



Commonwealth Bank

Open Advice Review program

Initial Report

Prepared by Promontory

19 December 2014

Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



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Disclaimer

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 initial Report provides a summary of the Program design and steps taken to implement it. The Report also provides an update on the number of customers registered.

A legal representative of the Bank reviewed a draft of the 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 the 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

AFS	Australian Financial Services
ARp	Advice Review program
ASIC	Australian Securities and Investments Commission
CBA/Bank	Commonwealth Bank of Australia (Group)
CEO	Chief Executive Officer
CFPL	Commonwealth Financial Planning Limited
CFS	Colonial First State
CRM	Customer Relationship Management
ESG	Executive Steering Group
FOS	Financial Ombudsman Service
FWL	Financial Wisdom Limited
ICA	Independent Customer Advocate
IFE	Independent Forensic Expert
IT	Information Technology
OAR	Open Advice Review
Panel	Independent Review Panel
Program	Open Advice Review program
Promontory	Promontory Financial Group Australasia
PSG	Program Steering Group

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1. Introduction

The Commonwealth Bank Group's (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). The Program aims to address concerns that some financial advisers of CFPL and FWL failed to act in the best interest of customers in the Review Period.

Where customers suffered financial loss as a result of poor advice from CFPL or FWL advisers, the stated objective of the Program is "to put customers back in the position they would have been in had they received suitable advice".¹ The Program aspires to deliver fair and consistent outcomes and be transparent.²

The Program is open to any customer who received advice at any time during the Review Period from either CFPL or FWL. At the core of the Program is the Bank's assessment of the financial advice that a customer received from his/her CFPL or FWL adviser(s) during the Review Period and, where the advice led to loss, an offer of compensation. While this assessment is conducted by a specialist team of CBA staff, there are several independent checks and balances to strengthen the fairness of the outcomes for affected customers. These include:

- the option of customer representation through an Independent Customer Advocate (ICA) – selected by the customer from a group consisting of Australia's three largest customer advocacy law firms – to assist customers with the review of their assessment outcomes; and
- the option of an Independent Review Panel (Panel) to review customer assessments and offers where customers (or their ICAs) cannot reach agreement with CBA.

Participation in the Program does not diminish a customer's right to pursue matters with the Financial Ombudsman Service (FOS) or other avenues if he/she is not satisfied with the outcome under the Program.

In addition, CBA has engaged Promontory Financial Group Australasia (Promontory) as an Independent Expert to monitor, review and report on the Program and its progress. As part of our role, Promontory will review a sample of customer cases in the Program, and assess whether they are being reviewed in a manner that is consistent with the Program's documented processes and objectives. While Promontory is required to monitor that CBA applies the Program framework consistently, the independent oversight role is far from mechanical.

- First, there would be little value in attesting to adherence to a program framework that was inconsistent with the Program's objectives. Thus, Promontory has reviewed the Program framework against its objectives as it has been evolving and has made suggestions for change where we believed these were warranted. We will record in future reports if, in our opinion, implementation of the Program deviates materially from its objectives.

¹ CBA Media Release, *Statement to our customers from Ian Narev*, 3 July 2014. Refer to <https://www.commbank.com.au/about-us/news/media-releases/2014/statement-to-our-customers-from-ian-narev.html>

² Ibid.

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- Second, there are several key stages in the assessment process in which judgement will be involved. As part of our sample analysis, Promontory will also review the consistency of these judgements with the documented processes and objectives of the Program.

We should make clear that Promontory will have no direct contact with customers in the Program. While findings from our monitoring and review activities may result in the Bank reconsidering a customer's case assessment or offer of compensation, we will have no role in, or responsibility for, individual assessments or offers of compensation.

This initial Report provides an update on the Program since its announcement in July 2014. In preparing this Report we note that there may have been expectations within the community that the Program would be implemented quickly and that offers of compensation might have commenced by now. In practice, the establishment of the Program framework is materially more complex than previous remediation programs conducted by the Bank. The customer-initiated nature of the OAR program, the size and time frame involved, and the need to deal fairly and consistently with arising issues, required a comprehensive, well-designed approach on a different scale to previous programs. These challenges and the ways in which they have been addressed are reported in greater detail below.

Given that the Program has yet to complete formal assessment of customer cases, this initial Report contains no findings in relation to sampling of customer case files. It focuses instead on the measures that have been taken by CBA to design and implement the Program (Section 3 of this Report), including the Program's infrastructure, and the commencement of a Pilot Program to test the assessment methodologies that will apply under the Program (Section 4). The Report also provides an update on the number of customers who have registered for the Program, and the progress that has been made in contacting customers and confirming the advice that they received (Section 5). In all aspects reported, both with respect to the Program design and numbers of participants, we have exercised reasonable due diligence to verify and validate facts and interpretations.

Promontory's future reports will provide further updates on the Program's progress, including the number of cases that have progressed through various stages of the Program, and the compensation offered under the Program. They will also include the findings of our sample reviews.

Promontory expects to publish our next report in May 2015, which will cover developments in the Program up to the end of April 2015.

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2. Overview of the OAR program

2.1. Key features

The Chief Executive Officer (CEO) of CBA, Ian Narev, announced the OAR program on 3 July 2014. This announcement marked the start of the Program.

Customers wishing to participate in the Program have until 3 July 2015 to register with CBA. The Program is expected to run well beyond the close of registration given the time that will be required to assess each customer's unique circumstances, the time needed to complete each stage of the Program, the number of customers who have registered for the Program to date, and the potential for additional registrations up to 3 July 2015.

As noted, the OAR program is unusual insofar as any customer may initiate review of advice received from a CFPL or FWL adviser during the Review Period. In our experience, remediation programs in Australia and overseas more typically start with the identification of problem advisers and practices, with a targeted look back at the customers of only those advisers/practices.

Key features of the Program from the customers' perspective are set out in Table 2.1.

Table 2.1: Key features of the OAR program

Feature	Description
Eligibility for the Program	<p>The Program is open to any customer of CFPL or FWL who received financial advice between 1 September 2003 and 1 July 2012. Customers who have concerns about the appropriateness of the financial advice they received are encouraged to participate in the Program and have their advice assessed by a specialist CBA team.³</p> <p>Customers who have previously received a review of their advice and accepted an offer of compensation from CBA for poor financial advice remain eligible for the Program. The Bank has agreed to make concessions in relation to limitation periods for these customers so that they are not disadvantaged by participating in the Program. For example, the Bank has agreed not to rely on any limitation defence where a customer has: i) participated in the Program in good faith; ii) has a limitation period expiring on or after 3 July 2014 (the date the Program was announced); and iii) commences a claim against the Bank within six months of the customer exiting the Program.</p> <p>Customers who are eligible to have their cases reviewed under the new licence conditions to CFPL and FWL (refer to Box 1 in Section 2.4 below) may also have their cases assessed under the Program. Such customers will have the option of having</p>

³ It is important to understand that, although CBA requests customers to express their concerns about the advice they have received, failure to identify a specific concern does not result in ineligibility for the Program. Customers who have received advice from an adviser of CFPL or FWL between 1 September 2003 and 1 July 2012, will be eligible to have their advice reviewed under the OAR program.

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Feature	Description
	<p>their advice assessed in addition to, or instead of, the processes in the new licence conditions of CFPL and FWL.</p> <p>A person may also register on behalf of a customer. This provides the opportunity for trustees, executors and other authorised people to have a customer's advice reviewed under the Program.</p>
Cost to customers	<p>Participation in the Program is entirely voluntary and at the customer's initiative. There will be no fees or charges to customers for participating in the Program. Where a customer chooses to receive the support of an ICA to review their assessment outcomes, CBA will meet the costs associated with a customer's use of ICA services under the Program.⁴</p>
Registration	<p>Registration for the Program can be made through any one of three avenues:</p> <ol style="list-style-type: none"> 1. Phone: by calling the toll-free Program number 1800 507 281 2. Online: by completing the online registration form at www.commbank.com.au/openadvice 3. Mail: by writing to Commonwealth Bank Open Advice Review program PO Box 20785 World Square, NSW, 2002
Case review process	<p>Persons registering for the Program will have their cases reviewed by a specialist CBA team, provided they qualify for the Program. CBA will determine qualification by confirming that the person registering (or registered by a representative) was, in fact, a customer of CPF or FWL and received financial advice from an adviser of CFPL or FWL during the Review Period.⁵</p> <p>Once a customer is confirmed as qualifying, and therefore eligible for having his/her advice assessed under the Program, the specialist team will bring together the documents that relate to the financial advice received by the customer (including any information provided by customers), and complete a review of the appropriateness of the advice at the time it was provided. The customer will also be assigned a Review Manager who will be the main contact person for the customer throughout the Program.</p>

⁴ A customer may nominate an authorised person (that is not an ICA) to act on his/her behalf. Costs associated with using such an authorised person (e.g., fees paid to a customer's solicitor who is acting as the authorised person) will not be reimbursed by CBA.

⁵ Promontory will report on any instances where we identify customer qualification has been determined incorrectly by the Bank in our future reports.

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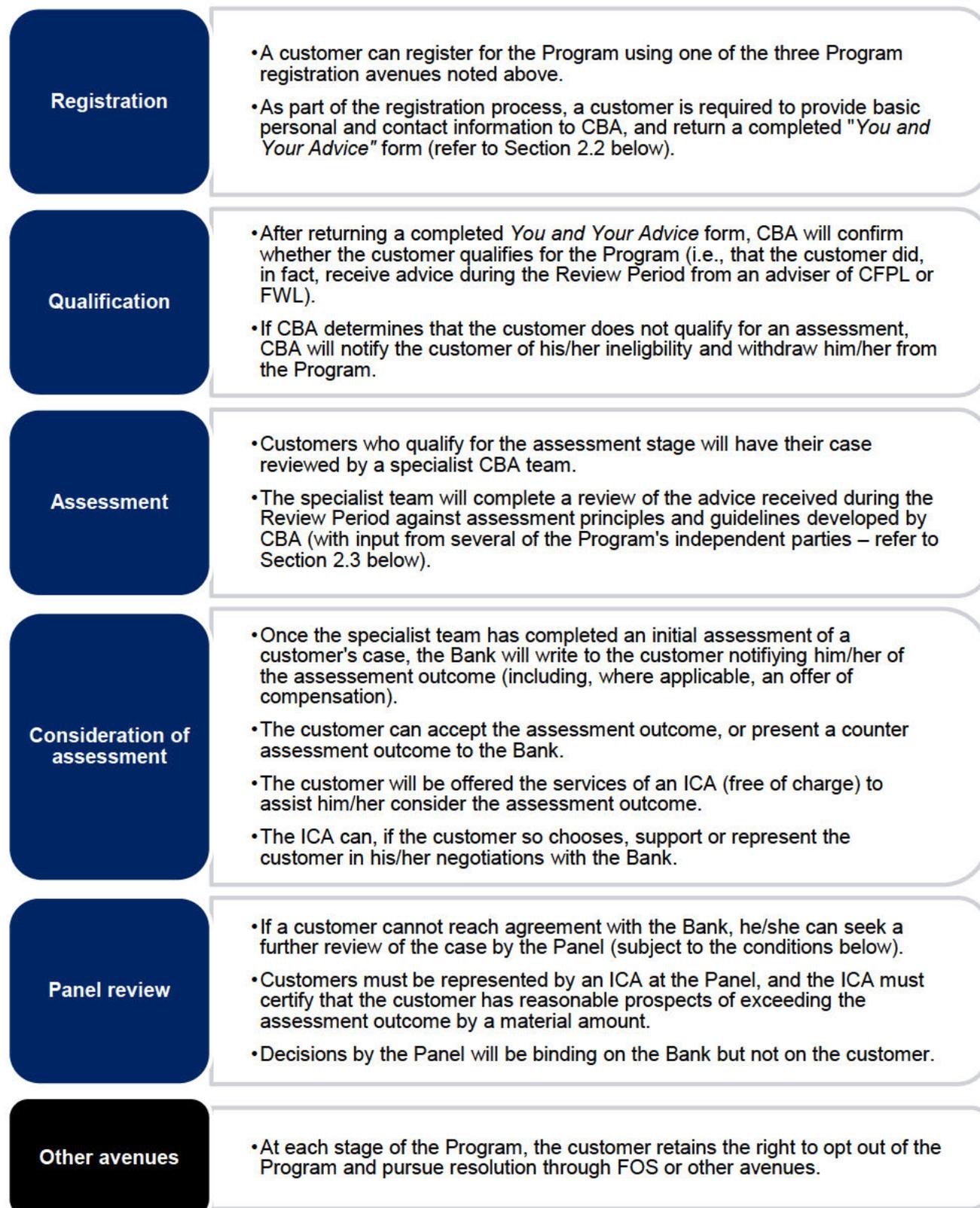
Feature	Description
	<p>Following assessment of the customer's case by the specialist team, CBA will write to the customer, outlining the assessment of the advice received (assessment outcome). The letter will include CBA's assessment of whether poor advice was provided, whether financial loss resulted from that advice and whether compensation will be offered. The letter will also offer the customer the option of appointing the services of an ICA (selected from a list of three major law firms) to help him/her review the assessment outcome.</p> <p>Customers who are not satisfied with their assessment outcome have the option of seeking a further review by an Independent Review Panel. Any customer seeking review by the Panel must be represented by an ICA, and will need to discuss with the ICA the merits of the assessment outcome and the prospects of receiving a different outcome if the case is reviewed by the Panel. Only where the ICA certifies that a customer has reasonable prospects of exceeding the assessment outcome by a material amount will the customer's case be reviewed by the Panel.</p> <p>Decisions made by the Panel will be binding on CBA but not the customer. At all times, the customer retains the right to opt out of the Program (including rejecting assessments by CBA and the Panel) to pursue resolution through FOS or other channels. The Bank has also made a number of concessions to customers who wish to lodge a dispute with FOS so that they are not disadvantaged should they wish to pursue this avenue.</p> <p>A diagram summarising the various stages of the Program is provided below (see Figure 2.1).</p>
Independent processes and oversight	<p>As noted in the introduction to this Report, an important element of the Program is the involvement of a number of independent external parties to oversee the design, implementation and outcomes of the Program. Each independent party has a specific role within the Program, as discussed in further detail in Section 2.4 below.</p> <p>The appointment of the independent parties aims to strengthen the fairness and integrity of the Program and its outcomes. The parties have each attested that they have no conflicts of interest that could affect the independent exercise of their responsibilities under the Program.</p>
Transparency	<p>Promontory's role and periodic reporting provides a measure of assurance and transparency regarding the Program's outcomes.</p> <p>CBA has committed to provide customers, at their request, information necessary to understand the basis for the assessment made by CBA's specialist team. Such information will also be available to the customer's ICA to support consideration of, and any decision with respect to, the assessment outcome.</p>

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Figure 2.1: Program stages



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2.2. The registration process

Persons registering for the Program are required to provide basic personal and contact information as part of the registration process. This information allows CBA to verify customer identification, match products and advice, and establish contact details for the duration of the customer's participation in the Program. Information requested as part of the registration process includes:

- the customer's personal and contact details (name, phone number and email);
- whether the registrant is acting on behalf of someone else (and if so, the name of the customer on whose behalf they are acting);
- the customer number or account number;
- the name of the adviser(s) and the adviser group (CFPL or FWL) from which the customer received advice; and
- the period in which the customer received financial advice.

The customer is also invited to provide details of any specific concerns that they may have with the financial advice received, although this information is not mandatory for the purposes of registration. After a customer registers for the Program, CBA determines whether there are any duplicate registrations. Suspected duplicates are peer reviewed by senior project staff members before being removed from the Program.

After the registration is determined to be unique, CBA contacts the customer (via phone or email) to confirm registration and send through an information pack (by courier, express post or email). The information pack has some tailoring depending on the customer circumstances (e.g., joint customers or where the registration relates to a customer's estate). The information pack includes additional detail about the Program, a *You and Your Advice* form, and an Authority form for customers choosing to nominate another person to represent them in the Program.

The *You and Your Advice* form must be completed by the customer and returned to CBA to confirm participation in the Program.⁶ The form confirms the customer's contact details, and seeks further information about the advice and products received, the customer's concerns in relation to this advice, and what the customer hopes to achieve in registering for the Program. Customers who do not provide sufficient information in the *You and Your Advice* form may be required to provide additional information to CBA before their advice is reviewed in the Program.

Customers are also required to submit proof of identity for privacy and security reasons.

2.3. Program documents and guidelines

As part of the Program build phase, CBA has developed and documented a number of guidelines that will govern the implementation of the Program. These guidelines are set out in a series of Program documents that provide further details about:

⁶ CBA will attempt to follow-up with any customer who has yet to complete and submit a *You and Your Advice* form.

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- how the Program will be administered;
- the rules and processes that will apply at each stage of the Program (registration, qualification, assessment, consideration of assessment and Panel review);
- the principles that CBA will adhere to when assessing the appropriateness of a customer's advice, including how any offer of compensation will be calculated;
- the rights of CBA, customers and other relevant parties in the Program; and
- the communication protocols that will apply between CBA, customers and the independent parties during the operation of the Program.

These Program documents are intended to provide guidance to the various parties involved in the Program. They are intended to strengthen the consistency and fairness of outcomes, as a customer's case is progressed through each stage of the Program. The Program documents provide clarity and rigour around how various aspects of the Program will be implemented and how judgement will be applied in assessing each customer's case. The documents do not, however, constitute a legally binding agreement between CBA and customers in the Program.

The Program documents that have been developed by CBA have benefitted from the input of the ICAs, the Panel, and Independent Expert. Each of these parties has provided comments and input into the Program documents to help strengthen the integrity of the Program's processes and their alignment with the Program's objectives.

2.4. The role of the independent parties

As noted earlier, a number of independent parties have been appointed to the Program. Given that the assessment of advice will be conducted by a specialist CBA team, independent scrutiny and assurance is essential in providing checks and balances over the integrity, fairness and consistency of assessment outcomes.

An overview of the independent parties, and their respective roles in the Program, is set out below. Section 3.3 of this Report provides further details about the involvement of the independent parties in the Program's build, and the activities that each independent party will undertake as the Program progresses.

2.4.1. Independent Customer Advocates

Three of Australia's largest customer advocacy law firms were appointed on 31 October 2014 as ICAs to support individual customers through the Program.⁷ The three appointed law firms are:

- Maurice Blackburn;
- Shine Lawyers; and

⁷ Refer to <https://www.commbank.com.au/about-us/news/media-releases/2014/commonwealth-bank-appoints-independent-customer-advocates-and-expands-customer-contact-program.html>

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- Slater and Gordon.

The role of the ICAs is to provide individual customers in the Program with access to expert assistance in their review of assessment outcomes. If requested by the customer, an ICA can support and represent the customer in discussions with CBA. Where the customer seeks review by the Independent Review Panel, the customer is required to use an ICA. The case will only be reviewed by the Panel after the ICA has certified that the case warrants review by the Panel (i.e., that the customer has a reasonable prospect of exceeding the assessment outcome by a material amount). The ICA then represents the customer as part of the Panel's review.

2.4.2. Independent Review Panel

The Independent Review Panel is responsible for assessing individual customer cases where a customer (or his/her ICA) cannot reach agreement with CBA on an assessment outcome. The Panel will review individual cases and determine whether compensation is payable (and, if so, how much). The Panel's decisions are binding on CBA but not customers.

The Independent Review Panel will be chaired by the Hon Ian Callinan AC, who was appointed Chair of the Panel on 11 July 2014.⁸ Mr Callinan is a former Justice of the High Court of Australia who has served in numerous roles over the past five decades in relation to justice and equity for individuals in Australia and abroad, including in similar financial planning remediation actions.

