brief update on the Program's progress and some of the activities and challenges associated with the Program's implementation. The update also provided customers with a link to additional information about the Program (through Promontory's periodic reports), as well as avenues customers could pursue if they remained concerned about the advice they received following receipt of an assessment outcome.

4.6. Assessment processes

This section provides an update on certain aspects of the Program's assessment processes that have been refined during the Current Period.

⁴⁷ Program updates were previously issued by the Bank in December 2014 and September 2015.

4.6.1. Cases with limited or no documentation

Our previous reports have outlined the processes the Bank has developed to deal with cases where there are limited or no advice documents (particularly “critical advice documents”)⁴⁸ available to assess following searches conducted by the Bank on its systems and physical locations. At a high-level, these processes included:

- an Insufficient Information Assessment approach, which applies when a case has at least one critical advice document that is available and eligible for review under the Program, and there is evidence to suggest that advice may have also been provided on other occasions (but no critical advice documents relating to those potential instances of advice are available); and
- the Targeted Assessment and No Evidence of Advice Assessment approaches, which apply when a case has no critical advice documents available to assess that are eligible for review under the Program.⁴⁹

During the Current Period, the Bank made a number of refinements to the various approaches for dealing with cases with limited or no advice documents. These refinements included:

- Closer integration of the No Evidence of Advice Assessment and Targeted Assessment approaches, whereby cases suspected of having no advice eligible for review under the Program are now processed through the Targeted Assessment methodology to determine an assessment outcome.⁵⁰
- Broadening the types of cases eligible for assessment under the Targeted Assessment approach to include:
 - cases that contained critical advice documents but where these documents related to advice that was outside the scope of the Program (i.e., advice that is not within the Review Period and/or issued by an adviser authorised by a licensee other than CFPL or FWL);⁵¹
 - cases that contained an FNA within the scope of the Program where there was no associated SOA or ROA; and

⁴⁸ The Bank defines a “critical advice document” to be a Statement of Advice (SOA) or a Record of Advice (ROA) where that ROA is accompanied by another supporting advice document such as a SOA or a Financial Needs Analysis (FNA) document.

⁴⁹ These approaches involved the use of data analytics on customer transactions data to identify potential instances of advice (refer to our Fourth and Fifth Reports).

⁵⁰ More specifically, all cases that contain no critical advice documents within the Program’s scope are assessed for possible instances of advice using data analytics on customer transactions data. If the data analytics confirms that there are no significant customer transactions attached to the customer’s case eligible for review under the Program, an outcome of “no evidence of advice” would be attached to the case, which is communicated to the customer. The customer is invited to provide further information or documents that they may have available for assessment.

⁵¹ In such cases, the Bank would analyse the customer transactions data to identify any potential instances of advice that may have been provided within the scope of the OAR Program. If no potential instances of advice are identified, the Bank would issue a no evidence of advice outcome to the customer. If potential instances of advice are identified, the standard business rules under the Program’s Targeted Assessment approach would apply to determine whether or not these potential instances of advice were likely inappropriate.

- cases involving products that were initially placed on hold from Targeted Assessment pending further analysis of their features and complexities (e.g., annuity products and third-party products).
- Changes to the procedures associated with the Insufficient Information Assessment approach, where the Bank no longer makes calls to customers to ascertain information about possible instances of advice it has identified prior to issuing an assessment outcome, other than in limited circumstances.⁵²

In relation to the last point on changes to the Insufficient Information Assessment approach, our previous reports have noted how this approach had involved a Review Manager from the Bank contacting customers to obtain information about possible instances of advice the Bank identified from its review of files, data and documents available (but where the relevant critical advice documents were not available). The issues and practical challenges the Bank identified with this approach included:

- some customers being unwilling or reluctant to share information with the Bank in a phone call prior to the Bank providing copies of all information or documents about the potential instances of advice the Bank had found through its initial analysis (i.e., a degree of temporal information asymmetry would exist between the customer and the Bank at the point the phone calls were made);
- difficulties customers may have had with providing or recollecting potentially relevant details during the call process; and
- the calls consuming a considerable amount of time, without necessarily adding to the facts already available to the Bank to progress an assessment.