The two other members of the Panel are the Hon Geoffrey Davies AO and the Hon Julie Dodds-Streeton QC. Both these Panel members were appointed on 24 August 2014.⁹ Mr Davies is the Deputy Chair of the Panel. He is a former judge of the Queensland Court of Appeal. Prior to that, he was a leading Senior Counsel and Solicitor-General for the State of Queensland. Ms Dodds-Streeton is a former Judge of the Federal Court, who has previously served as trial judge and Justice of Appeal for the Supreme Court of Victoria.

2.4.3. Consultant Expert Adviser

Ms Fiona Guthrie was appointed as a Consultant Expert Adviser to the Independent Review Panel on 24 August 2014.¹⁰ Ms Guthrie is currently the Executive Director of Financial Counselling Australia and is a member of the Australian Competition and Consumer Commission's Consumer Consultative Committee. She has had an extensive career as an advocate for consumers of financial services, and was previously a Director of the FOS and Chair of the Consumer Advisory Panel to ASIC.

In her role as Consultant Expert Adviser, Ms Guthrie will provide assistance to the Panel, at its request, on any issue that the Panel may need expert advice. Ms Guthrie will also provide expert assistance to the Program on how it can best meet the needs of vulnerable consumers and those in financial or other difficulties.

⁸ Refer to <https://www.commbank.com.au/about-us/news/media-releases/2014/the-hon-ian-callinan-ac-appointed-chairman-of-the-independent-review-panel-for-commonwealth-banks-open-advice-review-program.html>

⁹ Refer to <https://www.commbank.com.au/about-us/news/media-releases/2014/Commonwealth-Bank-makes-further-appointments-to-the-Open-Advice-Review-Program.html>

¹⁰ Ibid.

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2.4.4. Independent Forensic Expert

McGrathNicol was appointed as the Program's Independent Forensic Expert (IFE) on 24 August 2014.¹¹ McGrathNicol is a leading Australian advisory firm with extensive experience in forensic investigation.

As IFE, McGrathNicol's role will be to investigate any concerns about possible fraud or forgery relating to the financial advice customers received.

2.4.5. Independent Expert

Promontory was appointed as Independent Expert to the Program on 10 August 2014.¹² Promontory is a global strategy, risk management and regulatory compliance consulting firm that advises financial industry participants on regulatory and business challenges. Promontory, which has an international reputation for its expertise and independence, draws its staff primarily from former senior regulators and financial services executives and advisers.

Dr Jeffrey Carmichael AO, CEO of Promontory Financial Group Australasia, leads the Promontory team under the Program. Dr Carmichael was the inaugural Chairman of the Australian Prudential Regulation Authority, and was a member of the Wallis Inquiry into the Australian financial system.

As Independent Expert to the Program, Promontory's role is 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 its findings, along with statistics about the Program, available to the public through periodic reports.

Promontory's monitoring and reporting role aims to provide transparency, as well as a level of assurance to affected customers and others that the Program's processes are implemented fairly and consistently.

Promontory's scope of work excludes any review of the processes conducted by CBA in relation to the new licence conditions imposed on CFPL and FWL by ASIC on 8 August 2014 (refer to Box 1). ASIC has appointed a separate Independent Compliance Expert to report and oversee CBA's compliance with the new licence conditions. Promontory's scope of work also excludes a review of the measures that have been taken by CBA to transform and enhance its Wealth Management Advice business, and measures to remediate current CFPL or FWL advisers found to have provided poor advice under the Program.¹³ We make no comment on, nor express any opinions in relation to, the adequacy or effectiveness of current business practices to address previous or current concerns of poor financial advice at CBA.

¹¹ Ibid.

¹² Refer to <https://www.commbank.com.au/about-us/news/media-releases/2014/promontory-financial-group-appointed-as-independent-expert-for-commonwealth-banks-open-advice-review-program.html>

¹³ Issues that are identified with current CFPL or FWL advisers under the Program will be dealt with under CBA's Wealth Management Advice current business procedures.

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Box 1: New licence conditions applying to CFPL and FWL

In August 2014, ASIC and CBA agreed to new conditions on the Australian Financial Services (AFS) licences of CFPL and FWL following concerns that compensation processes from prior remediation programs were not applied consistently across all affected customers. The new licence conditions require that more than 4,000 customers of CFPL and FWL who were reviewed under previous remediation programs be given an opportunity to have the question of compensation re-opened.

Customer remediation required under the new licence conditions will be conducted by CBA at the same time as remediation under the OAR program. Eligible customers will have the option to have their advice assessed under the OAR program in addition to, or instead of, remediation under the licence conditions. Key differences between the OAR program and licence condition remediation process include:

- the OAR program is customer-initiated (via registration) whereas the remediation under licence conditions applies to customers of specific advisers known to have provided poor advice;
- under the new licence conditions, CBA will offer affected customers up to \$5,000 for the customer to obtain advice on the assessment from a qualified independent adviser, whereas under the OAR program, the customer is provided access to an ICA selected from three of Australia's largest customer advocacy law firms; and
- the licence conditions have been agreed with ASIC, while the OAR program has been initiated by CBA.

2.5. Previous reviews

The OAR program is not the first remediation program undertaken by CBA in relation to problematic financial planning within its Wealth Management Advice business (refer to Box 2). It nevertheless has some important features that differentiate it from earlier programs. Whereas previous remediation programs focused on reviewing advice received by customers of a small number of advisers, the OAR program is customer-initiated (i.e., customers must register for the Program for their advice to be reviewed). That is, customers can seek review of advice received even where there have been no known complaints, compliance breaches or other concerns with the appropriateness of advice provided by their advisers. Compared with previous remediation programs undertaken by CBA, the OAR program covers a much larger number of advisers and potentially affected customers, and a longer Review Period. The involvement of the ICAs is also a feature that is unique to the OAR program.

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Box 2: Previous remediation programs conducted by CBA

The OAR program builds upon previous remediation programs conducted by CBA, which were the subject of enforcement actions taken by ASIC.

In 2010, CFPL implemented a client compensation program to remediate customers who received advice from two former advisers of CFPL who were in serious breach of compliance requirements. Under this compensation program, CBA agreed with ASIC to contact the affected customers of each adviser, assess the advice that they received, and offer compensation where it was warranted. Affected customers were also offered up to \$5,000 to allow them to obtain independent advice to review the Bank's assessment of their circumstances.

In October 2011, ASIC accepted an enforceable undertaking from CFPL to conduct a comprehensive review of its risk management systems. As part of this enforceable undertaking, a second wider phase of customer compensation was developed to remediate customers of other CFPL advisers who had been the subject of a breach report by CFPL to ASIC. Separate to CFPL's enforceable undertaking, CBA also progressively expanded the scope of its remediation efforts to include some customers of FWL advisers who received poor financial advice. The offer to meet costs of up to \$5,000 for independent advice was not made under these latter remediation programs.

Based on the remediation programs conducted, more than 7,000 customers of CFPL and FWL have received a review of their advice, with a total of \$52 million paid in compensation to affected customers.

The different nature of the OAR program relative to previous remediation programs has raised challenges for CBA as part of the Program's build. These include challenges associated with:

- reaching out to all customers who may be eligible for participation in the Program, and raising their awareness of the Program's existence;
- verifying the scope, type and timing of financial advice provided to customers;
- retrieving all associated records and information required to assess a customer's unique circumstances – noting that some of this information is archived in hard copy rather than easily accessible electronic form;
- ascertaining the products and services actually acquired by customers following provision of advice;
- developing comprehensive and consistent assessment guidelines for identifying instances of poor financial advice, taking into account the evolving regulatory framework applying to financial advice over the Review Period; and
- constructing an appropriate compensation model where poor advice has been identified.

Addressing these challenges has taken significant effort, and has impacted the time required to prepare for the assessment of individual customer cases in the Program.

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3. Steps taken to implement the OAR program

The open nature of the OAR program relative to previous remediation programs conducted by CBA has required CBA to re-build or significantly strengthen its remediation infrastructure. This section provides an overview of the steps taken by CBA to implement the Program and prepare for the assessment of customer cases going forward. It includes an overview of the people, governance structures, systems, and data management processes developed to support the Program's implementation, as well as the initiatives that have been undertaken to increase customer awareness of the Program.

Given the important role of the independent parties in the Program, further details of each independent party's appointment process and their input into the Program design phase are also covered in this section.

3.1 Program infrastructure

3.1.1 People and governance

3.1.1.1 Program team

A dedicated Advice Review program (ARp) team has been set up by CBA to work on the OAR program as well as the customer remediation processes required under CFPL and FWL's new licence conditions agreed and finalised with ASIC in August 2014.

The team, which resides within CBA's Wealth Management division, is headed by a Program Sponsor, who is an Executive General Manager with extensive experience in customer relations and dispute resolution schemes. The Program Sponsor is supported by a Program Director with over 10 years' experience working in senior positions in relationship management, complaints handling and customer remediation at CBA. Both Program leaders have previous experience in managing customer resolution schemes in Australia.

As at 27 November 2014, the ARp team included more than 250 full-time equivalent resources, of which approximately 75% were employees or contractors of CBA.¹⁴ Most team members that are employed or contracted by CBA have been sourced from other departments within CBA.

All staff members who have joined the ARp team have been subject to background and probity checks. These checks have been designed to verify the fitness and propriety of staff members involved in the Program, and include checks for criminal records, bankruptcy and other adverse history that might affect a staff member's capacity to work in the Program. All staff members have also signed a Deed Poll requiring them to disclose any conflicts of interest that may affect their work under the Program, and a non-disclosure agreement prohibiting them from disclosing confidential information gathered during the course of the Program.

3.1.1.2 Program streams

The ARp team has been allocated to eight separate work streams responsible for various aspects of the Bank's remediation programs. Each stream is led by a senior executive of the Bank who, in turn, reports to the

¹⁴ The remaining 25% of staff members in the team have been sourced from external professional service providers such as auditing and law firms.

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Program Director or Program Sponsor (refer to Figure 3.2 for a diagram outlining escalation lines).¹⁵ Table 3.1 below provides a description of the responsibilities and functions of each stream.

Table 3.1: Responsibilities of each stream in the Advice Review program team

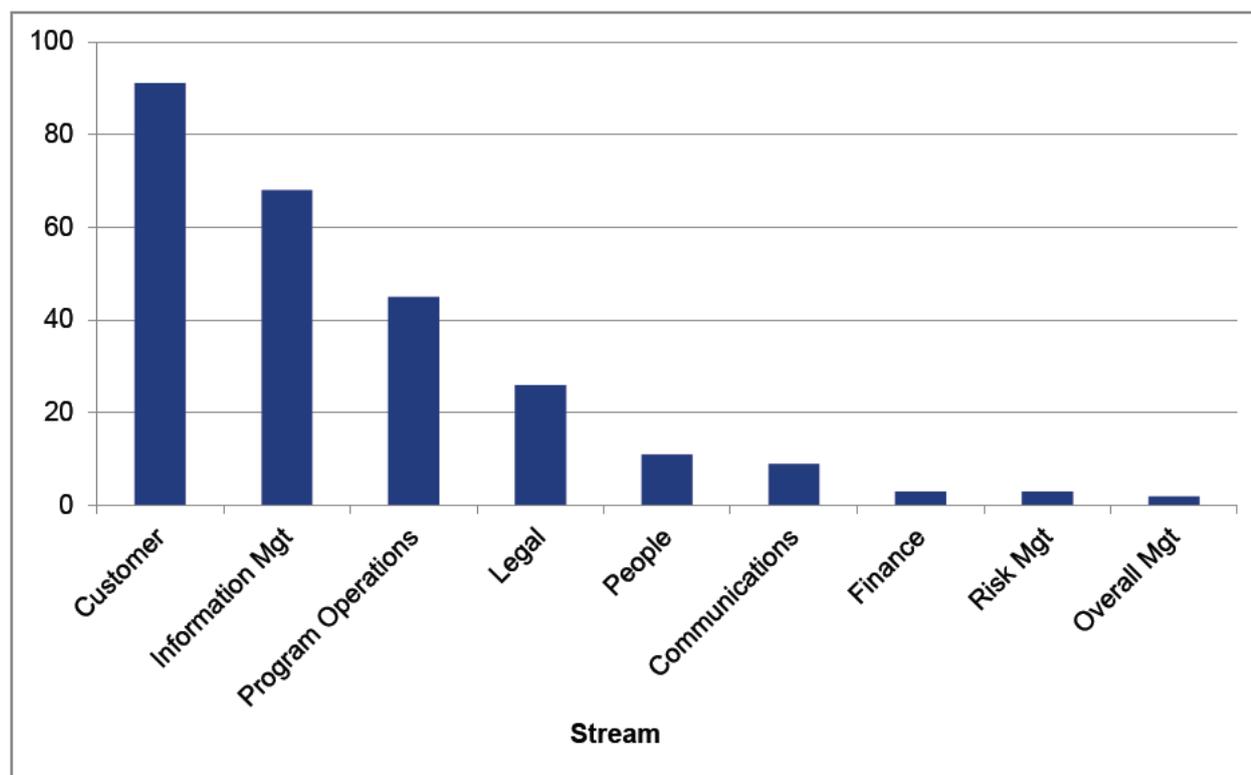
Stream	Responsibilities
Customer	<ul style="list-style-type: none"> • Customer engagement (including customer contact through the call centre facility) • Managing customer interactions • Case review and assessment • Customer remediation
Information Management	<ul style="list-style-type: none"> • Managing Information Technology (IT) and workflow management systems • Maintaining customer databases • Reporting and analytics • File retrieval
Program Operations	<ul style="list-style-type: none"> • Overall project and change management • Business oversight and strategic analysis • Providing support to the various streams • Providing office and asset management
Legal	<ul style="list-style-type: none"> • Providing legal advice to the ARp team • Liaising with the ICAs and independent parties (including Promontory) • Preparing and finalising customer documentation (such as resolution agreements)
People	<ul style="list-style-type: none"> • Human resources (i.e., recruitment of staff, staff development and monitoring) • Establishing and monitoring appropriate staff culture • On-boarding and training
Communications	<ul style="list-style-type: none"> • Media releases • Customer outreach and awareness • Internal communications (within CBA) • External communications with the public, government and media
Finance	<ul style="list-style-type: none"> • Financial planning and reporting • Financial control and governance • Payments and invoicing
Risk Management	<ul style="list-style-type: none"> • Independent assurance • Risk oversight and governance

¹⁵ A number of stream leaders also have reporting lines to the relevant functional head at CBA.

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As at 27 November 2014, the majority of the team's resources were allocated to the Customer and Information Management streams (see Figure 3.1).

Figure 3.1: Numbers of staff members by Program stream (as at 27 November 2014)



The allocation of resources across the streams to date has largely reflected the work required to build the infrastructure and processes required for the Bank's remediation programs. In particular, the build phase of the Program has required various IT systems and facilities to be developed demanding resources from the Information Management stream. The larger staff numbers in the Customer stream reflect the broad range of activities for which this stream is responsible. For example, the Customer stream includes the following:

- Call centre staff – responsible for contacting customers who have registered for the Program and, where necessary, requesting further information. All call centre staff have been drawn internally from CBA, and have had prior experience in customer relations.
- Assessment Managers – responsible for reviewing eligible customer's cases and providing a first-round assessment of the appropriateness of advice received. All initial case assessments will be prepared and peer reviewed by staff within the Assessment team.¹⁶
- Forensic accounting specialists – responsible for assisting with the calculation of compensation where poor advice has been identified. CBA expects the forensic accounting team will be involved in more complex cases where standard compensation calculations may not be appropriate.

¹⁶ This team includes Assessment Managers who are also involved in other remediation efforts (e.g., remediation activities under the new licence conditions for CFPL and FWL).

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- Review Managers – responsible for communicating and guiding customers through their assessment outcomes, once customer assessments begin. Review Managers will provide a consistent contact point for customers throughout the Program.¹⁷

3.1.1.3 Staff training and competency requirements

CBA has identified a range of general and specific competency requirements for staff in its ARp team. The general competency requirements are minimum skills and capabilities expected of all staff in the team, and have been aligned to the requirements applying across CBA. The requirements include capabilities relating to teamwork, culture, continuous improvement, effective communication and sound decision-making.

Specific competency requirements are applied to particular job families within the ARp team, and are focussed on technical competencies required to complete the relevant job. For example, specific competency requirements have been applied to Assessment Managers in the ARp team, which broadly align with the increased adviser education standards applicable to new CFPL advisers.

To assist staff members maintain the relevant skills and knowledge necessary to fulfil their obligations, CBA has developed a range of training materials, courses and forums for ARp staff members. These include:

- General training, such as on-boarding training that must be completed by all ARp staff members within the first four weeks of employment. The on-boarding materials provide general information about CBA's Wealth Management business, the Program's goals, customer service expectations, work environment and key policies and processes (such as confidentiality, document management and obligations in relation to potential conflicts of interest). General training also incorporates a mandatory learning suite developed by the Bank covering core regulatory, compliance, security and safety matters.
- Specialist training designed and provided to specific job families. For example, staff in the call centre have received training on the use of the customer relationship management system to log and manage registrations, as well training on customer relations (e.g., how and when customers are contacted, scripts to follow, how to identify difficult or complex cases, and how to escalate issues).
- Regular forum updates, which provide an avenue for ARp team members to stay up-to-date with the Program's progress, and raise questions to the Program's leaders. These forums provide verbal status updates on operational matters relating to the Program, and reinforce the key messages and behavioural expectations (e.g., culture) of the Program.

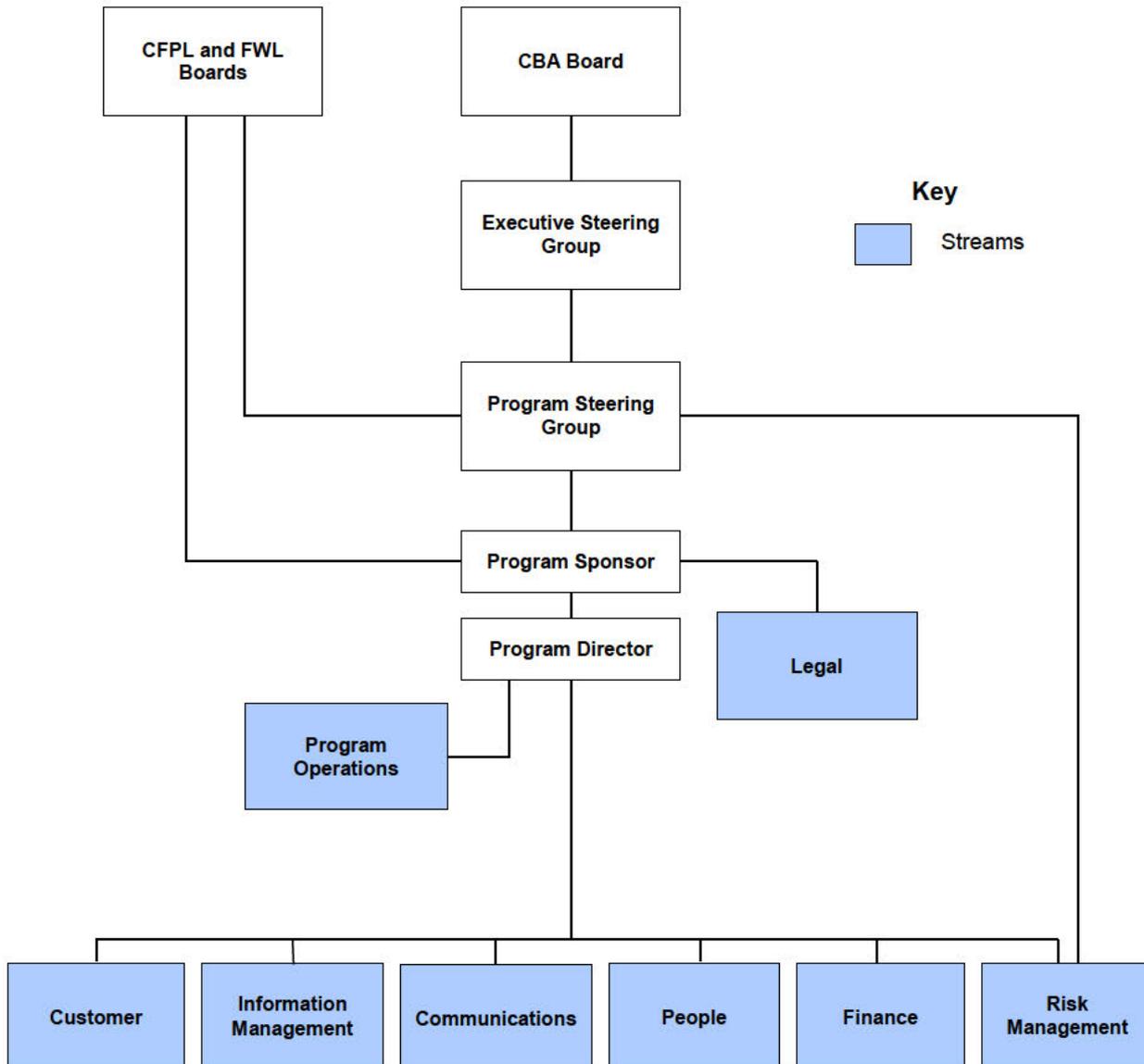
3.1.1.4 Program governance

To support the oversight and execution of the OAR program, CBA has developed a governance structure that articulates the various roles, accountabilities, authorities and escalation requirements associated with the development and implementation of the Program. The key components of this governance structure are summarised in Figure 3.2 below.

¹⁷ Customers will continue to have access to call centre staff to understand the progress of their registration prior to the allocation of a Review Manager.

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Figure 3.2: Program Governance Structure



At a high level, the governance structure involves:

- oversight from the Boards of CBA, CFPL and FWL on the overall Program, including advice from the respective Boards on high risk issues identified during the Program;
- overall strategic direction, sponsorship and accountability for the Program's implementation by an Executive Steering Group (ESG), chaired by the CEO of CBA, and comprising the Group Executives of Wealth Management, Risk and Corporate Affairs/Legal, the Executive General Manager of Wealth Management Advice and the Program Sponsor;

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- advice and oversight of the Program's delivery by a Program Steering Group (PSG), chaired by the head of the ARp team (Program Sponsor), and consisting of senior executives from other relevant parts of CBA (including Wealth Management Advice, Corporate Affairs, Human Resources, Risk, Finance and Legal); and
- responsibility for day-to-day execution of the Program by the ARp team, headed by the Program Sponsor and consisting of the eight Program streams noted above.

As noted earlier, responsibility for managing the delivery of the Program rests with the Program Sponsor, who is also responsible for escalating relevant issues to the PSG and ESG. Appropriate escalation triggers and authority levels in relation to issues associated with the Program have been defined by CBA, with approval from the ESG.

To facilitate transparent oversight of the Program's progress, regular reporting is provided to the executive steering groups and Boards by the Program's leaders. Since October 2014, the PSG and ESG have met on a fortnightly basis to discuss the delivery and progress of the Program, and to approve relevant funding, governance and regulatory compliance arrangements. Prior to October, more than a dozen executive liaison meetings between key members of CBA's Group Executive and the Program's leadership also took place to direct the Program's design and implementation. The CBA Board has been updated every month since the Program's commencement, while the CFPL and FWL Boards have been updated on the Program's progress on nine separate occasions.

3.1.2 Systems and facilities

As noted earlier, a number of system developments and upgrades have been required to support the implementation of the Program since its announcement in July 2014. These developments have included:

- the establishment of call centre facilities and databases to record registrations for the Program;
- the establishment of a customer relationship management (CRM) system to track and log updates relating to customer registrations and cases;
- the development of processes to match and confirm the details of customers who have registered for the Program;
- ongoing refinements and upgrades to CBA's case assessment application that will be used to record and track case assessments going forward; and
- the development of appropriate document retrieval and distribution processes and systems to:
 - (i) retrieve customer documents to inform case assessments; and
 - (ii) share documents between relevant parties (e.g., ICAs and Independent Expert) going forward.

Each of these developments has needed to draw on additional resources from the Bank. While most of these developments have now been largely completed, ongoing refinements to certain systems and facilities may be necessary as the Program progresses.

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3.1.2.1 Recording registrations

Following the announcement of the Program in early July, CBA established an interim team to receive incoming phone registrations and an online form to accept registrations directly from CBA's website. Two separate databases were established to store the details provided by customers, including a database dedicated for online registrations and a separate database used for phone registrations.¹⁸ Data from the registration process are extracted and transferred to the Program's CRM system.

In early August, the team assigned to receive calls was expanded and relocated to a dedicated call centre facility. This move was driven by the growing numbers of registrations, and plans to initiate outbound calls to customers who had registered for the Program. In early October, the call centre was relocated once again to accommodate the growing number of staff within the overall ARp team. This relocation was accompanied by an upgrade to the phone infrastructure used to make and receive calls in the Program. In particular, the upgraded infrastructure allowed for the recording of all calls made to the Program's phone line, which was not standard practice at the previous location.

3.1.2.2 Customer relationship management system

Shortly after the Program was announced and opened for the purposes of accepting registrations, an Access database with a relatively basic user interface was used as an initial CRM system for the Program. While this system provided a suitable platform for the short-term, it had limitations. CBA recognised that a more robust CRM system was required that could cater for the large number of customers who were likely to register for the Program.

In late September, CBA migrated to a new CRM system that had been tested and used in other parts of CBA to manage the Program's strategic CRM needs. This system provided significantly improved functionality and was better able to accommodate the flow of registrations. In particular, the replacement system allowed for a greater number of users, a higher volume of data and improved workflow management capabilities. For example, the replacement system enabled call centre staff to track all outbound and inbound calls, capture call notes, update customer information such as registration details, and keep a complete historical account of all contact with customers.

3.1.2.3 Matching and confirming customer registrations

As part of the registration and call-back process to customers, CBA developed processes to identify and remove duplicate registrations, and match customer data with existing CBA customer and product systems. The matching process aims first to confirm that the registered person is a customer of CBA, and then links the various accounts, products and transactions of that customer to the registration. Given that some of the data recorded in registrations are incomplete or do not exactly match details stored in CBA's systems, resources were required (and continue to be required) to complete the matching process for each registration.

A key objective of the matching process is to help CBA determine a customer's eligibility for the Program. The matching process is also critical in assisting the Bank to retrieve customer files that may be relevant for the Program. This includes details of the customer's adviser and accounts, and any parties associated with the customer (e.g., joint customers or spouses) that may be relevant to the customer's case file.

¹⁸ Mail registrations were manually entered into the phone database by CBA staff.

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3.1.2.4 Ongoing enhancements

Given the open and customer-initiated nature of the OAR program, one of the key enhancements required early in the Program was the expansion of the Bank's core database to retain and store data used in the Program.

In late August 2014, CBA migrated the Program's core database from Access to an enterprise SQL database platform. The new platform is designed to allow for greater scalability, security and flexibility. It will also better cater for the use of various Program applications that will interface with the core database (such as applications used for registration, management of customer information and case reviews).

One of the key applications that will be used once case assessments begin is the advice review application. The advice review application will enable CBA's specialist team to manage, document and track a customer's case assessment. It will also assist in tracking customer correspondence and payments, and help with the production of management reporting. CBA has been exploring the requirements needed for such an application and is in the final stages of implementation. The application will be implemented across various releases with the first release expected in December 2014.

3.1.2.5 Document retrieval and distribution

One of the key challenges associated with the OAR program is the retrieval of all relevant customer information related to a case. Unlike past remediation programs undertaken by CBA where the file retrieval process was contained to a set number of advisers, the file retrieval process for the OAR program is more complex. For example, for customers of FWL, many customer files can only be retrieved after the Bank has identified the relevant corporate authorised entity that provided the advice, and retrieved the files from the relevant entity's offices or systems (refer to Box 3 for further background on the FWL structure).

Box 3: Financial Wisdom Limited (FWL)

FWL is a wholly-owned subsidiary of CBA that services the self-employed market. FWL delivers financial advice through approximately 380 authorised representatives (advisers) from 150 independently-owned practices. FWL practices own their businesses (and customer relationships) and pay a licence fee to CBA to operate under FWL's AFS licence.

While FWL advisers are subject to various governance, competency and other compliance standards set by CBA's Wealth Management Advice business, the practices typically run separate systems to the Bank, making customer file retrieval difficult.

There are also contractual restrictions on the Bank in relation to directly contacting FWL customers. In particular, the Bank does not have the contractual right to contact customers of the independently-owned FWL practices directly where there is no identified concern with the advice a customer previously received. Bank-initiated communication with FWL customers (that does not involve compliance-related matters) must be channelled through the relevant authorised representative.

The file retrieval process is important as a case assessment cannot commence until a file is constructed that adequately sets out the advice a customer received and the basis on which that advice was provided. The

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Bank has therefore established a process to retrieve files from various sources in order to gather as much relevant information on a customer's advice file as possible.

In particular, the Bank initially attempts to gather as much relevant information about a customer's advice file from its existing customer and product systems. The Bank then supplements this process by gathering customer files from branches and locations. This process involves CBA identifying the relevant branch (or corporate entity for FWL) from which the advice was given, and staff physically attending the relevant locations to retrieve the customer's files. Alternatively if a customer's file has been archived, a request is made to retrieve the file from the relevant archive facility.

Once all the available documentation on a case is received, the documents are scanned and stored in the Program's core database (ready for use in case assessments). CBA's advice review application will enable CBA to track the receipt of documents for each case, and highlight any missing components.

Even with the processes established, the possibility remains that some customer files will remain incomplete prior to case assessments (given the lack of formal documentation requirements in the early part of the Program's Review Period). CBA is currently developing its approach to assessing cases with incomplete files.

In addition to the file retrieval process, CBA has also identified the need for a robust and controlled approach to the distribution of case files and other data to third parties (including the ICAs, the Panel and Promontory) involved in the Program. Given the various parties involved and the different information requirements for each party, this process has been more complex than previous remediation programs conducted by CBA.

Having considered a number of options to facilitate the distribution process over recent months, CBA is now currently finalising its approach to the use of a secure third-party electronic data storage facility. It is expected that external authorised personnel requiring access to case files will have secure access to the requested documents through the electronic storage facility. Access rights to specific documents will be granted by CBA on an as-needed basis and under various confidentiality provisions.

3.2 Program awareness strategy

3.2.1 Awareness strategy

One of the first steps in the Program's build phase was the development of an advertising and awareness strategy to reach out to as many potentially affected customers of CFPL and FWL as possible. Given the customer-initiated nature of the OAR program, a well-designed Program awareness strategy was recognised as critical by CBA, and additional resources from the Bank's marketing and corporate affairs areas were assigned to assist with this process.

The Program awareness strategy consists of five main elements that sought to maximise customer outreach by using different channels of communication. These elements are summarised in Table 3.2.

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Table 3.2: Program awareness strategy

Element	Channel/focus	Description
1	Digital outreach and customer-facing staff	<ul style="list-style-type: none"> Links to the main Program webpage on key CBA webpages Search engine marketing (key word searches) Communications to customer-facing staff (e.g., branch staff) to direct customers to available registration avenues in the event of inquiry
2	Mass advertising	<ul style="list-style-type: none"> Advertising in national print media (full and half-page colour advertisements) AM radio advertising
3	Communities and associations	<ul style="list-style-type: none"> Targeting of vulnerable groups (such as seniors) through face-to-face meetings, and selected advertisements in community and association publications Publication of brochures for customers who may be disadvantaged or may have difficulty with English
4	Customer analytics	<ul style="list-style-type: none"> Use of customer analytics to identify attributes of potentially affected customers More targeted advertising campaigns based on outputs of customer registration data and analytics
5	Proactive customer communication	<ul style="list-style-type: none"> Mail-out to more than 300,000 current CFPL-advised customers about the OAR program

The aim of the first two elements was to broadcast the Program's existence to a wide population through mainstream media and digital channels. The Bank's main website where the OAR program was advertised prominently in July, for example, attracts millions of visitors each week. As at the end of October 2014, CBA indicated that there were 23,873 page views of the OAR program campaign landing page – driven by traffic from the Bank's home webpage, other relevant pages on the Bank's website, and external search engine matches. Based on the Bank's advertising campaign, CBA also estimates that the aggregate reach of the media through which it has advertised has been approximately 14.8 million people.

To supplement the digital, physical (branch) and mass advertising approaches under elements 1 and 2, CBA's awareness strategy also incorporates targeted campaigns aimed at specific customer groups and segments. In particular, the initiatives within element 3 aim to identify customer groups that may be vulnerable or disadvantaged, while the element 4 initiatives aim to identify customer segments yet to be reached by previous Program awareness initiatives. The element 4 initiatives will use customer data analytics sourced from various datasets, and is expected to result in more targeted advertising campaigns.

On 2 November, CBA announced the fifth element of its Program awareness strategy which will involve the mail-out of information regarding the Program to all customers who received advice from CFPL during the Review Period and who currently hold a Colonial First State (CFS) or CommInsure-issued product, irrespective of whether they currently receive advice from CFPL. This mail-out is expected to reach more than 300,000 current CFPL-advised customers, and some former customers of CFPL (who no longer receive advice from CFPL but continue to hold a CFS or CommInsure-issued product). While the exact form and

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dates of the mail-out are yet to be finalised by CBA at this stage, the Bank expects the first of these mail-outs to occur in early 2015.

As indicated above, for customers of FWL, CBA does not have the contractual right to contact customers of independently-owned practices directly where there is no identified concern with the advice a customer previously received. To maximise Program awareness for FWL customers, the Bank has therefore explored alternative methods to reach these customers. Recognising the contractual limitations that the Bank is subject to, the Bank has recently decided that it will seek permission from each individual FWL practice to contact their customers directly, or request that they notify their customers of the OAR program. In addition, the Bank has indicated that it will, in the event of identifying issues with specific advisers, act on its contractual rights and directly contact customers.

3.2.2 Program awareness initiatives undertaken

The awareness campaign began on 3 July 2014 with CBA's announcement of the Program.

Digital advertising under element 1 of the awareness strategy began on the day of the Program's announcement with the placement of a prominent blade frozen on CBA's homepage. This blade was supplemented with advertising on CBA's financial planning homepage, CBA's NetBank login page and through selected keywords used in online search engines. Table 3.3 provides a list of the digital advertising avenues used, and the periods in which advertisements were placed.

Table 3.3: Digital presence and advertising

Format/placement	Date of placement
Advertising blade frozen on "commbank.com.au" (frozen in the top position for eight days, and placed in second position on the rotating carousel for 12 days)	3 July to 23 July 2014 (20 days)
Tile on CBA Financial Planning webpage (commbank.com.au/financialplanning)	From early July 2014 (through to close of registrations)
Tile included on CBA's NetBank login page	8 July to 14 July (6 days)
Keyword search engine advertising	From 3 July 2014 (ongoing)

Mass advertising under element 2 of the awareness strategy commenced in July with full-page colour advertisements being repeated in national and metropolitan newspapers. Additional intermittent releases over September and October 2014 also took place, with further advertising scheduled for February 2015. Table 3.4 provides a list of publications/radio networks in which advertisements were placed, and the date of publication/broadcasting.

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Table 3.4: Program advertisements published and broadcasted

Format	Placement	Date
Open letter apology Full page advertisement	Australian Financial Review The Australian All capital city metropolitan newspapers	Friday 4 July 2014
Full page advertisement	Sydney Morning Herald The Age Australian Financial Review	Saturday 5 July 2014
Full page advertisement	Capital city metropolitan newspapers	Sunday 6 July 2014
Half page advertisement	Capital city metropolitan newspapers Weekend Australian Financial Review	Tuesday 8 July 2014 Thursday 10 July 2014 Wednesday 16 July 2014 Saturday 26 July 2014
Radio 45 second advertisement	2UE, 2GB, 3AW, 4BC, 5AA, 6PR	Wednesday 9 July 2014 Thursday 10 July 2014 Friday 11 July 2014
National Inserted Magazines advertisement	Sunday Life, Sunday Style, Sunday Times and Chinese Print	13 – 27 July 2014
Half page advertisement	The Sunday Telegraph The Sun Herald The Sunday Mail	Sunday 28 September 2014 (Sydney, Brisbane, Adelaide)
	The Sunday Herald Sun The Sunday Age The Sunday Times	Sunday 5 October 2014 (Melbourne, Perth)

Initiatives under element 3 commenced in October 2014 with face-to-face meetings organised between the Bank and a number of community association groups. Advertising under element 3 commenced in November 2014 and is currently scheduled to run through to the end of March 2015. Tables 3.5 and 3.6 provide a list of advertisements that have been published (or are scheduled to be published) as part of element 3.

Table 3.5: Element 3 advertisements published or scheduled (community groups and associations)

Association / Community (publication)	Circulation / Readership of publication	Publication Issue
Combined Pensioners & Superannuants Association of NSW <i>The Voice</i>	24,000	December 2014 and January 2015
Council of the Ageing <i>COTA</i>	90,000	December 2014 and January 2015

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Association / Community (publication)	Circulation / Readership of publication	Publication Issue
Motor Trade SA & NT	13,500	November 2014 and December 2014
National Seniors <i>Fifty Something magazine</i>	355,000	February 2015
Royal Auto (VIC)	1,010,000	November 2014 and December 2014
The Retiree	40,000	February and March 2015
The Senior Magazine	1,351,000	December 2014
Rotary Down Under	32,000	February 2015
NRMA <i>Open Road magazine</i>	1,508,691	January and February 2015
Have a Go News	188,100	December 2014

Table 3.6: Scheduled advertisements in non-English media¹⁹

Publication	Circulation	Language
El Telegraph	33,000	Arabic
Future	13,500	Arabic
Sing Tao	28,000	Chinese Traditional
Chinese Times	15,000	Chinese Traditional
Philippine Community Herald	8,000	English
Neos Kosmos	25,000	Greek
Il Globo	15,000	Italian
La Fiamma	12,000	Italian
Weekly Top Newspaper	10,000	Korean
Chieu Duong	98,000	Vietnamese
Indus Age	30,000	English
Punjab Times	10,000 (NSW only)	Punjabi

¹⁹ Advertisements in these publications have been published in November and December 2014 issues.

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In addition to the publications noted above, CBA has also undertaken radio advertisements on stations across Australia for the sight-impaired in November 2014. CBA also continues to consult with the Consultant Expert Adviser on other community groups and associations that can assist with the Program awareness strategy.

CBA expects to undertake further advertising using the outcomes of its element 4 data analytics from January 2015. These initiatives are likely to be carried throughout the rest of the first half of 2015, and will focus on customer segments identified from the data analysis that have yet to be reached by previous advertising campaigns.

3.3 Independent party appointments and input into the Program

As noted earlier, a key aspect of the Program has been the appointment of a number of independent parties to strengthen the fairness and integrity of the Program. These appointments were made progressively over the course of July to the end of October.

This section provides further information regarding the process of appointment, the involvement that the parties have had in the build phase of the Program, and future activities that will be undertaken by each party as the Program progresses.

3.3.1 Independent Customer Advocates

3.3.1.1 Appointment of the ICAs

CBA first initiated contact with potential law firms that could act as ICAs for the Program in early July 2014. The decision to appoint multiple ICAs (as opposed to just one) was driven by CBA's desire to provide choice to customers over their preferred advocates. It also aimed to ensure that all customers would have access to an independent advocate, no matter where they resided in Australia.

The objective of providing customers with broad geographical access to advocates was one of the factors in CBA selecting the three largest customer advocacy law firms in Australia – Maurice Blackburn, Shine Lawyers, and Slater and Gordon – to be the ICAs for the Program. Each of these firms has a wide geographic spread in Australia, and has the necessary scale, expertise, and credentials to represent customers in the Program.