To respond to these issues and practical challenges, the Bank decided to cease making these calls (in most cases) under its revised approach. The Bank's revised approach now requires assessors to conduct an initial review of potential instances of advice using the information, files and data it has available. Assessors are required to closely consider any information available relating to the customer's attitude to risk for each potential instance of advice in their assessment, as well as any relevant personal circumstances of the customer that would have been known by the adviser at the time of the advice. Based on the information available (including information on the customer's implemented investments available from the Bank's systems), assessors then make a determination as to whether the potential instance of advice was likely inappropriate, or whether there was no evidence of inappropriateness.⁵³

Once the Bank has determined an assessment outcome, customers are notified of the potential instances of advice identified by the Bank, and the Bank's findings in relation to these potential instances, in their assessment outcome letters. Information relating to the potential instances of advice, including relevant products and dates, are also outlined in the assessment outcome letter.

Customers are then invited to provide additional information to the Bank in respect of the potential instances of advice identified in the Bank's assessment.⁵⁴ The customer is able to speak to their appointed Review

⁵² These limited circumstances relate to cases where SMAT has confirmed that a document should not be relied upon in the assessment following its forensic analysis.

⁵³ Assessors must also conduct an assessment of any fees paid by the customer.

⁵⁴ The product and other information in the assessment outcome letter should assist customers identify pertinent information on any advice that may have been received from a CFPL or FWL adviser during the Review Period. By adopting this approach, customers have

Manager to make sure they understand the outcome of the assessment. Consistent with the safeguards afforded to all customers in the Program, customers assessed under the Insufficient Information Assessment approach also have access to an ICA to support them in reviewing their assessment outcomes and responding to the Bank.

Identification of potential instances of advice under the Insufficient Information Assessment approach

In addition to the changes and refinements to the Insufficient Information Assessment approach noted above, the Current Period saw the Bank undertake further investigations as to whether the use of customer data analytics could be applied to identify potential instances of advice under this approach (as discussed in our Fourth and Fifth Reports). These investigations by the Bank are still ongoing.

4.6.2. Processes in relation to fraud and other similar adviser misconduct

Our previous reports have provided an overview of the protocols established by the Bank to deal with cases involving potential fraud, forgery and other similar improper conduct by advisers within the Program. These protocols have remained unchanged since our previous report. The protocols include the involvement of the Program's internal team of forensic specialists (SMAT) to conduct initial investigations of matters involving suspected fraud, forgery or other similar misconduct identified by case assessors, and the potential referral of matters to the Program's IFE (McGrathNicol Forensic) where required.

During the Current Period, the Program's IFE conducted its first sample review of cases that had been referred to SMAT but were not subsequently referred to the IFE.⁵⁵ In particular, the IFE conducted sample case reviews in 15% of the cases that were referred to SMAT (as at June 2016), but where SMAT subsequently found that the information on file did not support allegations of forgery or other irregularities.⁵⁶ The cases sampled included cases for each of the triggers that should see a case referred to SMAT (e.g., blank documents signed by a customer, signature mismatches and customer concerns about potential fraud).⁵⁷

In addition to this case sampling, the IFE also conducted a high-level review of cases assessed by SMAT, where SMAT determined that certain documents, indicators of advice or other information could not be relied upon in the Bank's assessment of advice (due to SMAT being unable to rule out concerns about potential fraud, forgery or other misconduct). For these cases, the IFE's high-level review involved three briefings with the Bank to:

- obtain an understanding of the cases and the actions/investigations completed by SMAT to reach its conclusions;

relevant information provided to them by the Bank at the same time as the Bank provides its evaluation of this information to the customer.

⁵⁵ As noted in previous reports, the IFE's sampling of cases aims to mitigate the risk that concerns in relation to fraud, forgery or other adviser misconduct are not being appropriately assessed by the Bank.

⁵⁶ More specifically, the cases sampled were those where SMAT had made a determination that the case could be assessed "without limitation". These were cases where SMAT determined that the case could be assessed in accordance with the Program's relevant assessment processes without needing to exclude certain documents.

⁵⁷ Refer to our Fifth Report for further details of the types of triggers that could see a case referred to SMAT.

- determine if there was any evidence of fraud or other improper conduct in relation to each case; and
- ascertain whether the cases had been assessed by SMAT in accordance with the Program's documented processes and objectives for IFE referrals.

In relation to all cases sampled or reviewed by the IFE during the Current Period, the IFE found that the cases assessed by SMAT were performed in a manner that was consistent with the Program's documented processes and objectives for IFE referrals.

The IFE's reviews also identified some areas related to the SMAT assessment process that could be enhanced to improve future assessments. These enhancements included matters relating to the documentation of SMAT assessments and controls/procedures for conducting signature mismatch analysis, which the Bank has addressed and implemented.⁵⁸

During the Current Period, no additional cases were referred to the IFE by SMAT for further investigation. As at 31 August 2016, six cases had been referred to the IFE since the Program's commencement.

4.7. Measures to address findings from our previous sampling

In completing our sample review of cases for our Fifth Report, we identified certain aspects of the Program's assessment processes that we believed could be further refined to assist with the ongoing consistency of assessment outcomes in the Program. These areas included:

- the Program's assessment of possible errors in relation to advice implementation, where case assessors were afforded a degree of discretion to resolve possible errors and where that discretion had the potential to increase the risk of inconsistent assessment outcomes; and
- the Program's assessment of fees in those (generally limited) instances where customers chose to reduce the investment amount that had been recommended by the adviser, and the fees disclosed to the customer were expressed in both percentage and fixed dollar terms.

In response to our findings on these two areas, the Bank developed and implemented new guidance to its case assessors to provide further clarity and examples of how such situations should be addressed as part of the assessment process. Details of the guidelines developed in both these areas are summarised below.

4.7.1. Dealing with possible errors related to advice implementation

In our Fifth Report, we noted that our sample review of cases found individual case assessors had a degree of discretion to resolve possible implementation errors (i.e., where products implemented differed to the products recommended in the SOA) by referencing documents indicating potential customer agreement to proceed with a different implementation from that recommended by the adviser.⁵⁹ We believed that the degree of discretion

⁵⁸ The enhancements suggested by the IFE did not raise concerns on the determinations made by SMAT in the cases sampled.

⁵⁹ For example, a product application form signed by the customer that set out products different to those that had been recommended in the SOA.

afforded to individual case assessors in these circumstances could, over time, result in inconsistent assessment outcomes (as different assessors could apply different judgements to similar situations).

To address this risk, the Bank developed a detailed technical bulletin that provided guiding principles and examples for its case assessors in respect of the circumstances in which it was, or was not, appropriate to resolve possible advice implementation errors by reference to other documents. The guidance identified and described a number of factors that a case assessor must consider in determining whether or not an advice implementation error was likely, including:

- the format of the product application forms completed to implement the advice;
- the amount of time elapsed between the product recommendation and product implementation; and
- the completeness of the relevant critical advice documents.

Based on our review of these additional guidelines, we believe that the risk of inconsistent assessment outcomes we identified in our previous reports will be mitigated. While the new guidance affords case assessors with some discretion to consider the relevant specifics of each case when assessing for possible implementation errors, the principles and examples that have been established should assist the Program deliver assessment outcomes that are consistent.

4.7.2. Assessment of advice fees

In our Fifth Report, we noted that the Program's assessment guidelines included limited guidance for dealing with cases where: i) the investment amount implemented by the customer was less than the investment amount recommended by the adviser; and ii) the fees that were disclosed to the customer in the critical advice document were expressed as both a percentage of the investment amount and as a fixed dollar amount. In such cases, we found instances where the Bank's assessment of the fees paid by the customer relied on the percentage-based fee disclosed, and other instances where the fixed dollar fee amount was relied upon (therefore increasing the risk of potential inconsistencies in case assessments). To minimise the risk of inconsistencies, we believed that further guidance could be developed by the Bank to assist assessors in determining the correct measure to use (percentage-based or fixed dollar) based on the individual circumstances of a case.

During the Current Period, the Bank responded to our findings by updating its assessment guidelines on fees and including more detailed guidance to assessors on how advice fees should be assessed when both percentage-based and fixed dollar amounts are disclosed. In circumstances where both measures were disclosed and could impact the outcome of the fee assessment, the updated guidelines require assessors to consider:

- whether the fee disclosed and/or charged was an ongoing or an upfront, one-off advice fee,⁶⁰ and

⁶⁰ Ongoing fees would typically be based on percentage amounts, as advisers would usually seek to be remunerated at a level that was relative to the quantum of the funds they managed.

- the specific disclosures and explanatory text that were disclosed to customers in the relevant advice documents (to identify whether the adviser intended to charge a percentage-based fee or a fixed dollar amount).