The ICAs will be paid by CBA for services they provide to customers under the Program. Despite being remunerated by CBA, the ICAs have clear obligations to act in the best interest of customers in the Program. These obligations are made clear in both the deed signed between each ICA and CBA, and the contractual arrangements between customers and their ICA (i.e., through provisions in each customers' retention agreement with ICAs). Each ICA is also obligated to act in the interest of customers under the Legal Profession Act 2004.

3.3.1.2 ICA input into the Program's build phase

CBA made initial contact with the ICAs on 7 July 2014. Due to the need for the ICAs to gain comfort over the Program's integrity and agree to terms, their formal appointment took several months to finalise. Between July and September, each ICA engaged in discussions with CBA about the design and structure of the Program, including the documents that govern the operation of the Program. During September, CBA sought feedback from the ICAs on draft versions of Program documents, and held workshops with them to discuss how the

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framework would be applied in practice. Formal deeds setting out the arrangements between the ICAs and CBA were agreed at the end of October.

Following their appointment, the ICAs have continued to provide feedback and input to CBA in developing the Pilot Program, which is designed to test the various procedures in the Program (see Section 4).

The ICAs have also commenced investing additional resources and systems to support customers in the Program, including the addition of new staff and IT systems where necessary. ICAs have also made (or are in the process of making) arrangements with various expert advisers (such as forensic accountants or experienced financial planners) that they may draw on in dealing with more complex cases under the Program.

3.3.1.3 Future activities of the ICAs

As noted above, the key role of the ICAs going forward is to provide assistance to customers in reviewing the assessment outcomes completed by CBA. Customers are under no obligation to use an ICA when discussing their assessment outcomes with CBA. A customer may choose to discuss the case with CBA on their own, or with another representative or support person. However, a customer may not proceed to the Panel review stage without representation by an ICA.

While the Program's design anticipates that most customers who elect to use an ICA will do so once they have received an assessment outcome, a number of customers have engaged the services of an ICA prior to their cases being assessed under the Program.²⁰

Once a customer retains the services of an ICA, the ICA can represent the customer in discussions with CBA and advise him/her on the fairness of the assessment outcome and compensation offer (if any). The customer and the ICA will, upon request, have access to documents used by CBA in determining the assessment outcome. If the customer is not satisfied with the final assessment outcome provided by CBA, the ICA can seek (on behalf of the customer) a further review of the case by the Panel. The ICA will assist and represent the customer in any Panel review, and will provide advice to the customer on the Panel's determination. To minimise frivolous appeals to the Panel, the ICA must certify that the customer has reasonable prospects of exceeding the assessment outcome by a material amount under the Panel arrangements.

3.3.2 Independent Review Panel

3.3.2.1 Appointment process

The inclusion of an Independent Review Panel to adjudicate on individual cases is designed to:

- provide a fair alternative dispute resolution service that objectively and independently assesses the overall merits of a case;
- allow cases to be dealt with quickly, inexpensively and confidentially; and

²⁰ Some of these customers had engaged one of the appointed law firms as part of previous remediation claims, while others have done so following the announcement of the ICA appointments under the Program (each ICA has published on its website details of its appointment to the OAR program, and the services it can provide as an ICA).

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- support the rights of customers to pursue other avenues if a customer is not satisfied with outcomes of the Program.

In determining the composition of the Panel, CBA considered a number of potential models, including the possible involvement of non-judicial appointments to the Panel. In view of the Program being a form of dispute resolution mechanism between the Bank and customers, and the need for customers to have confidence in the integrity of the Panel, CBA decided to appoint three, highly-esteemed former judges to the Panel.

The three former judges that have been appointed by CBA to the Panel have considerable experience in dealing with customer protection issues in Australia. Each Panel member has also presided over different courts and jurisdictions in Australia, bringing a strong mixture of skills and expertise to the Panel.

3.3.2.2 Panel's input into the Program's build phase

The Chair of the Panel has provided input and advice to CBA on key design elements of the Program since his appointment on 11 July. He has also had input into the other appointments to the Panel and how the Panel should operate once cases are escalated to it.

All Panel members have also had access to and provided input into the development of the documents governing the operation of the Program.

3.3.2.3 Future activities of the Panel

The Panel will review cases where a customer or its ICA are unable to reach an agreement with CBA on an assessment outcome, and where the ICA certifies that the customer has reasonable prospects of exceeding the assessment outcome by a material amount under the Panel arrangements. CBA may also request certain cases to be reviewed by the Panel where there is sufficient complexity or uncertainty about how to deal with particular issues.

Before a case is reviewed by the Panel, all participants involved at the Panel review stage will be required to sign a Panel Deed. The Panel Deed specifies how cases will be assessed by the Panel, and the responsibilities that each party has in relation to Panel proceedings.

Once a Panel Deed is signed, CBA will notify the Panel of a start date for the customer's case and the Panel Chair will convene the Panel, consisting of the Chair and at least one other Panellist.²¹ The role of the Chair may be delegated.

The Panel will review the relevant documents, information and submissions provided by CBA and the customer's ICA. The Panel may request further information, and may seek advice from expert parties, such as the Consultant Expert Adviser to the Panel. The Panel may also convene a hearing in exceptional circumstances to receive oral submissions from the ICA and CBA.

The Panel's decisions are made independent of CBA. The Panel has the discretion to make any decision it believes to be necessary or expedient to obtain a fair outcome, having regard to the aims of the Panel review, and CBA's potential legal liability to the customer. CBA is bound by the Panel's decision, but the customer is

²¹ It is likely that most cases will be reviewed by two Panellists, although this will depend on the case under consideration and the availability of Panellists.

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not. This decision is either accepted or rejected by the customer – there is no appeal or further review process under the Program, although the customer has the right to take his/her case to FOS or to the courts.

To assist with the performance of its duties, the Panel will be assisted by Counsel Assisting (a legal counsel who will assist the Panel with its functions). CBA will pay for any fees and expenses of the Panel.

3.3.3 Consultant Expert Adviser

3.3.3.1 Appointment process

The appointment of Ms Fiona Guthrie as Consultant Expert Adviser to the Program is to help ensure that customer advocate issues are handled appropriately by CBA and the Panel. As noted earlier, Ms Guthrie has had extensive experience as an advocate for consumers of financial services, and her appointment will help ensure that customers who are disadvantaged or vulnerable will be treated fairly and appropriately under the Program.

3.3.3.2 Consultant Expert Adviser's input into the Program's build phase

While Ms Guthrie's primary role in the Program is to provide expert advice to the Panel at its request, Ms Guthrie has (and will continue to) provide advice to CBA on elements of the Program's design and implementation.

As part of the Program's build, Ms Guthrie has assisted CBA in developing its customer engagement strategies for the Program. In particular, Ms Guthrie has assisted with the Bank's engagement with stakeholder groups that deal with vulnerable parts of the community which may be otherwise hard to reach (e.g., seniors, or customers suffering from hardship or disabilities). She has also provided input to the preparation of the Program documents and material that has been provided to customers (e.g., customer outreach material and information packs).

Other advice provided by Ms Guthrie during the course of the Program's build has been in relation to approaches to the customer contact process and identifying customer issues, such as potential hardship.

3.3.3.3 Future activities of the Consultant Expert Adviser

Ms Guthrie's role going forward will focus primarily on providing advice to the Panel as and when it is requested. Given the Panel has yet to review any cases, the full range of topics and issues where Ms Guthrie's advice is likely to be called upon by the Panel is still evolving.

CBA plans to continue to use Ms Guthrie's expertise in developing and refining its customer outreach strategies. For example, Ms Guthrie will continue to assist the Bank promote awareness of the Program in a number of community groups, and may review content in relation to the Program that is to be included in community publications. Ms Guthrie may also advise CBA on its strategy for communicating assessment outcomes to customers.

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3.3.4 Independent Forensic Expert

3.3.4.1 Appointment process

The appointment of a forensic expert to the Program is designed to provide customers with assurance that any claims of potential fraud or forgery will be appropriately and expertly handled. CBA considered a range of parties to provide this expert advice, including internal and external parties to the Bank.

CBA ultimately decided to appoint McGrathNicol as IFE for the Program to establish a robust and independent process for investigating concerns about possible fraud relating to financial advice a customer received. McGrathNicol has a team of specialists on fraud investigation who have not had any previous involvement with CBA's past remediation programs.

3.3.4.2 IFE input into the Program's build phase

As the IFE, McGrathNicol will investigate any concerns about possible fraud or forgery relating to the financial advice customers have received.

A Fraud Protocol (Protocol) is currently under development which will set out the triggers and processes to be followed in the event that CBA or the customer has concerns in relation to improper documents, such as possible forgery and fraud. This Protocol is being developed by the IFE, with input from CBA.

In developing the Protocol, the IFE has held discussions with CBA to understand past cases and current escalation procedures within CBA.

3.3.4.3 Future activities of the IFE

If the requirements set out in the Fraud Protocol are triggered, CBA will refer the case to the IFE for investigation and, where applicable, escalate the case to relevant authorities in line with the process set out in the Protocol. Following the completion of the investigation, a report of the matter will be included in the customer's file.

Most cases involving fraud will be identified and addressed prior to any Panel review of the case. The Panel will be able to draw on the findings of the IFE's analysis as part of its review of cases.

3.3.5 Independent Expert

3.3.5.1 Appointment process

Promontory's appointment as Independent Expert to the Program is designed to provide transparency and independent oversight over the Program's implementation. As part of our appointment, Promontory agreed with CBA to undertake due diligence activities in order to understand the proposed processes, technology, systems and document management processes to be used in the Program. These due diligence activities were intended to inform Promontory about the approach to be adopted by CBA and also the approach that would need to be adopted by Promontory in meeting its ongoing monitoring, reporting and oversight responsibilities. That due diligence stage is still active.

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3.3.5.2 Independent Expert's input into the Program's build phase

As part of our due diligence activities, Promontory has reviewed a range of documents, processes and methodologies that CBA has developed (or are in the process of developing) to support the implementation of the Program. We have also interviewed staff across CBA to discuss the design of the Program and potential approaches to sampling as part of our review of cases. We have also provided input into the development of Program documents governing the operation of the Program, and interviewed other independent parties involved in the Program.

3.3.5.3 Future activities of the Independent Expert

Promontory's role going forward will be to monitor the Program and provide transparency by periodically reporting on the outcomes of the Program. This monitoring and reporting role aims to provide assurance to customers that the Program's processes are being implemented fairly and consistently and, more generally, that it is meeting its objectives.

Promontory expects to produce periodic reports three times a year from 2015 until the conclusion of the Program. Our next periodic report is scheduled for release in May 2015. As part of Promontory's monitoring role, these periodic reports will provide detail on the number of customers who participate in each stage of the Program and the outcomes of each stage.

An important aspect of Promontory's role is to review a sufficient sample of customer cases to determine whether customers are being dealt with in accordance with the Program's documented processes and objectives. We have proposed using a structured sampling approach to provide maximum assurance that the Program is operating as intended and in line with its objectives. The appropriate sample size and structure will be developed by Promontory (and agreed with CBA) for each stage of the Program. Promontory will publicly report on its sample review findings as part of its periodic reports, and will have access to the necessary documents, such as customer files and supporting material, to fulfil its role.

Promontory will also oversee the Bank's implementation of the Pilot Program, and review assessments from the Pilot Program to refine our own sampling and review procedures. We will report on the outcomes of the Pilot Program in our next report.

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4. Pilot Program

In recognition of the unique features of the Program, CBA is conducting a Pilot Program (Pilot) to test the adequacy and robustness of processes it will use to assess customer cases under the Program. The Pilot involves an assessment of a limited number of cases (approximately 60), selected by CBA with input from the ICAs. The Pilot commenced in November 2014 and is scheduled to be completed in January 2015.

In addition to the usual reasons for conducting a pilot program (e.g., to trial and adjust processes prior to full implementation), CBA's decision to implement the Pilot for the OAR program reflected a number of added complexities associated with the Program's design. These complexities include the:

- Involvement of multiple independent parties: the Program requires additional protocols and systems between CBA and external parties – such as the ICAs, the Panel and Independent Expert – to strengthen the fairness, consistency, transparency and efficiency of dealings with affected customers.
- Customer-initiated nature of the Program and the broad range of advice, products and services potentially involved: given the scope of the OAR program is much broader in terms of time periods and advisers relative to previous remediation programs, the breadth of poor advice issues that may emerge under the Program is also likely to be greater. Consequently, additional assessment guidelines have been required for the Program which would benefit from testing in the Pilot.
- Long Review Period: during the Program's Review Period, numerous changes to financial planning obligations, associated laws and tax treatments occurred that will need to be considered as part of the Program. The potential complexity in having these changes reflected in assessment guidelines will benefit from further discussion between the parties involved in the Pilot.

4.1. Aims of the Pilot

The key aim of the Pilot is to test that the Program's processes will deliver a robust, consistent, fair and efficient means of conducting case assessments prior to full-scale implementation.

A further aim of the Pilot is to provide the ICAs, the Independent Panel and the Independent Expert with visibility and understanding of how CBA intends to assess individual cases. In particular, it is expected that ICAs will challenge the assumptions and direction of guidance developed for CBA's specialist team.

The Pilot is also expected to help finalise processes for dealing with certain logistical challenges, such as dealing with imperfect information and reviewing customer files when dealing with multiple parties.

4.2. Structure of the Pilot

Participation in the Pilot by customers is voluntary.

Customers participating in the Pilot will be regarded as being assessed within the Program. Customers who are eligible for the Program but have not been selected for the Pilot, or have elected not to participate in the Pilot, will have their cases assessed as part of the full Program.

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4.2.1 Selection process

Participants in the Pilot have been identified based on selection criteria developed by the Bank. In identifying possible participants for the Pilot, the Bank requested the ICAs to identify customers who had previously contacted them and would be suitable for participation in the Pilot. CBA then nominated other potential Pilot participants based on the selection criteria.

The selection criteria that CBA developed to identify suitable customers for the Pilot were:

- **File availability:** to assist with the efficiency of the Pilot, CBA generally limited selection to customers whose advice files were largely complete and more readily accessible.
- **Cross-section of issues:** to adequately test the scope and robustness of the Program's assessment guidelines, CBA elected to capture a diversified (rather than homogenous) set of products and issues for inclusion in the Pilot.
- **Complexity:** only a limited number of complex cases were considered for inclusion in the Pilot so as to test standard processes efficiently, recognising that very complex issues were likely to require non-standard assessment methods. Cases involving third-party products were also excluded for similar reasons.
- **Exclusion of "Affected Clients" defined under CFPL and FWL's new licence conditions:** the Program (including the Pilot) is a separate exercise from remediation activities associated with CFPL and FWL's new licence conditions. To avoid complications at the Pilot stage, customers who are defined as an "Affected Client" for the purposes of CFPL and FWL's new licence conditions were not selected for the Pilot.
- **Hardship:** subject to consideration of the factors described above, customers who had been identified as suffering financial or personal hardship were prioritised for inclusion.

4.2.2 Customer contact process

Both CBA and the ICAs contacted their nominated customers to communicate the objectives, conditions and processes governing participation in the Pilot. A condition of participation in the Pilot is that a customer must be represented by an ICA. Therefore, those customers nominated by CBA and agreeing to participate in the Pilot were assigned an ICA (with their consent).

We note that, in the full Program, a customer is not required to nominate an ICA in order to participate. For the purposes of the Pilot, however, it was determined by CBA that ICA representation would help protect the interests of customers and reduce the likelihood that they might otherwise be disadvantaged by agreeing to participate.

4.2.3 Assessment process

Customers participating in the Pilot will have their cases assessed against a set of preliminary assessment guidelines that have been developed by CBA. The assessment guidelines are internal protocols developed for CBA's specialist team to assist with the efficient, consistent and fair assessment of customer cases. The guidelines address specific components of advice that CBA expects will commonly arise in conducting assessments, such as customer risk profile and asset allocation assessments.

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Upon completion of a case assessment under the Pilot, CBA will issue the assessment outcome to the relevant ICA. Feedback provided by the ICAs will be considered by CBA before finalising an assessment outcome.

The Pilot will not include the escalation of cases to the Panel. Customers in the Pilot, however, will still have the option to take up the Panel review as part of their continuing participation in the Program.

4.2.4 ICA involvement

As part of the Pilot, ICAs will be provided with preliminary assessment guidelines in order for them to provide input and comment on their relevance, fairness and integrity. CBA will also workshop with ICAs a small number of cases (approximately four to six) as part of the Pilot to gain feedback on issues relating to the assessment of cases, the assessment guidelines and the Program more generally. Feedback provided by the ICAs will be considered by CBA before it finalises assessment outcomes of cases in the Pilot. Feedback will also be used to refine assessment guidelines, and other processes and systems that will be rolled out under the full Program.

4.2.5 Independent Expert involvement

Promontory will oversee the Pilot in order to commence its monitoring role over assessments, and to test and refine its sampling and review methodologies. In reporting on the outcomes of the Pilot in our next report, Promontory will be cognisant of the developmental nature of the exercise and its critical role in ensuring the fairness and consistency of the Program.

4.2.6 Protecting the interests of Pilot participants

Additional measures have been introduced by CBA to protect the interests of Pilot participants. That is, CBA aims to ensure that Pilot participants are not disadvantaged because assessment guidelines, processes and methodologies are refined as a result of discussions or findings made as part of the Pilot.

To protect Pilot participants from being disadvantaged from such refinements, CBA has introduced mechanisms to allow re-assessments of cases assessed under the Pilot. In particular, if changes to an assessment or loss calculation methodology are made:

- during, or within 30 days after the conclusion of, the Pilot; or
- following a decision of the Independent Panel in respect of a case which was assessed as part of the Pilot;

and such changes increase the amount of compensation a Pilot participant would be offered, the Pilot participant's case will be re-assessed. CBA will offer the participant any additional compensation resulting from the re-assessment, but the customer will not be required to repay any reduction that results from the changes.

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4.3. Current state of the Pilot

The Pilot Program commenced in November 2014 and is expected to conclude in January 2015 following the issuance and consideration of assessment outcomes to ICAs for all customers in the Pilot. The Bank is currently in the process of finalising the full list of participants that will be assessed under the Pilot, having nominated and contacted potentially suitable customers over November and December (with input from the ICAs). The Bank has also commenced case assessments for a limited number of participants who have provided the Bank (either directly or through their ICA) the necessary information to have their advice reviewed.

Promontory's next report will provide further details regarding the implementation of the Pilot, and the outcomes resulting from it.

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5. Program Update

On 12 October 2014, CBA provided a preliminary update to Promontory on the Program, including statistics on the number of customers who had registered for the Program.²² At the time of that update, CBA notified Promontory that the Program had received registrations from approximately 4,200 customers.

This section of the Report provides a further update on the number of customers who have registered for the Program, and the progress that has been made by CBA to contact these customers.

5.1 Registrations

For the purposes of the Program, customers that register are assigned a "case number". A "case" can include more than one customer (for example, customers who received advice together). While there may be multiple customers attached to a particular case, assessment outcomes will be determined by the Bank on a case basis. Thus, the figures quoted below refer to cases in the Program.

Since CBA's last update to Promontory in October 2014, approximately 500 additional cases have registered for the Program – bringing the total number of cases in the Program to 4,702 as at 15 December 2014. This figure includes 92 cases identified by the Bank as having elected to opt out of the Program.²³

Table 5.1: Registration statistics

Registrations since Program commencement	Number of cases
Total cases registered	4,702
<i>of which: cases that have elected to opt out of the Program</i>	<i>(92)</i>
Total cases registered (excluding cases that have elected to opt out of the Program)	4,610

We note that the number of cases noted in Table 5.1 excludes duplicate registrations that have been identified by CBA.²⁴ We also note that, as CBA receives additional information from customers during the course of the Program (e.g., information sent by customers in the *You and Your Advice* form), certain cases that are related may be combined or merged (e.g., a married couple who took out a joint policy but registered separately for the Program). The reported number of cases registered in the Program is therefore subject to change pending additional information received by the Bank.