The updated assessment guidelines also addressed previous findings (noted in our Fourth Report) on the scope of one-off advice fees included in the assessment process. In particular, the updated assessment guidelines clarified that all one-off advice fees, including those less commonly observed during the Program's Review Period, must be assessed in the same manner as other advice fees.⁶¹

In light of additional details and guidance provided in the Bank's updated assessment guidelines on fees, we believe our previous findings on fee assessments in the Program have been addressed.

⁶¹ Examples of the types of one-off fees that were added in the updated version of the assessment guidelines included entry, contribution, establishment, plan, advice strategy and ad-hoc review fees. These fee types were in addition to one-off adviser service, SOA, ROA and Transaction Without Advice fees that were already assessed.

5. Sample case reviews

Promontory's role in the Program requires us to review a sample of cases at different stages of the Program to determine if customers have had their cases assessed in a manner that is materially consistent with the Program's documented processes. In undertaking this review, Promontory not only considers whether adherence to the Program's documented processes has occurred, but also:

- whether cases have been dealt with in a manner that is consistent with the Program's objectives; and
- whether it was reasonable and practicable in the circumstances to follow the Program's documented processes.

5.1. Scope of sampling

Our sampling for the Current Period covered the following categories of cases encompassing different stages of the Program:

- **Cases that have received an assessment outcome (“cases progressed through the Assessment stage”):** We reviewed 220 cases in this category for the Current Period, including 59 cases that were assessed under the Program's Targeted Assessment or No Evidence of Advice Assessment approaches.⁶² This adds to the 464 cases previously sampled from this category, bringing the total number of Assessment stage cases we have sampled from the Program's commencement to 31 August 2016 to 684. This represents a sample size of 13% of the relevant population.⁶³
- **Cases that have exited the Program following receipt of an assessment outcome (“cases progressed through the Program's Consideration of Assessment Outcome stage”):** We reviewed 100 cases in this category for the Current Period. This adds to the 159 cases previously sampled from this category, bringing the total number of Consideration of Assessment Outcome stage cases we have sampled from the Program's commencement to 31 August 2016 to 259. This represents a sample size of 7% of the relevant population.
- **Cases where the customer has opted out of the Program prior to having received an assessment outcome (“customer withdrawals”):** We reviewed six cases in this category for the Current Period. This adds to the 528 cases previously sampled from this category, bringing the total number of customer withdrawal cases we have sampled from the Program's commencement to 31 August 2016 to 534. This represents a sample size of 33% of the relevant population.

⁶² The figure of 59 cases includes cases that were found by the Bank to contain no evidence of advice. Refer to Section 4.6.1 for a discussion regarding how cases with no evidence of advice are assessed in the Program.

⁶³ These figures exclude the 60 Pilot cases we reviewed early in the Program. With the inclusion of the 60 Pilot cases, we have sampled a total of 744 cases progressed through the Assessment stage since the Program's commencement, which represents 14% of the relevant population.

- **Cases removed from the Program on administrative grounds (“administrative exits”):** We reviewed 443 cases in this category for the Current Period. This adds to the 265 cases previously sampled from this category, bringing the total number of administrative exit cases we have sampled from the Program’s commencement to 31 August 2016 to 708. This represents a sample size of 6% of the relevant population.

Table 5.1 provides a summary of the case categories we have sampled from, including the sample sizes and population in each category.

Table 5.1: Number of cases sampled in relevant case populations

Case category	Number sampled in prior periods	Number sampled in Current Period	Number sampled as at 31/8/2016	Overall population as at 31/8/2016	Percentage sampled as at 31/8/2016
Cases progressed through the Assessment stage ⁶⁴	464	220	684	5,351	13%
Cases progressed through the Consideration of Assessment Outcome stage	159	100	259	3,690	7%
Customer withdrawals	528	6	534	1,634	33%
Administrative exits	265	443	708	12,405	6%

As noted in our previous reports, the percentage of cases that we will ultimately sample in each category will depend on a number of factors, including the final number of cases that fall into each category and the number of exceptions we find in our sample review of cases.

5.2. Approach to sampling

5.2.1. Cases progressed through the Assessment stage

During the Current Period we continued to implement the risk-based sampling methodology described in our previous reports when reviewing cases progressed through the Program’s Assessment stage. In particular, our sampling for this Current Period continued to focus on those cases that we classified as being potentially “higher risk”.⁶⁵

⁶⁴ Figures exclude the 60 Pilot cases we reviewed.