²² Refer to <https://www.commbank.com.au/about-us/news/media-releases/2014/commonwealth-bank-provides-an-update-on-the-open-advice-review-program.html>

²³ CBA has indicated that it will shortly write to these people to confirm withdrawal from the Program. People who have opted out will be provided the opportunity to opt back into the Program prior to the close of registration.

²⁴ For example, given the various avenues for registration, there have been instances where a customer has registered for the Program multiple times. As at 15 December 2014, CBA has identified 598 cases of duplicate registrations.

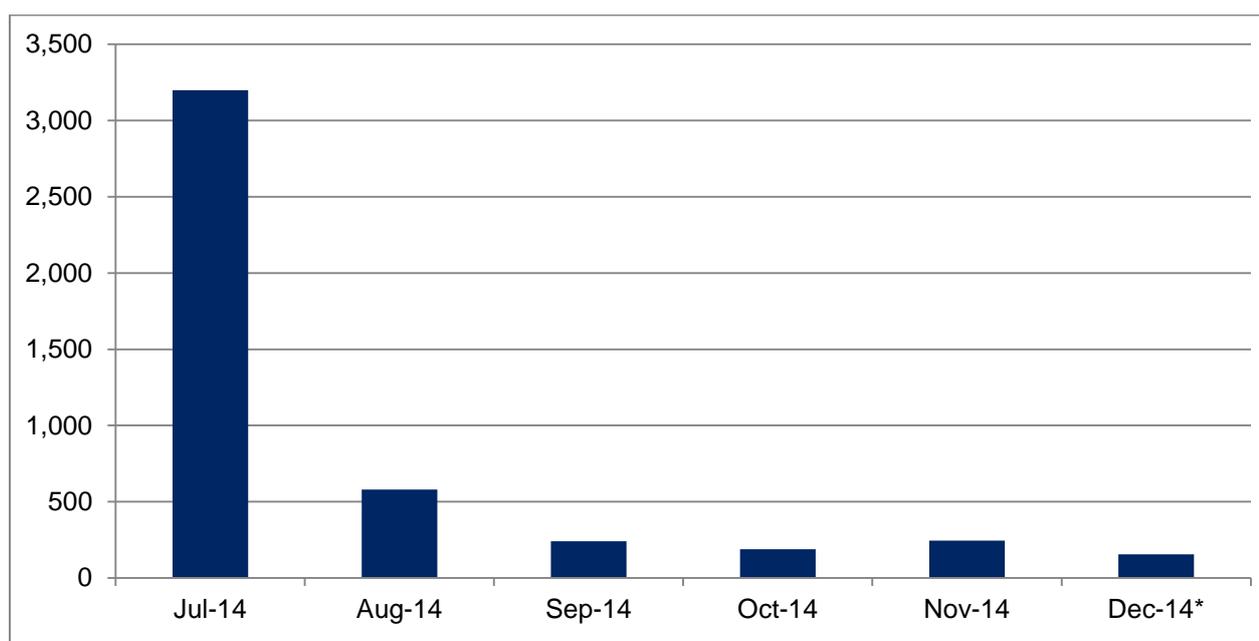
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The majority of cases in the Program (approximately 3,200) were registered during July 2014 (the first month of the Program). Since then, the average number of cases that have registered each month has reduced to approximately 300 (refer to Figure 5.1).

Figure 5.1: Registrations by month (as at 15 December 2014)²⁵



* December figures include cases registered up to 15 December 2014

5.2 Response to registrations

As noted earlier, once customers have registered for the Program, CBA attempts to contact customers (via phone or email) to confirm their registration and send through an information pack.

As at 15 December 2014, CBA has made, or has attempted to make, contact with approximately 98% of cases registered in the Program. CBA has also sent out information packs to approximately 95% of cases registered in the Program (refer to Table 5.2). The relatively few cases (less than 2%) where contact from CBA is still pending (i.e., where no call has been attempted and an information pack has yet to be sent) relate mainly to cases that have only recently registered for the Program (i.e., cases that registered after 1 December).

²⁵ The figures in this chart exclude cases that have elected to opt out of the Program.

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Table 5.2: Progress of customer contact²⁶

Contact status	Number of cases	Percentage of cases registered
Cases contacted by CBA	4,534	98%
Cases where an information pack has been sent	4,373	95%
Cases where contact is pending and an information pack has yet to be sent	75	2%

While registrations were first opened in July 2014 when the Program was announced, call-backs to customers did not commence until 5 August. During the period between the Program's announcement and the commencement of call-backs, CBA worked to establish the necessary call centre infrastructure and provided training to staff to assist with the accurate and consistent delivery of calls.²⁷

Information packs (including the *You and Your Advice* form) were first sent to customers on 16 September 2014. Since then, information packs have been sent out at regular intervals to customers in the Program, with the majority of information packs being sent by the end of October. Table 5.3 below provides an overview of the number of information packs sent in each month since the Program's commencement.

Table 5.3: Information packs sent²⁸

Month (in 2014)	Number of cases where an information pack has been sent
September	1,929
October	2,105
November	245
December (up to 15 December)	94
Total	4,373

5.3 Returned *You and Your Advice* forms

As at 15 December 2014, a total of 2,482 *You and Your Advice* forms have been returned to CBA. This figure represents approximately 57% of cases where an information pack has been sent to a customer, or approximately 54% of cases registered in the Program (excluding cases that have elected to opt out).

²⁶ The figures in this table exclude cases that have elected to opt out of the Program.

²⁷ Call centre staff were provided with call scripts and other materials (such as a frequently asked questions list) to assist with this process. Call quality procedures were also developed to monitor the quality of calls across the team.

²⁸ The figures exclude information packs sent to customers who have elected to opt out of the Program, and information packs that were re-sent to customers (on their request).

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CBA is currently in the process of reviewing the information provided by customers in the *You and Your Advice* forms, and updating customer information where required. This information will then be used by the Bank to confirm customers' eligibility to have their advice assessed under the Program. The Bank has not, at this stage, removed any person from the Program due to ineligibility.

Once the Bank has completed the Pilot Program, individual case assessments for customers that have been confirmed as being eligible for the Program will commence.



Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



Commonwealth Bank

Open Advice Review program

Second Report

Prepared by Promontory

29 May 2015

Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



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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's implementation since the release of our Initial Report in December 2014, and includes the findings of our monitoring and review activities over this period.

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

ARDB	Advice Remediation Database
ARp	Advice Review program
ARp Solution	Advice Review program Solution
ASIC	Australian Securities and Investments Commission
CBA/Bank	Commonwealth Bank of Australia (Group)
CAT	Case Assessment Tool
CFPL	Commonwealth Financial Planning Limited
CRM	Customer Relationship Management
ESG	Executive Steering Group
FOS	Financial Ombudsman Service
FWL	Financial Wisdom Limited
ICA	Independent Customer Advocate
Initial Report	Promontory Initial Report (published 19 December 2014)
Independent Panel	Independent Review Panel
IT	Information Technology
OAR	Open Advice Review
Pilot	Pilot Program
Program	Open Advice Review program
PSG	Program Steering Group
Promontory	Promontory Financial Group Australasia
Report	Second Report
Review Period	1 September 2003 to 1 July 2012

1. Background

The Commonwealth Bank Group's (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. Customers wishing to participate in the Program have until 3 July 2015 to register their interest.

On 10 August 2014, CBA appointed Promontory Financial Group Australasia (Promontory) as the Independent Expert for the Program. Promontory's role as Independent Expert is to:

- monitor the progress of the Program;
- review a sample of 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 its findings, along with statistics about the Program, available to the public through periodic reports.

Promontory's role in the Program aims to provide transparency and a level of assurance to customers and others that the Program's processes are implemented fairly and consistently.

On 19 December 2014, Promontory issued its Initial Report on the Program – focusing primarily on the design of the Program and the steps that were taken to implement it.¹

This Second Report (Report) provides an update on the Program since our Initial Report. It provides an overview of further initiatives that have been taken by the Bank to support the Program's implementation, and an update on the progress that has been made in assessing cases in the Program. The Report also sets out findings from our review of cases that have exited the Program prior to assessment, and cases that were assessed as part of the Pilot Program (Pilot).

In all aspects reported, both with respect to the Program statistics and review of processes, we have exercised reasonable due diligence to verify and validate facts and interpretations.

Promontory's next report is scheduled to be published in September 2015. Our next report will provide a further update on developments in the Program up to 31 August 2015.

Promontory acknowledges the co-operation that CBA has provided us in preparing this Report, and in responding to our requests for information.

¹ Promontory's Initial Report is available at: <https://www.commbank.com.au/content/dam/commbank/about-us/who-we-are/open-advice-review/promontory-initial-report.pdf>

2. Summary of findings

2.1. Program implementation

Since the time of our Initial Report, the Bank has continued to invest in a number of important areas of the Program's infrastructure to further support the implementation of the Program.

2.1.1. People and governance

The number of people who have been recruited to the Bank's Advice Review program (ARp) team² had grown to 496 full-time equivalent resources as at 24 April 2015 (up from approximately 250 full-time equivalent resources as at the end of November 2014). The majority of resources within the ARp team continue to reside within the Customer and Information Management streams, which are responsible for the assessment and retrieval of customer advice files, respectively. Both these streams have significantly increased their headcount over the past few months, driven by the increased demand for Assessment Managers and Review Managers (in the case of the Customer stream), and the ongoing retrieval and collection of relevant customer advice files across the country (in the case of the Information Management stream).

The main executive and board committees responsible for the Program noted in our Initial Report have continued to provide oversight and strategic direction over the Program's implementation.

2.1.2. Systems and tools

Ongoing enhancements to the Program's IT infrastructure, tools and processes have been implemented since the time of our Initial Report. The Bank has made refinements to the databases used in the Program; built new tools and applications to help better manage the work undertaken by the Bank's case assessment and file retrieval teams; and refined the compensation model developed for calculating offers of compensation to customers in the Program who have been assessed as having received poor financial advice. A more systematic and centralised approach to the retrieval of customer files has also been implemented since early 2015, which involves an improved system of cataloguing all customer advice files residing at the Bank's branches, document archiving facilities and other locations across the country.

2.1.3. Program awareness and changes to registration

Following on from the Bank's commitment in November 2014, the Bank also implemented its extended customer contact awareness campaign in early 2015 through the mail-out of letters about the Program to nearly 350,000 households. The mail-out targeted all customers who held a product issued by Colonial First State, CommInsure or CommSec as at January 2015, and had received advice from CFPL during the Review Period. The letters invited customers who had any concerns about the advice they received from CFPL to contact the Bank so that they could be sent additional information about the Program.

² The ARp team is responsible for implementing both the OAR program and the Bank's remediation activities associated with CFPL's and FWL's varied licence conditions agreed with the Australian Securities and Investments Commission (ASIC) in 2014.

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In addition to the extended customer contact awareness campaign conducted through the mail-out, the Bank has continued to raise awareness of the Program through other initiatives. These initiatives have included ongoing digital advertising, additional advertising in metropolitan, rural and regional newspapers across the country, and the further distribution of Program information packs to selected community groups. In February 2015, the Bank also wrote to each FWL practice principal requesting that they communicate the details of the OAR program to their customers.

Since the end of 2014, there have been relatively few changes to the Program's overall design features.³ A change that has occurred relates to the Program's registration process where, from late January 2015, customers who have wished to express interest in the Program and request additional information about the Program have been able to do so more easily. This change occurred as a result of the extended customer contact awareness campaign conducted in early 2015, where customers who were sent a letter were provided a unique code that they could use to readily view their details and confirm their interest in the Program. As a consequence of this change, the Bank also made a number of minor changes to its classification of cases "registered" in the Program (discussed further in Sections 3.3 and 5).

Section 3 of this Report provides further details about the various steps and initiatives that have been undertaken by the Bank to support the Program's implementation since the end of 2014.

2.2. Pilot Program

As set out in our Initial Report, CBA commenced a Pilot in November 2014 to test and refine the assessment processes of the Program prior to full implementation. The Pilot involved a review of 60 cases jointly selected by CBA and the Independent Customer Advocates⁴ (ICAs), against a preliminary set of assessment guidelines and methodology developed by the Bank. Each customer involved in the Pilot participated on a voluntary basis and was represented by an ICA.

2.2.1. Pilot outcomes

The first case assessments under the Pilot were completed by the Bank at the end of December 2014, with additional case assessments completed progressively over the first quarter of 2015. By 20 March 2015, assessment outcome letters had been issued to all but one of the 60 cases in the Pilot, with the last remaining case having been issued an assessment outcome letter on 17 April 2015.

As at 30 April 2015, the Bank had offered compensation to 11 out of the 60 cases in the Pilot. A further two cases were assessed as having involved poor advice, but where no compensation was offered due to the Bank's assessment that no financial loss was suffered by the customers as a result of the poor advice. The remaining 47 cases in the Pilot were assessed by the Bank as having received appropriate advice (no compensation payable).

³ We note that, although the overall design features of the Program have remained largely unchanged, the underlying systems used to support the Program's implementation have been subject to further refinements since the start of 2015. These refinements are discussed in further detail in Section 3 of this Report. Changes that have been made to the underlying case assessment process (following implementation of the Pilot Program) are discussed separately in Section 4 of this Report.

⁴ The three law firms appointed as ICAs by the Bank to support individual customers through the Program are Maurice Blackburn, Shine Lawyers, and Slater and Gordon.

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Based on the assessments determined by the Bank, a total of \$216,611 in compensation had been offered to customers participating in the Pilot as at 30 April 2015. Of this amount, \$49,702 in compensation had been accepted by customers and subsequently paid by the Bank.

2.2.2. Lessons and findings from the Pilot

As noted in our Initial Report, CBA's decision to implement a Pilot for the OAR program was driven, in part, by the unique features and complexities associated with the Program's design. The Bank recognised that, given the open nature of the Program and long Review Period involved, the Bank's processes for assessing cases in the Program were likely to benefit from further testing and refinement prior to full implementation. The Bank saw the Pilot as an opportunity to identify areas where it could enhance its assessment processes prior to full implementation, so as to facilitate more consistent, reliable and traceable outcomes under the full Program.

As the Pilot progressed, the Bank identified numerous opportunities to enhance its assessment processes based on the experience gained in assessing the 60 cases. In particular, the Bank identified the need for its assessment processes to be more structured and traceable so that, once implemented at scale, the Program would produce fair and consistent outcomes more efficiently.

To account for the lessons it identified in the Pilot, the Bank worked on a number of enhancements to the Program's assessment processes. These enhancements centred on the development of a more structured assessment framework referred to by the Bank as the "Advice Review program Solution" (ARp Solution). The ARp Solution incorporated a revised assessment methodology (incorporating more detailed guidelines for the Bank's assessment team), and the development of a Case Assessment Tool (CAT) that facilitated more structured decision-making.

Promontory's role in the Pilot was to oversee the implementation of the exercise and report on the outcomes in this Report. In performing our role, we were conscious of the developmental nature of the Pilot and focused our review on ways in which the Bank's assessment processes could be further enhanced to achieve the Program's objectives. We also reviewed the Bank's assessment of the 60 cases in the Pilot to understand how the preliminary assessment guidelines and methodology were applied, and how this might impact on our review processes going forward.

Our main observations on the Pilot were the need for the Bank to develop more detailed guidance regarding the way certain factors were to be assessed, and the need for greater traceability within the Bank's recorded assessment outputs. Based on these observations, we advised the Bank of the need to make material refinements to its assessment process, so that the outcomes and judgements made by the Bank's assessment team would be more transparent to us in the full Program.

The Bank accepted our observations and findings from the Pilot, and noted that many of the observations we identified were similar to those raised internally within the Bank as it progressed through the Pilot. The Bank provided us with the work that it had undertaken to develop the ARp Solution, including the refinements made to the underlying assessment guidelines and methodology. Promontory believes that the changes made as part of the ARp Solution represent material improvements to the assessment processes that were applied in the Pilot. We believe the improvements should help deliver outcomes that are more transparent to us and consistent for customers in the Program.

Given some of the observations that Promontory identified in the Pilot, and the subsequent improvements that have been made to the Bank's assessment processes, the Bank has indicated that it will undertake a further review of all cases in the Pilot where we found it difficult to verify adherence to the Program's documented

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processes. This review is consistent with the safeguards introduced as part of the Pilot, and will provide additional assurance to participants in the Pilot that they were not disadvantaged from having participated.

Section 4 of this Report provides further details of the implementation and outcomes of the Pilot, as well as our findings.

2.3. Program statistics

Following the extended customer contact awareness campaign that was initiated in early 2015, there has been a substantial increase in the number of cases that have expressed interest in the Program. As at 30 April 2015, the total number of expressions of interest in the Program grew from approximately 4,700 (as at 15 December 2014) to 22,435. Of the 22,435 cases, approximately 91% of these had been sent an information pack from the Bank as at 30 April 2015.⁵

In our Initial Report, Promontory noted that the Bank had yet to commence formal assessment of cases in the Program beyond those in the Pilot. Since this time, the Bank has commenced case assessments for 346 cases, and issued assessment outcomes in 208 of these cases as at 30 April 2015 (including the 60 cases assessed as part of the Pilot). Table 2.1 sets out the number of cases that had progressed through to various stages of the Program (beyond expression of interest) as at 30 April 2015.

Table 2.1: Number of cases progressed through the Program

Case progress	Total as at 30 April 2015
Registration stage	7,237
<i>of which:</i> progressed through to Assessment stage	346
<i>of which:</i> progressed through to Consideration of Assessment Outcome stage ⁶	208

The Bank had offered compensation to 28 of the 208 cases (13%) that had been issued an assessment outcome as at 30 April 2015. The cases in which compensation was offered were assessed by the Bank to have involved poor advice, incorrect implementation of advice, or incorrect fees that resulted in financial loss for the customer. In 174 cases (84%), the Bank assessed the advice to be appropriate and consequently made no offer of compensation. The remaining six cases (3%) were assessed by the Bank as having involved poor or incorrectly implemented advice, but where that poor or incorrectly implemented advice was assessed to have not resulted in the customer suffering financial loss (and hence no offer of compensation was made).

We note that the figures and percentages noted above relate only to assessment outcomes issued by the Bank as at 30 April 2015; they do not reflect the possibility that some of these cases may change

⁵ The remaining 9% of cases that had not been sent an information pack as at 30 April 2015 included cases that had only recently expressed an interest in the Program, cases that had withdrawn from the Program (without requesting an information pack), and cases where the Bank was still in the process of obtaining further contact details to send an information pack. A more detailed breakdown is provided in Section 5.2 of this Report.

⁶ This figure includes the 60 cases that were assessed as part of the Pilot.

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classification after 30 April 2015 if a customer successfully counters the Bank's assessment outcome (as allowed for in the Program's design). Of the 208 cases where an assessment outcome had been issued as at 30 April 2015, only 22 had reached a final decision regarding their assessment outcome. The remaining 186 cases remained under review by the customer or, in cases where the customer had made a counter-offer or counter-assessment to the Bank, remained under review by the Bank. Table 2.2 provides a breakdown of the status of the 208 cases that had progressed through to the Consideration of Assessment Outcome stage as at 30 April 2015.

Table 2.2: Status of cases progressed through to the Consideration of Assessment Outcome stage

Case status	Total as at 30 April 2015
Offer of compensation made by Bank	
Offer accepted by the customer	5
Offer under review by the customer	19
Offer rejected by the customer and counter-offer made to the Bank	4
No offer of compensation made by Bank	
Customer subsequently withdrew from the Program	17
Assessment outcome under review by the customer	144
Assessment outcome rejected by the customer and counter-assessment made to the Bank	19
TOTAL	208

Based on the assessment outcomes issued as at 30 April 2015, the Bank had offered total compensation of \$562,513 (including cases that were assessed as part of the Pilot). Of this amount, the Bank had made total compensation payments of \$79,702. The remaining \$482,811 in compensation that had been offered but not yet paid as at 30 April 2015 related to cases where:

- the offer of compensation was still under review by the customer or the Bank (offers amounting to \$248,307); and
- the offer of compensation had been accepted by the customer, but where payment had yet to be processed by the Bank as at 30 April 2015 (offers amounting to \$234,504).⁷

More detailed statistics about the Program can be found in Section 5 of this Report.

⁷ The Bank has confirmed that payments related to these offers were made in May 2015.

2.4. Sample case reviews

Promontory will be reviewing 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. As part of this sample review, Promontory will also consider whether cases have been handled in a manner that is consistent with the Program's objectives.

2.4.1. Cases reviewed

Given the focus on completing the assessment of the 60 cases in the Pilot over the past few months (which Promontory oversaw), and the relatively limited number of cases that have progressed through the Program's Assessment stage, Promontory's sampling to date has focused only on cases in the Pilot, and cases that have exited the Program prior to assessments being completed (i.e., case exits at, or prior to, the Program's Registration stage). Over coming months, Promontory will commence its sample review of cases that have progressed through the Program's Assessment stage, and will report on our findings from this sampling in our next periodic report.

Beyond the 60 cases that we reviewed in the Pilot, the population of cases that were the subject of our review for this Report comprised:

- 235 cases of customer withdrawals that exited the Program at, or prior to, the Program's Registration stage; and
- nine cases that were deemed ineligible by the Bank since the Program's commencement.

Promontory applied a highly conservative approach by assessing all cases in these populations (i.e., 100% sampling). We expect that, as the Program progresses and we gain greater comfort with the implementation of the Bank's processes, we will be able to sample less than 100% of cases in these categories.

2.4.2. Sample findings

From our review of the 235 cases of customer withdrawals identified by the Bank as at 30 April 2015, we found evidence in the vast majority of cases (195) that verified a customer's request to opt-out of the Program. We found a further 30 cases that could be reasonably classified as "non-genuine", and eight cases that were withdrawn from the Program after referral of the case to the Bank's internal complaints handling department. In all these cases, we identified no material concerns with the exit of these cases from the Program.

In two of the cases identified as opt-outs by the Bank, we were unable to verify from the information we reviewed that the customer had elected to withdraw from the Program. In light of our findings, the Bank has attempted to contact each of the customers concerned to confirm whether they wish to remain in the Program or opt-out.

We also found from our review of the 235 customer withdrawal cases that only 31% of these had been sent written confirmation of their withdrawal from the Program as at 30 April 2015. Of the remaining cases, 14% had confirmation letters pending as at 30 April 2015, and a further group (including non-genuine cases and customers who had requested no further contact from the Bank) did not require written confirmation. That left approximately 40% of cases identified by the Bank as having withdrawn from the Program that had not received written confirmation of their withdrawal as at 30 April 2015. The Bank has indicated that, to ensure

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consistency in the way opt-out cases are handled, written confirmation will be sent to the remaining (genuine) cases by 5 June 2015.

In the nine cases deemed ineligible by the Bank as at 30 April 2015, we identified no material concerns about the exit of these cases from the Program. In one of the cases, however, the Bank had, as at 30 April 2015, yet to send a written confirmation confirming ineligibility. The Bank has indicated that written confirmation for this case was sent in May 2015.

Section 6 of this Report provides further details of our sample findings and approach, including the approach that we will be implementing for future cases that progress through the Assessment stage.

3. Further steps taken to implement the Program

Since our Initial Report, the Bank has continued to invest in a number of important areas of the Program's infrastructure to further support the implementation of the Program. This section provides an overview of some of the additional steps that have been taken, including changes to the people, governance, systems and communications supporting the Program's implementation. This section also provides a brief overview of some changes that have been made to the Program's registration process since our Initial Report.

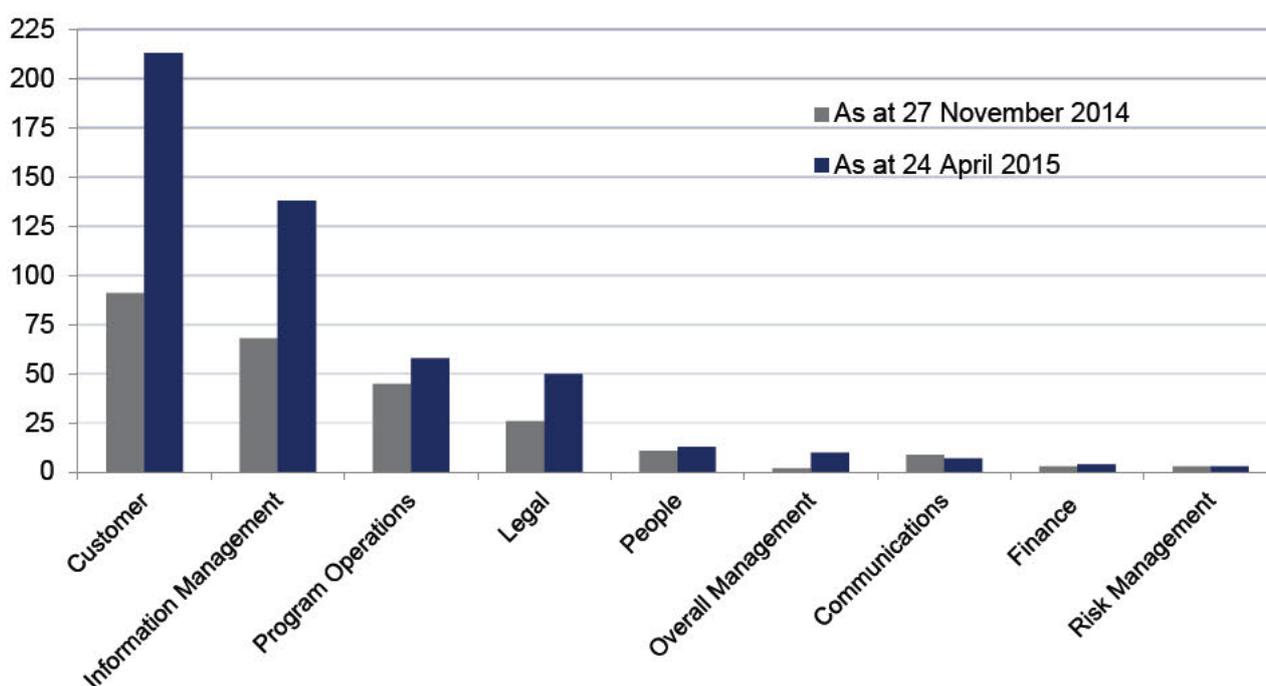
3.1. Program infrastructure

3.1.1. People

In our Initial Report, Promontory noted that the Bank had established a dedicated team of approximately 250 members to work on the OAR program and remediation processes related to CFPL's and FWL's varied licence conditions agreed with ASIC in 2014. The ARp team, which resides within CBA's Wealth Management division, comprised a number of work streams responsible for various aspects of the remediation process across both the OAR program and varied licence conditions.

During the course of 2015, additional recruitment of resources has occurred across most ARp work streams. As at 24 April 2015, there were 496 members in the ARp team on a full-time equivalent basis. Figure 3.1 below provides an overview of the number of team members across each of the various streams. The majority of these team members (approximately 80%) are employees or contractors of CBA, with the remainder comprising professionals sourced from external service providers.

Figure 3.1: Number of ARp team members by Program stream



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As Figure 3.1 illustrates, the Customer and Information Management streams continue to account for the most resources in the ARp team. Recruitment efforts since the start of 2015 also focused most heavily on these streams, primarily reflecting:

- in the case of the Customer stream, the ongoing addition of Assessment Managers and Review Managers to help with case assessments following the completion of the Pilot,⁸ and
- in the case of the Information Management stream, the addition of resources to implement a more comprehensive and efficient process of cataloguing and collecting all customer advice files across the country.⁹

The Bank continues to undertake background and probity checks for new team members joining the ARp team, including the requirement for individuals to sign a deed disclosing any potential conflicts of interest.

Training and continuing professional development requirements are also set and monitored across the various streams within the ARp team, with higher requirements applying to the Program's Assessment Managers. A range of training initiatives – both specific to certain functions and, more generally, across the whole ARp team – continue to be conducted. This includes training in relation to new Information Technology (IT) systems; customer experience and relationship management training; general on-boarding; specific ASIC Regulatory Guide 146 training plans for Assessment Managers¹⁰; and general Program updates from the Program's leadership.

3.1.2. Governance

There have been no major changes to the governance structure supporting the OAR program since our Initial Report in December 2014. The main executive and board committees responsible for providing oversight and strategic direction over the Program's implementation as noted in our Initial Report remain unchanged. A diagram summarising the key components of the Program's governance structure is set out in Figure 3.2.

One change that has been introduced in recent months is the creation of a dedicated Regulatory Affairs department into the Program's governance structure. This department is responsible for coordinating, liaising and managing the Bank's affairs with the Independent Expert for the OAR program (Promontory), as well as the Independent Compliance Expert in relation to CFPL's and FWL's varied licence conditions agreed with ASIC (KordaMentha Forensic).

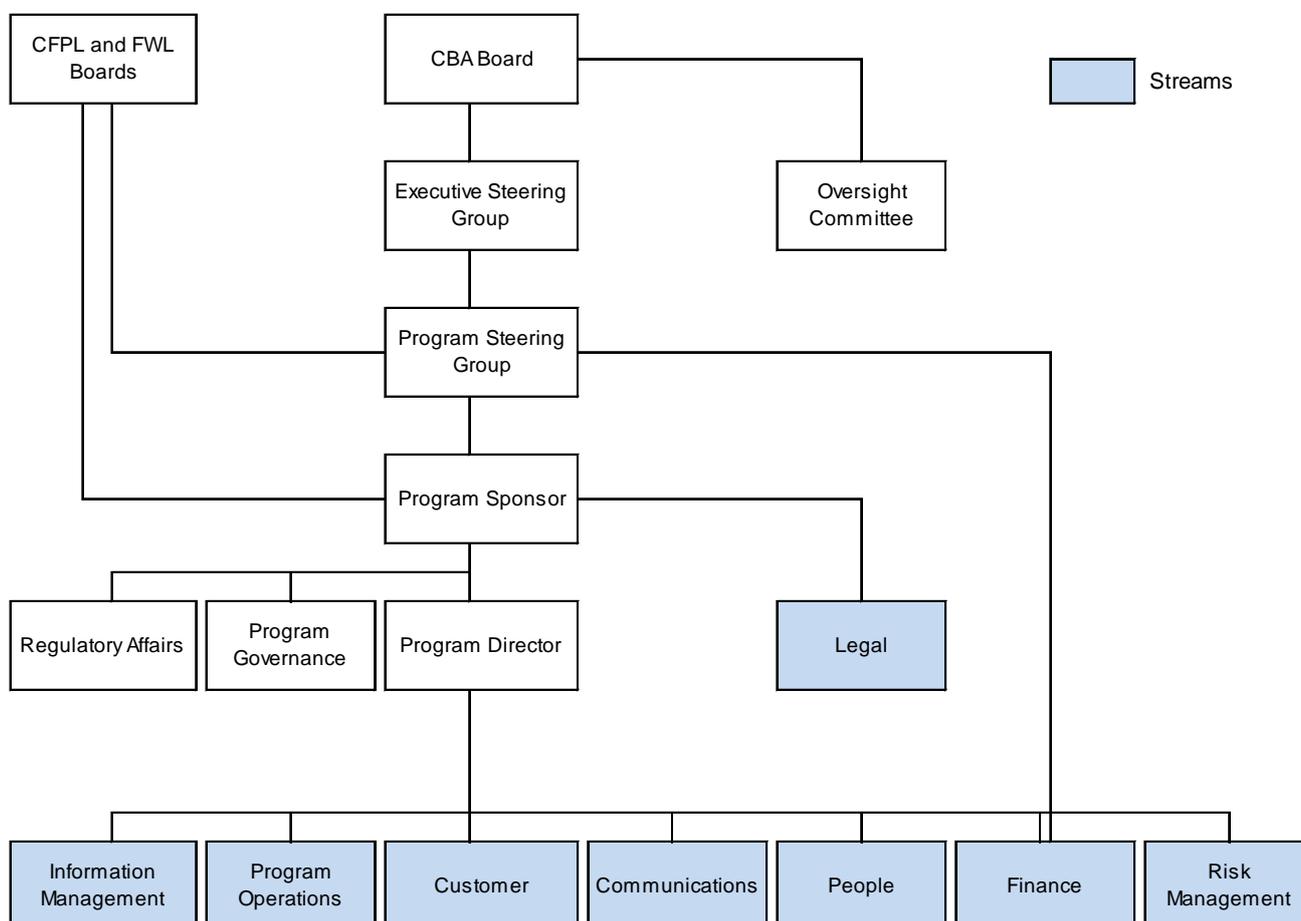
⁸ Assessment Managers are responsible for reviewing customer cases and providing a first-round assessment of the appropriateness of advice received. Review Managers are responsible for communicating and guiding customers through their assessment outcomes, once case assessment begins.

⁹ Section 3.1.4 below provides further details around the initiatives taken to improve customer file retrievals in the Program.

¹⁰ Assessment Managers will be required to meet relevant ASIC Regulatory Guide 146 minimum requirements for provision of personal advice, even though they do not provide advice to customers.

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Figure 3.2: Program Governance Structure



Ongoing reporting of the Program's progress and related issues to the Program Steering Group (PSG), Executive Steering Group (ESG), and Boards of CBA, CFPL and FWL have continued throughout 2015. The parent CBA Board has been updated on the Program three times this year (in February, March and April) while a Board oversight committee has also met on several occasions in 2015.¹¹ The PSG and ESG continue to convene on a regular (fortnightly) basis, while the CFPL and FWL Boards receive updates on the Program on a monthly basis (and when otherwise required).

3.1.3. IT systems and tools

In our Initial Report, Promontory noted a number of the initiatives the Bank had undertaken in relation to the systems and databases used to support the Program's implementation. In 2014, these initiatives focused

¹¹ The Oversight Committee is a sub-committee of the parent CBA Board, is headed by the Chairman of the CBA Board and includes three other directors from the CBA Board.

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largely on the development and implementation of scalable and secure systems for dealing with the Program's registrations (including the matching of registration data to information in the Bank's other systems), information and document management, and customer relationship management (CRM).

Over the course of 2015, the Bank has continued to make investments into its IT infrastructure and support applications to facilitate the Program's implementation. These enhancements have included:

- the development and release of a consolidated Advice Remediation Database (ARDB) for storing all customer and case data used in the Program from December 2014;¹²
- the development and rollout of a database to manage the mail-out of letters regarding the Program to CFPL customers in January and February 2015, as part of the Program's extended customer contact awareness campaign (refer to Section 3.2.1 below);¹³
- greater interaction and connectivity between ARDB and the Program's CRM and advice review applications in March 2015;
- the on-going development and use of a "Catalogue and Collect" software tool that assists the Program's file retrieval team with more efficient identification and collection of customer advice files (refer to Section 3.1.4 for further details);
- the rollout of a secure, third-party electronic data storage facility for distributing relevant documents to the Program's independent parties; and
- the migration of the Program's previous document repository onto a new platform that is aligned with the Bank's platform for storage of document images (completed in April 2015).

Since the end of 2014, the Bank has also spent considerable effort in developing and refining two important components of its advice review system.

The first component, referred to as the Case Assessment Tool (CAT), is a step-by-step case workflow tool that helps track and record case assessments made by the Bank's assessment team. The CAT was developed following the completion of the Pilot, and provides a more systematic means of tracking and recording the relevant facts, considerations and analysis completed by the Bank's assessment team.¹⁴ The CAT was yet to be deployed in a live production setting as at 30 April 2015, although testing of the tool had commenced in mid-April and a gradual rollout of the tool commenced in May 2015.

The second component of the advice review system that the Bank has refined over 2015 is the Program's compensation model. The compensation model represents the Bank's methodology for determining compensation amounts payable to customers assessed as having received poor financial advice under the Program. The model allows the Bank's assessment team to input relevant data (such as a customer's actual investment portfolio, appropriate advice portfolio, interest rates, and start and end dates for calculations) to

¹² The ARDB aims to consolidate all relevant case and customer data from the Program into the single database. The initial release occurred in December 2014 and several other releases (involving data migrations) have occurred in March and April 2015.

¹³ The database was created to manage the unique codes assigned to each mail-out recipient and allowed for the automatic creation of case identification numbers on receipt of an expression of interest from customers.

¹⁴ Further context regarding the development of the CAT is set out in Section 4.4.

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calculate compensation amounts without the need for highly manual computations. The model was developed using one of the models used by the Bank in past remediation programs, and has since been subject to some minor refinements. The model is currently subject to a model validation from an external party to the Bank, with this validation expected to be completed in June 2015.¹⁵

Other future enhancements that the Bank has targeted in relation to IT systems development include:

- ongoing refinements to the Program's CRM and advice review applications to view all documents and metadata held in various CBA systems more easily – allowing for greater efficiency in case assessments;
- introduction of a separate database to house third-party fund manager product and transactions data that enables this information to be matched to customers in the Program; and
- further refinements to the advice review application to allow for more automated and consistent generation of correspondence to customers.

3.1.4. Customer file retrieval

A continuing challenge that the OAR program has faced as a result of its open nature and long Review Period is the retrieval of all relevant customer advice files related to a case. The file retrieval process is critical in the Program. In practical terms, a case assessment cannot commence until every effort is made to retrieve a file that adequately sets out the advice the customer received (and the basis on which that advice was provided).

In our Initial Report, Promontory provided a brief overview of the various processes the Bank had established to retrieve customer files from various systems and locations, including files stored on the Bank's IT systems and hardcopy documents residing in the Bank's storage and archiving facilities across the country.

Since the time of our Initial Report, the Bank has made a number of additional enhancements to the file retrieval process it adopted for the Program – particularly in relation to the retrieval of hard copy files located across CBA branches and archiving sites. The aim of these improvements has been to more efficiently identify, catalogue, collate and process all advice files for cases registered in the Program. These refinements have included:

- the development and implementation of a "Catalogue and Collect" software tool that provides a central repository to catalogue all hardcopy CFPL customer files found across CBA's branches, document archiving sites and other locations;¹⁶
- the deployment of more staff at locations where customer advice files have been stored or archived;¹⁷

¹⁵ Promontory has also reviewed the key assumptions and methodologies underpinning the compensation model, and has not identified any significant concerns with the methodology to date.

¹⁶ Once complete (estimated to be end August 2015), the "Catalogue and Collect" software tool is expected to provide a catalogue of *all* hardcopy advice files across CFPL (including CFPL customers who have not registered for the Program). At this stage, files relating to FWL practices will not be catalogued using the tool given the differences in accessing FWL customer files.

¹⁷ For example, since April 2015, the Bank has deployed more than 25 staff across six of its document archiving facilities to catalogue and collect files. Figure 3.1 illustrates the increase in Information Management resources dedicated to the ARp team.

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- improvements in the co-ordination process to retrieve files, with staff now identifying and retrieving files that may be relevant to the Program at the same time as they are cataloguing advice files (reducing the need to make multiple trips to the same location); and
- ongoing improvements to the distribution and processing of customer advice files that have been collected, including the implementation of systems and databases used to track the movement of files between locations.