⁶⁵ For details regarding the criteria we apply to identify potentially “higher risk” cases, refer to our Fourth or Fifth Reports. We did not amend our definition of higher risk cases during the Current Period.

Our sample for this period included 126 higher-risk cases. This adds to the 196 higher-risk cases we sampled in prior periods,⁶⁶ bringing the total number of higher-risk cases we have sampled to date to 322. The figure of 322 cases represents approximately 53% of all higher-risk cases that we have identified from the relevant population to 31 August 2016.⁶⁷

For each of the cases progressed through the Assessment stage that we reviewed in the Current Period, we sought to verify that the Bank's assessment of the case was undertaken in a manner that was materially consistent with the Program's documented processes. Our review involved tracing through the various facts, analysis and conclusions that were recorded by the Bank's assessment team, and verifying that the analysis was conducted in line with the Program's processes and principles.

Where we identified cases with instances of non-adherence to the Program's documented processes, we raised these cases with the Bank. The Bank considered each case we identified under this process and notified us of whether the non-adherence to process resulted in an inaccurate assessment outcome or caused an incorrect calculation of compensation due. We then reviewed the Bank's response to each case where there was non-adherence to process, and separately determined whether the assessment outcome or offer of compensation due in each case would have changed if the Program's documented processes had been properly performed. Where we determined that the non-adherence to process impacted on the assessment outcome or offer of compensation to the case concerned, we classified these cases as "exceptions".

We note that our approach to classifying exceptions has evolved from previous periods. In particular, our classification of exceptions now takes greater account of the impact of any non-adherence to process on the customer's assessment outcome or offer of compensation (i.e., only instances of process non-adherence that have an impact on the assessment outcome or compensation offer are classified as exceptions).⁶⁸ This evolution has been driven by advances in the Bank's process for analysing and responding to cases that we have raised, where the Bank is now able to respond more quickly to us on the impact of the non-adherence to customer assessment outcomes and/or offers of compensation. We consider this amended approach to classifying exceptions to be more closely aligned with our role of assessing whether cases have been reviewed in a manner that is materially consistent with the Program's documented processes and objectives.

Our findings in relation to our sample review of these cases are set out in Section 5.3.1 below. All statistics relating to the number of exceptions in this Report are reported on the basis of the refined classification outlined above.⁶⁹

⁶⁶ Our Fifth Report noted that we had sampled 194 higher-risk cases since Program commencement to 30 April 2016. During the Current Period, we identified an additional two cases that we had previously sampled which are higher-risk. These cases were identified after the Bank made available to us case attributes to a large number of cases in the population.

⁶⁷ As at 31 August 2016, there were 4,008 cases that had progressed through the Assessment stage of the Program where case attributes were available to us to identify the risk characteristics of a case. Of the 4,008 cases where attributes were available, we identified 611 cases that we classified as higher-risk.

⁶⁸ To be clear, not all changes in assessment outcomes will necessarily lead to a change in offer of compensation (e.g., instances where the customers did not suffer financial loss even with the change in assessment outcome). Conversely, there may also be circumstances where there is no impact on the assessment outcome for the exception we identify, but there is a change in compensation offer (e.g., where a case has already been assessed as involving poor advice but additional issues identified may result in the offer of compensation being increased).

⁶⁹ In our next report, we will identify any affect that the revised classification approach to exceptions has upon past reported exceptions for cases progressed through the Program's Assessment stage.

5.2.2. Cases progressed through the Consideration of Assessment Outcome stage

Our sampling of cases that have progressed through the Consideration of Assessment Outcome stage focused on verifying that the steps taken by the Bank following completion of a case assessment adhered to the Program's documented processes. For each of the cases in this category in our sample, this involved:

- confirming that the customers had received their assessment outcome from the Bank;⁷⁰ and
- verifying that the Bank had written to the customers to confirm their exit from the Program prior to closure of the case (where practicable and reasonable).

In addition to these verifications, a number of other checks were performed for specific sub-categories within the population of cases progressed through the Consideration of Assessment Outcome stage. These sub-categories, and the additional checks we performed, included:

- Cases where the Bank had indicated the customer had accepted his/her assessment outcome or offer of compensation: In these cases we sought to confirm that the customer (or his/her ICA) had, in fact, accepted the Bank's assessment outcome and/or offer of compensation.
- Cases where the Bank had indicated the customer had withdrawn from the Program after receiving the assessment outcome (with or without rejecting the assessment outcome): In these cases we sought to confirm that the customer (or his/her ICA) had requested to withdraw from the Program (with or without rejecting the assessment outcome); and
- Cases where the customer was deemed to have rejected the assessment outcome and withdrawn from the Program after having not responded to the Bank's assessment outcome: In these cases we sought to confirm that the customers were afforded appropriate time (as specified in their assessment outcome letter) to review their outcome before their cases were closed from the Program.

In the first two sub-categories noted above, our review sought to identify evidence of the customer's intention to accept/withdraw from the Program through a review of correspondence, call logs and file notes in the Bank's systems.

There were also cases within the first two sub-categories where the customer (or his/her ICA) made a counter-offer to the Bank prior to exiting the Program. In these cases, where the customer was not represented by an ICA, we sought to confirm that the Bank had considered the customer's counter-offer before making a final determination on the case.

Our findings in relation to our sample review of these cases are set out in Section 5.3.2 below.

⁷⁰ We undertook this verification by seeking to confirm that the assessment outcome letters sent to the customers were addressed to a mailing address or email previously provided to the Program (e.g., addresses recorded in the customer's registration form).

5.2.3. Customer withdrawals

Our limited sample of six customer withdrawal cases for the Current Period reflected: i) the relatively few customer withdrawal cases that now stem from the Program;⁷¹ and ii) findings from our previous sampling of these cases which identified no exceptions from the Program's documented processes.

The six customer withdrawal cases we sampled for this period all related to cases where the customers had withdrawn from the Program at the Assessment stage (without an assessment outcome issued). Our previous sampling had covered customer withdrawals at the Expression of Interest and Registration stages of the Program; this was the first period in which we sampled withdrawals from the Assessment stage.⁷²

For the customer withdrawal cases that we reviewed in our sampling for the Current Period, our review of the cases involved:

- reviewing the relevant correspondence between the Bank and the customer (including written correspondence, call logs and other customer files in the Bank's systems) to evidence a customer's request to withdraw from the Program; and
- confirming that the Bank wrote to the customer to confirm their exit from the Program (where practicable and reasonable).

Our findings in relation to our sample review of these cases are set out in Section 5.3.3 below.

5.2.4. Administrative exits

As noted in our Fifth Report, a significant number of cases (over 8,900) were removed from the Program on administrative grounds in April 2016.⁷³ At the time of preparing our Fifth Report, we were yet to sample from these cases given the limited time available to review them prior to publication of our report.

During the Current Period, we completed our review of a sample of cases that had exited due to administrative reasons from April 2016. Our sample included 443 cases, including administrative exits that were removed from the Program's Expression of Interest and Registration stages.

Our approach to the review of these 443 cases involved seeking confirmation that the process under which the case was removed from the Program adhered to the Program's documented processes. This included checking that the Bank had attempted to notify customers of their cases' pending removal from the Program, and confirming that the Bank wrote to the customers confirming their exit from the Program once their cases were removed.

Our findings in relation to our sample review of these cases are set out in Section 5.3.4 below.

⁷¹ Most customers who opted out of the Program prior to receiving an assessment outcome did so during earlier phases of the Program.

⁷² Customer withdrawals from the Assessment stage began to emerge from the Program only around April 2016.

⁷³ The most significant driver behind this large increase was the removal of those cases involving customers who had not returned a completed *You and Your Advice* form within one year of their initial expression of interest into the Program.

5.3. Sample findings

The following sections set out our findings in relation to our sampling of cases in each category set out in Section 5.1 above.

As the sections below set out in further detail, our sample review of cases in this period identified three exceptions. These exceptions were cases where we found the customers' assessment outcomes or offers of compensation would have changed had the Program's documented processes been properly performed. All three exceptions related to cases we sampled from the Program's Assessment stage (i.e., cases progressed through the Program's Assessment stage). We did not identify any exceptions in relation to other case categories we reviewed for this period (i.e., case progressed through the Consideration of Assessment Outcome stage, customer withdrawals and administrative exits).