Although the refinements that have been made by the Bank have improved the efficiency of customer file retrievals, the Bank has (and will continue to) manage a number of challenges associated with the cataloguing of all CFPL customer files. These challenges include:

- difficulties in confirming whether a customer's advice files are complete, given that files could be distributed across many locations;
- the potential for some older customer advice files to have been destroyed, in accordance with the Bank's document retention policies and regulatory guidelines;¹⁸
- poor record management in some of the Bank's document archiving facilities;
- logistical challenges regarding document storage at various locations where the Bank's file retrieval team are located, given the large volume of files collated; and
- incomplete data capture for some original files, such as cases where the name of each adviser who provided advice to the customer during the Review Period is not stated.

Several initiatives have been undertaken by the Bank to mitigate the risks associated with these challenges. These initiatives include the further extraction of data from the Bank's IT systems to identify adviser names that may be missing, and cross-checks between data in the "Catalogue and Collect" software tool against data that are available from other Bank systems. The Bank also anticipates utilising more CBA branch staff on a temporary basis to assist in completing the cataloguing process (subject to such staff passing relevant security checks).

The Bank has indicated that, in the event that a customer's advice file remains incomplete after all efforts to retrieve files from physical locations have been exhausted, a standard procedure that attempts to identify the advice provided to the customer will be implemented. The Bank has yet to finalise the procedures that will apply in these circumstances.

¹⁸ Australian Financial Services licensees that provide personal advice (such as CFPL and FWL) are required to retain a copy of every Statement of Advice provided to a retail customer for at least seven years. To prevent the risk of further destruction of any customer advice files that may be relevant to the Program, the Bank requested a stop on the destruction of advice files at its document archiving sites shortly following the commencement of the Program.

3.2. Awareness and communications

3.2.1. CFPL mail-out

On 2 November 2014, the Bank announced that it would extend its customer contact for the OAR program by mailing out to more than 300,000 customers of CFPL.

On 29 January 2015, the Bank implemented its extended customer contact awareness campaign by mailing out letters about the Program to nearly 350,000 households. The mail-out targeted all customers who held a product issued by Colonial First State, CommInsure or CommSec as at January 2015, and had received advice from CFPL during the Review Period.¹⁹ The total number of letters sent out over January and February 2015 ultimately reached 348,255.

The letter notified recipients of the existence of the Program, and invited them to contact the Bank if they had any concerns about the advice they received from CFPL. Recipients were provided three avenues (mail, internet or phone) to contact the Bank and request additional information about the Program. All recipients were also provided a unique code in their letter to allow them to easily verify their details when requesting additional information.

Those persons who requested further information from the Bank were sent an information pack containing additional details about the Program, and a number of forms to complete (namely, a *You and Your Advice* form, and an Authority form for customers wishing to nominate a third-party to represent them in the Program). Customers must return a *You and Your Advice* form to formally register for the Program and have their case assessed.²⁰

The response rate to the Bank's mail-out initiative is covered in Section 5.1 of this Report.

3.2.2. Other awareness initiatives undertaken

In addition to the extended customer contact awareness campaign conducted through the mail-out, the Bank has continued to raise awareness of the Program through other initiatives.

In our Initial Report, Promontory noted that the Bank would explore alternative methods of reaching customers of FWL given contractual limitations on CBA to contact the customers of independently owned FWL practices. On 27 February 2015, the Bank wrote to each FWL practice principal and requested that they communicate the details of the OAR program to each of their customers. The request included a communications kit (containing a customisable draft cover letter and Program brochure) that could be sent to FWL customers (or to the estates of deceased customers) to inform them of the Program. This initiative was undertaken by the Bank to provide another means of raising awareness of the Program for FWL customers (beyond advertising) given the contractual limitations noted earlier.

Over the course of March and April 2015, the Bank undertook additional advertising across the country through the other elements of its Program awareness strategy. This additional advertising included:

¹⁹ The scope of this mail-out includes customers who may no longer receive advice from a representative of CFPL.

²⁰ As discussed in further detail in Section 3.3 below, this practice differed slightly to that applied by the Bank prior to the mail-out.

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- half-page advertisements in major metropolitan newspapers across capital cities in Australia on several dates in March and April 2015;
- half-page advertisements in a wide range of rural and regional news publications across each state in Australia from April 2015 (see below for further details); and
- further distribution of Program information packs and brochures to various community groups and associations including National Seniors, Council of the Ageing state offices, Australian Shareholders' Association, Australian Pensioners and Superannuants League, Older Women's Network, and Combined Pensioners and Superannuants Association.

The advertisements placed in rural and regional newspapers from April 2015 drew on the results of the analytics work completed as part of the Bank's Program awareness strategy. In particular, the analytics work identified potential segments of the population that had yet to be targeted in previous Program advertising campaigns, and focused on these areas. Table 3.1 below summarises the publications where additional advertising of the Program was placed in rural and regional centres across the country.

Table 3.1: Rural and regional advertising placements

State / Territory	Publications
New South Wales	Coffs Coast Advocate Great Lakes Advocate Illawarra Mercury Northern Daily Leader Port Macquarie Express The Area News The Newcastle Herald The Northern Star Wagga Daily Advertiser
Northern Territory	NT News
Queensland	Beaudesert Times Rural Weekly (South West QLD) Sunshine Coast Daily The Cairns Post The Gold Coast Bulletin The Morning Bulletin The Queensland Times The Townsville Bulletin
South Australia	Murray Pioneer
Tasmania	The Hobart Mercury The Launceston Examiner
Victoria	Geelong Advertiser Shepparton News Sunraysia Daily
Western Australia	Busselton Dunsborough Mail Geraldton Guardian Kalgoorlie Miner Pilbara News

The Bank has also continued to run its digital advertising Program awareness strategy through the use of search engine marketing and its dedicated Program landing page on CBA's website. As at 28 April 2015, the Bank advised that more than 35,000 unique visitors had visited the Program campaign landing page since the Program was announced in July 2014 (up from approximately 24,000 as at the end of December 2014).

3.3. Changes to Program registration process

There have been relatively few changes to the Program's overall design features since the time of our Initial Report.²¹ One change that has occurred relates to the Program's registration process where, from late January 2015, customers who have wished to express interest in the Program and request additional information about the Program have been able to do so more easily. This change occurred as a result of the extended customer contact awareness campaign conducted in early 2015, where customers who were sent a letter notifying them of the Program were provided a unique code that they could use to readily view their details and confirm their interest in the Program.

As a consequence of this change, the Bank made a number of minor changes to its classification of cases "registered" in the Program. In particular, from 23 January 2015, the Bank has classified customers as being formally "registered" for the Program only once a *You and Your Advice* form has been returned.²² The Bank also amended its customer contact procedures in early 2015 given it no longer needed to contact all customers in the Program to confirm their details.

The Bank's Program documents have been amended to reflect these changes to the registration process.

²¹ The design features noted here relate to the Program's eligibility criteria, registration process, independent safeguards and reporting mechanisms. It does not cover the underlying systems used to support the Program's implementation (which are discussed in greater detail in Section 3.1), nor does it cover the detailed aspects of the Bank's case assessment processes (which are discussed in Section 4 below).

²² Persons who registered for the Program prior to 23 January 2015 continue to be classified as registrations by the Bank (regardless of whether a *You and Your Advice* form has been returned).

4. Implementation of the Pilot Program

4.1. Background

As set out in our Initial Report, CBA implemented a Pilot Program, commencing in November 2014, to test and refine the processes that will be used to assess cases under the full Program. The Pilot involved an assessment of 60 cases jointly selected by CBA and the ICAs, and contained a number of safeguards to ensure that customers participating in the Pilot would not be disadvantaged from potential changes to the assessment process following its completion. These safeguards included:

- representation by one of the three appointed ICAs for each participant in the Pilot;
- the ongoing opportunity for participants to continue in the Program and access the Independent Review Panel (Independent Panel) if they remain unsatisfied with the assessment outcome determined by the Bank;²³ and
- mechanisms introduced by the Bank to allow cases in the Pilot to be re-assessed under certain conditions.²⁴

Each customer nominated and selected for the Pilot participated on a voluntary basis.

4.2. Process for assessing cases in the Pilot

All 60 cases that were selected for the Pilot were assessed against a preliminary set of assessment guidelines and methodology (including a loss calculation methodology) developed by the Bank.

The preliminary assessment methodology sets out the range of factors and considerations that the Bank's assessment team was required to consider in forming an opinion on the appropriateness of advice provided to a customer. This methodology was supported by a set of preliminary assessment guidelines, which provided more specific guidance on how various factors identified in the methodology should be analysed and assessed by the Bank's assessment team. The factors included, *inter alia*: customer risk appetite; investment experience; investment horizon; asset allocation; financial goals and objectives; and relevant personal circumstances.

The loss calculation methodology sets out the assumptions and computational procedures underlying the Program's compensation model. The loss calculation methodology includes procedures for:

- selecting an appropriate investment portfolio that could be used to compare financial outcomes between a customer's actual investments and a portfolio that would have been appropriate for the customer at the time advice was given;

²³ Subject to a customer's ICA certifying that he/she has reasonable prospects of exceeding the assessment outcome determined by the Bank by a material amount.

²⁴ In particular, where changes to an assessment or loss calculation methodology have been made by the Bank that would have the effect of increasing the amount of compensation offered to a customer in the Pilot, or where a decision has been made by the Independent Panel in respect of a case which was assessed as part of the Pilot.

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- selecting start and end dates for compensation calculations;
- assessing fee refunds, where they are applicable; and
- applying interest to compensation amounts for forgone losses and opportunity costs, where applicable.

The assessment guidelines and methodology (including the loss calculation methodology) developed for the Pilot were provided to Promontory. Findings from our review of these preliminary assessment guidelines and methodology, including their application to the cases in the Pilot, are set out in Section 4.5.1.

4.3. Outcomes of the Pilot

As noted above, CBA commenced the assessment of cases in the Pilot in late 2014. An initial group of nine cases in the Pilot had their assessments completed by the end of December 2014, with customers notified of their assessment outcomes in letters issued by the Bank. A further 10 cases had their assessments completed in January 2015, with an additional 34 cases having their assessments completed in February 2015. By 20 March 2015, assessment outcome letters had been issued to all but one of the 60 cases in the Pilot, with the last remaining assessment outcome letter issued on 17 April 2015.

4.3.1. Assessment outcomes issued by the Bank

A summary of the assessment outcomes issued by the Bank for the 60 cases in the Pilot is summarised in Table 4.1 below.

Table 4.1: Assessment outcomes from Pilot

Outcome	Number of cases as at 30 April 2015
Advice appropriate	47
Poor or incorrectly implemented advice found – no compensation offered as no financial loss resulted from the poor or incorrectly implemented advice	2
Poor or incorrectly implemented advice found – compensation offered	9
Fee refund offered ²⁵	2
TOTAL	60

As Table 4.1 illustrates, there were 13 cases where an issue was found with the advice provided to the customer or where a fee refund was offered to the customer. Of these 13 cases:

²⁵ These are cases where the compensation offered consisted entirely of a fee refund. Cases that involved both poor advice (which resulted in the customer suffering financial loss) and a fee refund are covered in the "Poor or incorrectly implemented advice found - compensation offered" category.

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- two cases were found to have involved poor advice (or incorrect implementation of advice) but were assessed by the Bank not to have resulted in the customer suffering a financial loss due to the poor advice (hence, no offer of compensation was made);
- nine cases were found to have involved poor advice (or incorrect implementation of advice), which resulted in the customer suffering a financial loss (with an offer of compensation made); and
- two cases involved fees being refunded to the customer due to the over-charging and/or the non-disclosure of advice fees paid by the customer (with the advice being assessed as otherwise appropriate).

We highlight that the assessment of fees is one area of the assessment process that was still subject to finalisation as at 30 April 2015. The two fee assessments noted above were both relatively straightforward. In addition to these two cases, the Bank has identified other potential issues in its advice business where customers may have been charged an advice service fee even though not all of the services paid for were received by the customer. The Bank is currently in the process of investigating the issue further, and is working to develop an approach that addresses such issues (for customers who participated in the Pilot as well as those outside of the Pilot). The Bank has indicated that, where the fee issue affects customers who have had their assessments completed, the Bank will notify those customers of the additional steps the Bank will take to address the issue.

The total amounts of compensation that had been offered and paid by the Bank in relation to the cases in the Pilot as at 30 April 2015 are set out in Table 4.2 below.

Table 4.2: Compensation amounts from Pilot

Compensation	Amount as at 30 April 2015
Offered by the Bank	\$216,611
Paid by the Bank	\$49,702

The \$49,702 paid in compensation in the Pilot as at 30 April 2015 encompassed payments made to two cases. The remaining \$166,909 in compensation that had been offered but not yet paid related to Pilot cases where the offer was still under review (offers amounting to \$68,204), and offers that had been accepted by customers but where payment had yet to be processed by the Bank as at 30 April 2015 (offers amounting to \$98,705).

4.3.2. Response to assessment outcomes

Following the receipt of an assessment outcome from the Bank, customers have a number of options relating to how they may respond to the Bank. If an offer of compensation is made, the customer can:

1. accept the offer (and subsequently exit the Program);
2. reject the offer and provide the Bank with a counter-offer (with the potential to escalate the matter to the Independent Panel if an outcome cannot be agreed with the Bank); or

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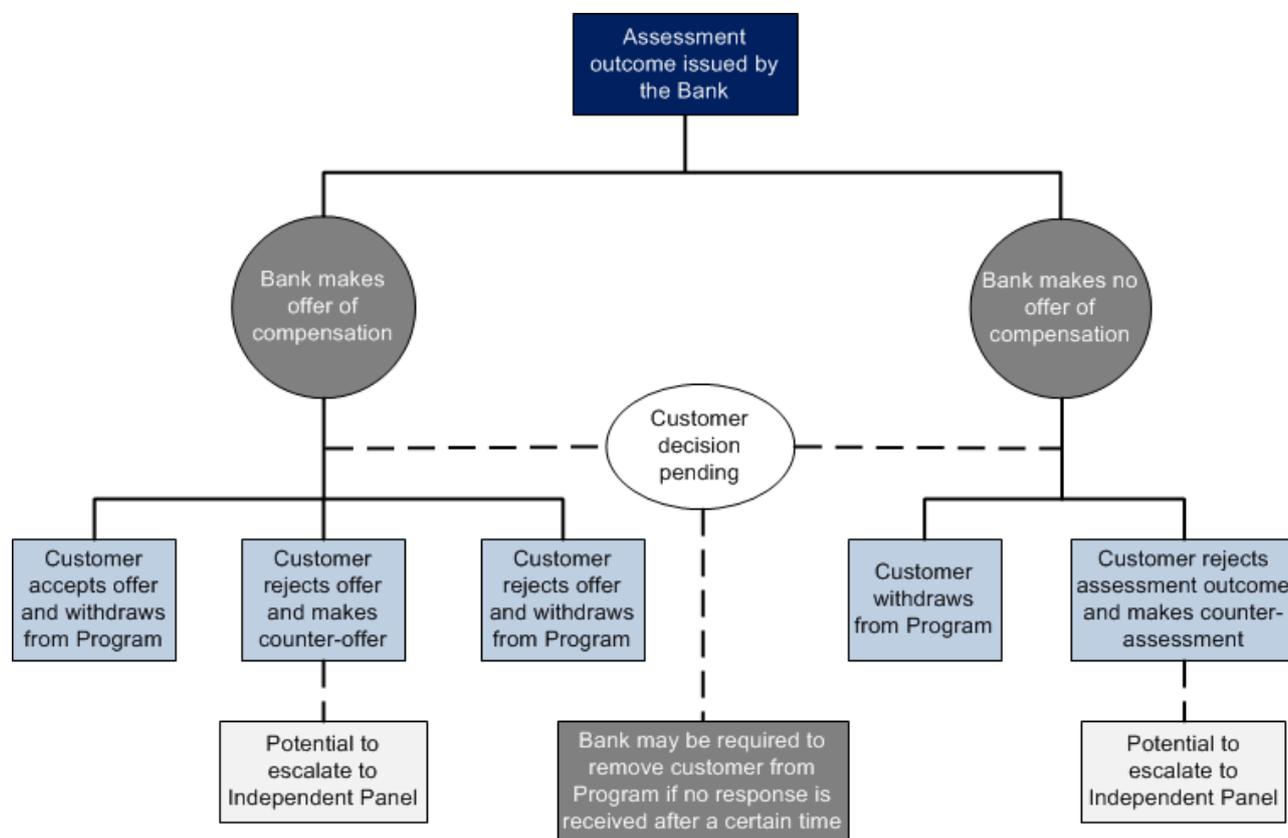
3. reject the offer and withdraw from the Program.

If an offer of compensation is not made by the Bank, the customer can:

1. reject the assessment outcome and provide the Bank with a counter-assessment (with the potential to escalate the matter to the Independent Panel if an outcome cannot be agreed with the Bank); or
2. withdraw from the Program.²⁶

Figure 4.1 provides a summary of the responses available to a customer following receipt of an assessment outcome.

Figure 4.1: Potential customer responses to the Bank's assessment outcome



As at 30 April 2015, the Bank had received a response from customers in 43 out of the 60 cases in the Pilot. Customer responses remained pending in the other 17 cases. A summary of the responses that had been received by the Bank as at 30 April 2015 is set out in Table 4.3 below.

²⁶ In the event a customer is provided no offer of compensation from the Bank, the Bank may be unable to determine the reason for the customer withdrawing from the Program (i.e., whether the customer accepted or disagreed with the Bank's assessment outcome) due to no further contact from the customer.

Table 4.3: Customer response to assessment outcomes from the Pilot

Response	Number of cases as at 30 April 2015
Cases where an offer of compensation was made:	11
Customer accepted offer	4
Customer rejected offer and made a counter-offer	4
Customer rejected offer and withdrew from Program	0
Customer response was pending	3
Cases where no offer of compensation was made:	49
Customer rejected outcome and made a counter-assessment	18
Customer withdrew from Program	17
Customer response was pending	14

For each case where a counter-offer or counter-assessment was made, the Bank had yet to provide a formal response to these counters as at 30 April 2015. The Bank has indicated that it will engage with customers (and/or their ICAs) on the merits of their respective counter-offer or counter-assessment before deciding on potential changes to assessment outcomes or offers.

The Bank is also continuing to engage with the ICAs in respect of those cases where a response remains pending.

4.4. Lessons from the Pilot

As noted in our Initial Report, CBA's decision to implement a Pilot for the OAR program was driven, in part, by the unique features and complexities associated with the Program's design. The Bank recognised that, given the open nature of the Program and long Review Period involved, the Bank's processes for assessing cases in the Program were likely to benefit from further testing and refinement prior to full implementation. The Bank saw the Pilot as an opportunity to identify areas where it could enhance its assessment processes prior to full implementation, so as to facilitate more consistent, reliable and traceable outcomes under the full Program.

As the Pilot progressed, the Bank identified numerous opportunities to enhance its assessment processes based on the experience gained in assessing the 60 cases. These opportunities included enhancements that would allow for:

- greater scalability and efficiency in the Bank's assessment processes, particularly in light of the relatively time-consuming processes involved with recording assessment outcomes for cases in the Pilot;
- greater traceability in the recording of assessment outputs, so that outcomes would be more readily verifiable by CBA's peer reviewers, senior management as well as relevant external parties such as Promontory; and

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- more structured and streamlined decision making, by eliminating as much subjectivity and discretion in the case assessment process as possible.

To account for the lessons it identified in the Pilot, the Bank worked on a number of enhancements to its assessment processes over February to April 2015. These enhancements centred on the development of a more structured assessment framework referred to by the Bank as the “Advice Review program Solution” (ARp Solution). The ARp Solution aimed to streamline the case assessment process, and increase the efficiency, traceability and consistency of outcomes by bringing together several related components, including:

- a revised overarching assessment methodology that is based on a series of questions designed to provide more structure to the decision-making and case assessment process;
- the development of Standard Operating Procedures for various functions involved in the end-to-end assessment process, to clarify procedures and responsibilities at various stages of the assessment;
- more detailed assessment guidelines that provide clearer instructions and assistance to Assessment Managers in identifying potential triggers that could render advice inappropriate; and
- the development of the CAT, which translates the assessment methodology into a step-by-step process that Assessment Managers must progress through, and which helps to maintain more effective records of case assessments.