Each of the exceptions we identified during this period were, in our view, isolated instances of process non-adherence that did not involve more systemic concerns about the quality of assessment outcomes determined by the Bank. Furthermore, consistent with previous exceptions we identified through our sampling, the Bank has continued to respond to all exceptions identified by re-assessing relevant elements of the affected cases for the process errors we identified and, where necessary, contacting the customers to notify them of changes in their assessment outcomes and/or offers of compensation.

In light of the limited number of exceptions we have found and the isolated nature of these process errors, we remain of the view that the Bank is continuing to apply the Program's processes in a manner that is materially consistent with the Program's objectives.

5.3.1. Cases progressed through the Assessment stage

Our sample review of cases progressed through the Assessment stage of the Program identified three exceptions from the 220 cases that we reviewed during this period. The three cases where we found exceptions for the Current Period included:

- two cases where the Bank did not identify, in its assessment, advice that was incorrectly implemented ("implementation exceptions"); and
- one case where the Bank did not identify a relevant personal circumstance in its assessment of the customer's advice.

The two cases involving an implementation exception related to cases where the Bank's assessment did not identify differences between the product purchased by the customer and the product that was recommended in the customer's SOA. These exceptions were similar in nature to other implementation exceptions we identified in our previous sampling, in that the cases involved implemented products that had similar names to the recommended products which were not identified in the Bank's assessments. In respect of both these cases, the Bank has notified the customer of changes in their assessment outcomes and, where relevant, offers of compensation.⁷⁴

⁷⁴ In one of the cases, there was no related financial loss to the customer as a result of the advice implementation error and therefore no change in the customer's offer of compensation.

We note that the number of implementation exceptions we found in this period was materially lower relative to previous periods (in both absolute terms as well as a proportion of the sample sizes we have completed). This reduction has likely been driven by the Bank's increased focus on this issue given our previous sample findings, including the implementation of additional measures and controls to better detect potential advice implementation errors (such as those discussed in Section 4.7.1). Notwithstanding the reduction in implementation exceptions that was observed in the Current Period, the Bank has indicated it will continue to focus on ways in which to prevent these exceptions from occurring in cases that are still to be assessed.⁷⁵

The third exception we identified this period involved a case where the Bank's assessment did not appropriately take into account a customer's advanced age as a relevant personal circumstance (as required under the Program's documented processes). The Bank has re-assessed this case and identified that the advice provided to the customer was inappropriate (after having initially found the advice to be appropriate). We concur with this revised assessment outcome. The Bank has communicated this change in assessment outcome and offered compensation to the customer.

In addition to the three cases with exceptions noted above, our sampling also identified 11 other cases where there was some evidence that not all steps in the Program's documented processes had been performed correctly. While these cases involved elements of non-adherence to the Program's documented processes, we were satisfied for each of these cases that, if the documented processes had been properly performed, it would not have changed the assessment outcomes or offers of compensation to the customers. That is, for each of these cases, we believed the non-adherence was not material to the individual cases concerned.

As noted earlier, our sample review of the 220 cases in this category also included a review of 59 cases that were assessed under the Bank's Targeted Assessment or No Evidence of Advice Assessment approaches.⁷⁶ The 59 cases included 27 cases where the Bank's assessment determined that the case involved no evidence of advice.

Our review of these 59 cases assessed under the Targeted Assessment or No Evidence of Advice Assessment approaches did not identify any exceptions in relation to the Bank's implementation of the Program's documented processes. In each of the cases we reviewed, we found that the Bank had sought to identify any potential instances of advice that may have been given to the customer, with the Bank applying the relevant rules and criteria to determine the likely inappropriateness of any advice that may have been given. We also confirmed that the Bank had made appropriate disclosures to customers about the potential instances of advice it identified, and invited customers to provide for assessment, any additional information or documents relating to advice they may have received from a CFPL or FWL adviser during the Review Period.

5.3.2. Cases progressed through the Consideration of Assessment Outcome stage

Our sample review of 100 cases that had exited the Program after having progressed through the Consideration of Assessment Outcome stage did not identify any exceptions in relation to the Bank's closure of these cases.

⁷⁵ One measure that has recently been implemented which may help further reduce the rate of implementation exceptions is the release of the revised CAT (discussed in Section 4.4). The revised CAT includes additional controls and checks around the assessment of advice implementation which may help reduce the frequency of advice implementation errors being missed in case assessments.

⁷⁶ As at 31 August 2016, the total number of cases that had been assessed through either the Targeted Assessment or No Evidence of Advice Assessment approaches was 1,077.

Our sample of 100 cases consisted of:

- 69 cases where the customer had accepted the Bank's assessment outcome or offer of compensation: In each of these cases we found evidence the customer had indicated his/her acceptance of the Bank's assessment outcome or offer of compensation.⁷⁷
- 20 cases where the customer had withdrawn from the Program after receiving the assessment outcome: In each of these cases we found evidence the customer had indicated that he/she wanted to withdraw from the Program (with or without rejecting the assessment outcome).
- 11 cases where the customer was deemed to have rejected the assessment outcome and withdrawn from the Program after not responding to the Bank's assessment outcome: In each of these cases we found that the Bank had given sufficient time to the customer to review his/her assessment outcome prior to closing the case from the Program.⁷⁸

Our review also found that the Bank had issued assessment outcome letters to all of the cases in our sample and that customers had received written confirmation of their exit from the Program (where practicable and reasonable).

Within the 100 cases we sampled, we note there were four cases where customers (not represented by an ICA) had made a counter-offer to the Bank prior to exiting the Program. In each of these four cases, our review found evidence indicating that the Bank had considered the counter-offer made by the customer before making a final determination.

5.3.3. Customer withdrawals

Of the six customer withdrawal cases that we reviewed in our sample for the Current Period, we found no exceptions in relation to the Bank's assessment of these cases against the Program's documented processes.

For each case, we found evidence from the information we reviewed that the person who was recorded as having registered in the Program advised the Bank of his/her request to withdraw from the Program. We also found in all cases that the Bank had sent written confirmation of the customer's decision to opt out of the Program as required under the Program's documented processes.

⁷⁷ In those cases where an offer of compensation or payment was made, a signed resolution agreement between the Bank and the customer would constitute an acceptance of the offer.

⁷⁸ In these 11 cases, the Bank did not close the case from the Program until: i) attempts had been made to obtain the customer's response to the assessment outcome; and ii) the time period for a response, as specified in the customer's assessment outcome letter, had expired.

5.3.4. Administrative exits

From our review of the 443 cases that had been removed from the Program on administrative grounds, we found no exceptions with the Bank's adherence to its documented process. In all cases, the information we reviewed found:

- evidence that the customer had registered interest in the Program more than 12 months prior to the date when the customer was removed from the Program;
- evidence that the Bank had attempted to contact the customer at least twice in order to request the information needed for the case to proceed in the Program; and
- no evidence to suggest that the customer responded to the Bank's requests for information.

Appendix 1: Program stages

The following table sets out a description of each stage of the Program. These descriptions form the basis on which the statistics in this Report have been presented.

Program stages	Description
Expression of Interest	Refers to cases where the customer had notified the Bank of his/her interest to participate in the Program on or after 23 January 2015. Prior to this date, all cases that had registered interest to participate in the Program were classified as "registrations".
Registration	Refers to cases where the customer had: <ul style="list-style-type: none"> Notified the Bank of his/her interest to participate in the Program prior to 23 January 2015; or Expressed interest in the Program on or after 23 January 2015, and where the customer had returned a <i>You and Your Advice</i> form to the Bank. At the Registration stage, the Bank undertakes an assessment of a customer's eligibility to participate in the Program.
Assessment	Refers to cases that had been confirmed as eligible for the Program by the Bank and where case assessment had commenced.
Consideration of Assessment Outcome	Refers to cases where an assessment outcome had been issued by the Bank and where that assessment outcome was under consideration by the customer.
Panel Review	Refers to cases where the Bank's assessment outcome had been rejected by the customer and the case had been escalated to the Panel.

The following table describes the broad categories of exits that occur at different stages of the Program:

Exit stage	Description
Prior to Registration stage	Refers to expressions of interest in the Program that had withdrawn from the Program, or been removed or deemed ineligible for the Program by the Bank.
Exits at Registration or Assessment stage	Refers to registered cases that had withdrawn from the Program prior to an assessment outcome being issued by the Bank. This category also includes registered cases that had been removed or deemed ineligible for the Program by the Bank, prior to an assessment outcome being issued.
Exits after assessment outcome issued	Refers to cases that had withdrawn from the Program after an assessment outcome had been issued by the Bank. This category includes customers who had accepted an offer of compensation, or otherwise withdrawn from the Program without seeking a further assessment from the Panel.



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