The Bank implemented several streams of work to support the ARp Solution’s development, and the refinements that were made to the underlying assessment guidelines and methodology. These work streams included an examination of relevant guidelines and legal principles throughout the Review Period, and investigations into the practices and standards applied by CFPL and FWL.

The work that was undertaken to support the ARp Solution’s development required time and resources from the Bank, and has contributed to the length of time needed to progress cases to the Assessment stage of the Program. With many of the essential components of the ARp Solution now close to finalisation and implementation, the Bank expects to be able to accelerate the volume of cases it assesses over the next six months.

Promontory’s assessment of the refinements that were made as a result of the lessons learned from the Pilot is set out in Section 4.5.1 below.

4.5. Promontory’s oversight role

Promontory’s role in the Pilot was to oversee the implementation of the exercise, and to report on the outcomes in this Report. Our oversight role aimed to:

- provide us with greater visibility and comfort over the assessment processes that will be applied by the Bank to achieve the Program’s objectives;
- assist us to test and refine our own methodologies for case sampling and review that will apply under the full Program; and
- provide transparency and a level of assurance to the public regarding the implementation of the Pilot.

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In order to perform our role, Promontory was provided access to various documents and information that allowed us to understand how the Pilot was implemented, the outcomes that were achieved, and the types of engagement that occurred between various parties involved in the Pilot (such as interactions between the Bank and the ICAs). In particular, Promontory was provided:

- all advice files retrieved by the Bank or provided by the customer for each case in the Pilot;
- all formal correspondence to customers outlining the assessment outcomes completed by the Bank;
- summaries of the general comments and responses received by the Bank in its engagement with the ICAs during the course of the Pilot; and
- preliminary assessment guidelines and methodology documents that set out the factors and considerations CBA's assessment team used to assess cases in the Pilot.

In reviewing the information that was provided to us, Promontory was cognisant of the developmental nature of the Pilot and its critical role in shaping the Bank's approach to ensuring fair and consistent outcomes under the full Program. Our approach to reviewing the information that was provided to us (including each of the 60 cases involved) was therefore targeted at:

- understanding how the preliminary assessment guidelines and methodology developed by the Bank would help achieve the objectives of the Program;
- identifying how the Bank's assessment processes could be further improved to help achieve the objectives of the Program; and
- identifying the information and documents required by Promontory to undertake our review role under the full Program (including information that would be necessary to conduct our sampling).

We should be clear that, although we reviewed each of the 60 cases that were assessed in the Pilot, our focus in reviewing these cases was not to confirm whether the Bank's documented assessment processes (which were still in a preliminary state) were adhered to. As noted above, we were conscious of the developmental nature of the assessment processes that were applied in the Pilot, and considered that the most effective application of our resources was to focus on ways in which the Bank's assessment processes could be further enhanced to achieve the Program's objectives. Our findings in relation to this review are set out below.

4.5.1. Our findings on the Pilot

As outlined above, Promontory was provided preliminary assessment guidelines and methodology documents that were used to inform the Bank's assessment of cases in the Pilot. Promontory was also provided the outputs of case assessments completed by the Bank. The outputs documented the facts, considerations and conclusions that were made by CBA's assessment team in determining case assessment outcomes.

Promontory made a number of observations in reviewing the preliminary assessment guidelines and methodology documents that were provided to us. These included the following:

- The preliminary assessment guidelines and methodology that were developed for the Pilot drew on, where relevant, case assessment processes that were applied in past remediation projects completed by the Bank. The Bank recognised, and Promontory agreed, that a number of adjustments to the case

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assessment process were needed for the OAR program, given the long Review Period and customer-initiated nature of the Program. These adjustments included introducing processes to take account of specific customer concerns raised in *You and Your Advice* forms (not a feature of past remediation programs), and refining the processes to deal with customer concerns about potential fraud or forgery (given the involvement of the Independent Forensic Expert in the Program).

- Although the preliminary assessment guidelines and methodology covered a broad set of relevant considerations, we found a number of limitations associated with the processes including:
 - insufficiently detailed guidelines or instructions to direct the decision-making process for CBA's assessment team – particularly in relation to how a customer's risk profile and relevant personal circumstances were to be assessed in determining appropriate investment strategies and asset allocations for a customer;
 - a lack of clarity in the way certain factors were to be assessed, such as guidance on how to deal with insufficient or conflicting information in a case, how to assess the suitability of products recommended by an adviser, and how to assess the appropriateness of advice fees paid by a customer; and
 - a considerable reliance on the skill and judgement of the Bank's individual Assessment Managers to collate the relevant information necessary to conduct the assessment and reach an outcome.
- In our view, the limitations in the assessment process had the potential to impact our ability to assess the consistency of case assessments in the Program. We also believed that the reliance placed on individual Assessment Managers to make judgements in a number of areas of the assessment process had the potential to make outcomes more prone to inconsistencies. Although we recognised the Bank had introduced controls to help maintain the consistency of judgements and outcomes across cases in the Pilot (e.g., through appropriate peer review and senior management approval processes), we believed there were opportunities to better structure the assessment process to deliver outcomes more consistently under the Program.

Promontory also reviewed the Bank's assessment of the 60 cases in the Pilot to understand how the preliminary assessment guidelines and methodology documents were applied, and how this might impact on our own review processes going forward. Our main observation in relation to this aspect of our review was that we found it difficult to trace and verify whether each aspect of the Bank's assessment processes (as documented in the preliminary assessment guidelines and methodology) was adhered to for all cases in the Pilot. This difficulty arose primarily from a lack of clear traceability within some of the Bank's recorded assessment outputs as to the considerations made by the Bank's assessment team.

Given the observations noted above, Promontory's main conclusion from the Pilot was that, unless certain limitations in the Bank's assessment guidelines, methodology and recording of assessment outcomes were addressed, we would find it difficult to confirm in our future sampling whether cases were being assessed in a manner that was consistent with the Program's documented processes. We therefore advised the Bank of the need to make material refinements to its assessment process, so that the outcomes and judgements made by the Bank's assessment team would be more transparent to us in the full Program.

The Bank accepted our observations and findings from the Pilot, and noted that many of the observations we identified were similar to those raised internally within the Bank as it progressed through the Pilot. The Bank provided us with the work that it had undertaken to develop the ARp Solution, including the refinements made

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to the underlying assessment guidelines and methodology noted in Section 4.4 above. In April 2015, Promontory commenced reviewing aspects of the ARp Solution and its underlying components. Although we believe some aspects of the assessment process will still require further refinement as the Program evolves, our overall view of the developments is positive. In particular, we believe that material improvements have been made to the Bank's assessment processes since the completion of the Pilot. These improvements should help deliver outcomes that are more transparent to us and consistent for customers in the Program.

Given some of the observations that we identified in the Pilot, and the subsequent improvements that have been made to the Bank's assessment processes, the Bank has indicated that it will undertake a further review of all cases in the Pilot where we found it difficult to verify adherence to the Program's documented processes. This review will involve a re-assessment of the cases using the refined methodology and tools embedded in the ARp Solution. The Bank's commitment to undertake this review is consistent with the safeguards introduced as part of the Pilot, and aims to provide additional assurance to participants in the Pilot that they were not disadvantaged from having participated.

4.6. Other observations

Another important feature of the Pilot was the involvement of the three appointed ICAs to challenge and question the assessment processes that would be applied by the Bank in the Program. As noted above, each customer in the Pilot was required to be represented by an ICA.

In order to assist the ICAs in their representation of customers in the Pilot, the Bank provided the ICAs with access to their customers' advice files and other documents retrieved by the Bank. The Bank also engaged in a number of workshops with the ICAs (collectively and on an individual basis) to provide them with a better understanding of the assessment processes applied by the Bank to determine assessment outcomes. The workshops provided the ICAs with an opportunity to raise issues identified with the assessment process, and to provide feedback on areas where further validation or clarification was required.²⁷

In addition to the workshops, the Bank also engaged the ICAs through a range of other channels on a regular basis, including:

- teleconferences and individual meetings between representatives of the Bank and each ICA to discuss issues specific to each ICA (such as the timeliness of responses and the treatment of individual cases being reviewed by the ICA);
- the provision of reports and discussions papers to the ICAs that address the Bank's approach to certain aspects of the assessment process (such as compensation calculations and the appropriateness of investment portfolios used to compare financial outcomes in the compensation model); and
- an information session on the third-party electronic data storage facility used to enable the distribution and exchange of documents in a secure online environment.

The Bank continues to engage with the ICAs on their readiness to deal with large case volumes going forward, given the expected acceleration of case assessments over the next six months.

²⁷ Feedback was provided to the Bank on a number of areas of the assessment process, including the Program's compensation model, the appropriateness of products in certain customer segments, and the notification of product risk to customers.

5. Program statistics

In our Initial Report, Promontory provided an update on the number of customers who had registered and progressed through the earlier stages of the Program as at 15 December 2014. This section of the Report provides a further update on the number of customers progressed through the various stages of the Program as at 30 April 2015. It also provides an update on assessment outcomes issued by the Bank, and offers of compensation.

For the purposes of the Program, customers who express an interest in the Program are assigned a "case number". A "case" can include more than one customer (for example, customers who received advice together). The figures quoted in this section refer to cases in the Program.²⁸

All figures quoted in this section include the 60 cases that were assessed as part of the Pilot.

5.1 Expressions of interest

As discussed in Section 3.3, the Bank made a number of changes to the Program's registration process in January 2015, following the extension of its customer contact awareness campaign in early 2015. The change in registration process saw a re-classification of cases considered to be formally "registered" for the Program from 23 January 2015. From this date, a case was considered to be registered for the Program only after the customer had returned a *You and Your Advice* form to the Bank. Cases where the customer had yet to return a *You and Your Advice* form (but had otherwise expressed an interest in the Program by requesting additional information) would be classified as cases that had "expressed interest" in the Program.

The total number of cases that had expressed interest in the Program as at 30 April 2015 is set out in Table 5.1 below. We note that the total number of cases reported in Table 5.1 includes those that have progressed through to other stages of the Program, but excludes duplicate registrations that have been identified by CBA.²⁹

Table 5.1: Cases that have expressed interest

Number of cases that have:	Prior Total ³⁰ as at 15/12/2014	New	Total as at 30/4/2015
Expressed interest	4,661	17,774	22,435

As Table 5.1 illustrates, there has been a substantial increase in the number of cases that have expressed interest since the end of 2014. The increase of 17,774 new cases in the Program was driven primarily by the

²⁸ As the Bank receives additional information from customers during the course of the Program, it may decide to combine certain related cases together (e.g., where a married couple took out a joint policy but expressed interest in the Program separately). The number of cases reported here may therefore be subject to change over time given additional information received by the Bank.

²⁹ The Bank had identified 794 duplicate cases as at 30 April 2015.

³⁰ The figure of 4,661 cases noted here compares to a figure of 4,702 registrations reported in our Initial Report. The Bank has notified us that the difference of 41 cases is due to additional cases being identified as duplicate or test cases from the registration figures we reported in our Initial Report.

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extended customer contact awareness campaign initiated in early 2015, where close to 90% of new cases that had expressed interest in the Program since the campaign was initiated had done so by responding to the mail-out.

5.2 Customer contact

Table 5.2 below provides an update on the number of cases in the Program where information packs had been sent by the Bank as at 30 April 2015. As discussed in Section 3.3, the Bank no longer contacts all customers who express interest in the Program prior to sending out an information pack, given changes made to the way in which the Bank confirmed customer details as part of the extended customer awareness campaign.

Table 5.2: Information packs sent

Number of cases where:	Total as at 30/4/2015
Information pack sent	20,456
Information pack not sent	1,979
TOTAL	22,435

Table 5.2 indicates that approximately 91% of cases had received an information pack from the Bank as at 30 April 2015. The Bank has indicated that the remaining 1,979 cases where an information pack had not been sent as at 30 April 2015 related to cases:

- where the Bank was in the process of obtaining further contact details in order to send an information pack (approximately 67% of the 1,979 cases);
- that had only recently expressed interest in the Program (25%);
- that had withdrawn from the Program prior to receiving an information pack (3%); and
- that had not been sent an information pack for various other reasons (5%).³¹

5.3 Case progression

In our Initial Report, Promontory noted that the Bank had commenced receiving *You and Your Advice* forms from customers in the Program, but had yet to begin formal assessment of cases outside of those in the Pilot. Since that time, a significant increase in the number of *You and Your Advice* forms have been returned to the Bank, and the Bank had (as at 30 April 2015) completed over 200 case assessments in the Program (including those assessed under the Pilot).

³¹ This category includes customers who had been contacted multiple times by the Bank without success, cases where customers had indicated a preference to receive the information pack via their ICA, and cases that were in the process of being sent an information pack as at 30 April 2015.

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Table 5.3 and Figure 5.1 set out the total number of cases that had progressed through the various stages of the Program (beyond the expression of interest stage) as at 30 April 2015.

The figures presented in Table 5.3 and Figure 5.1 are based on the following definitions of each stage:

- **Registration:** refers to cases that had expressed interest on or after 23 January 2015 and had returned a *You and Your Advice* form to the Bank. This category also includes cases that registered for the Program prior to 23 January 2015.
- **Assessment:** refers to cases that had been confirmed as eligible for the Program following the Bank's receipt and review of the customer's *You and Your Advice* form, and where case assessment had commenced.
- **Consideration of Assessment Outcome:** refers to cases in the Program where an assessment outcome had been issued by the Bank.
- **Independent Panel Review:** refers to cases where the Bank's final assessment outcome had been rejected by the customer and the case had been escalated to the Independent Panel.
- **Exits prior to Registration stage:** refers to cases that expressed interest in the Program on or after 23 January 2015, and had withdrawn from the Program prior to a *You and Your Advice* form being returned to the Bank.
- **Exits at Registration stage:** refers to cases that had withdrawn from the Program prior to assessment (for cases registered prior to 23 January 2015), and cases that had withdrawn from the Program after a *You and Your Advice* was returned to the Bank (for cases that expressed interest on or after 23 January 2015). This category also includes cases that had been deemed ineligible for the Program by the Bank.
- **Exits after assessment outcome issued:** refers to cases that had withdrawn from the Program after having been issued an assessment outcome from 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 Independent Panel.

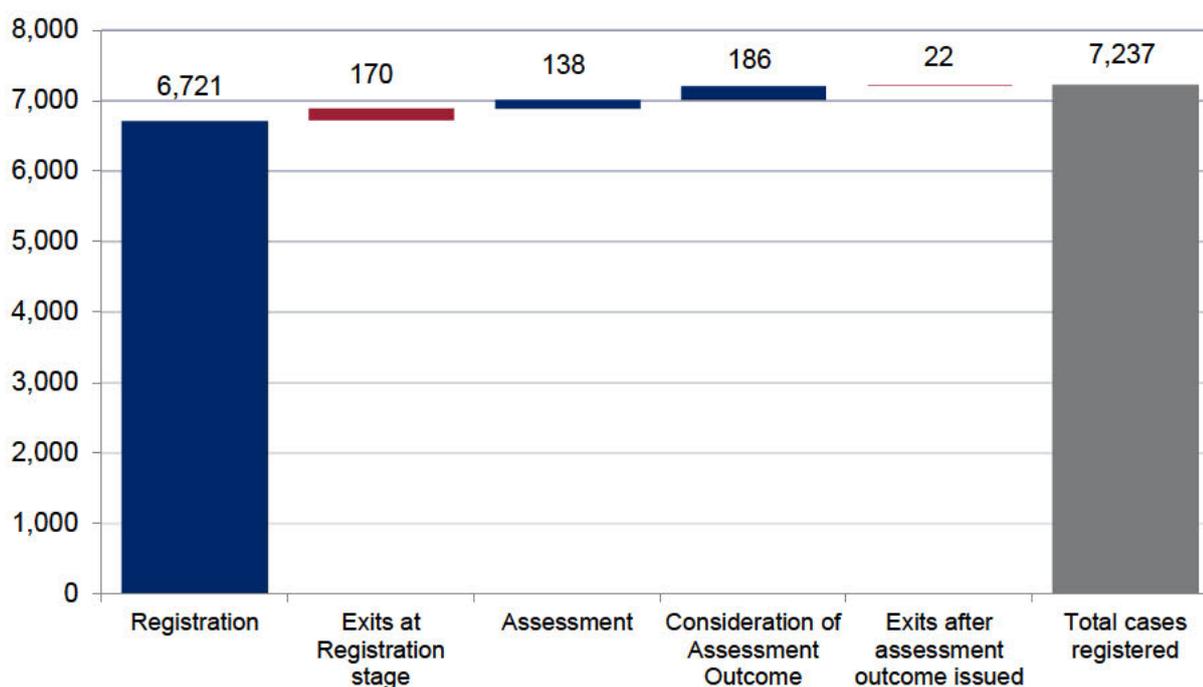
Table 5.3 sets out the cumulative number of cases progressed through to each stage of the Program, while Figure 5.1 provides a point-in-time view of the number of cases in each stage as at 30 April 2015.

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Table 5.3: Cumulative number of cases progressed through to each stage of the Program (beyond expression of interest)³²

Stage	Prior Total ³³ as at 15/12/14	New	Total as at 30/4/15
Registration	4,661	2,576	7,237
Assessment	0	346	346
Consideration of Assessment Outcome	0	208	208
Independent Panel Review	0	0	0
Exits prior to Registration stage	0	74	74
Exits at Registration stage	90	80	170
Exits after assessment outcome issued	0	22	22

Figure 5.1: Number of cases in each stage of the Program as at 30 April 2015



³² 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 Independent Panel Review stages include those cases that had progressed through these stages, then exited the Program.

³³ The 60 cases in the Pilot are classified as being in the Registration stage in this column despite a number of these being actively assessed as at the time of our Initial Report. The 90 cases that have been identified as exits at the Registration stage in this column compares to a corresponding figure of 92 in our Initial Report; the difference reflects the Bank's re-classification of two cases as test cases since the time of our Initial Report.

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Table 5.4 below provides a further breakdown of the number of cases exited from the Program. Cases can exit the Program at various stages and generally fall into one of the following categories:

- customer withdrawals (can occur at any stage of the Program);
- ineligibility for the Program (identified by the Bank at the Registration stage);
- customer acceptance or rejection of either an assessment outcome from the Bank, or a decision by the Independent Panel (driven by the customer at the Consideration of Assessment Outcome and Independent Panel Review stages); and
- removal from the Program by the Bank on administrative grounds (for example, from a lack of response by the customer to support case assessment or progression in the Program).

Table 5.4: Number of cases exited from the Program

Reason for exit	Prior Total as at 15/12/2014	New	Total as at 30/4/2015
Exits prior to Registration stage			
Customer withdrew from Program	0	74	74
Exits at Registration stage			
Case deemed ineligible for the Program	0	9	9
Customer withdrew from Program	90	71	161
Exits at Assessment stage			
Customer withdrew from Program	0	0	0
Exits after assessment outcome issued			
Customer accepted offer of compensation from Bank	0	5	5
Customer rejected offer of compensation from Bank and did not request Independent Panel Review	0	0	0
Customer withdrew from Program	0	17	17
TOTAL	90	176	266

As at 30 April 2015, no cases had been removed from the Program by the Bank on administrative grounds. The Bank has also indicated that no cases had exited the Program and subsequently referred a claim to the Financial Ombudsman Service (FOS) or to the courts as at 30 April 2015.

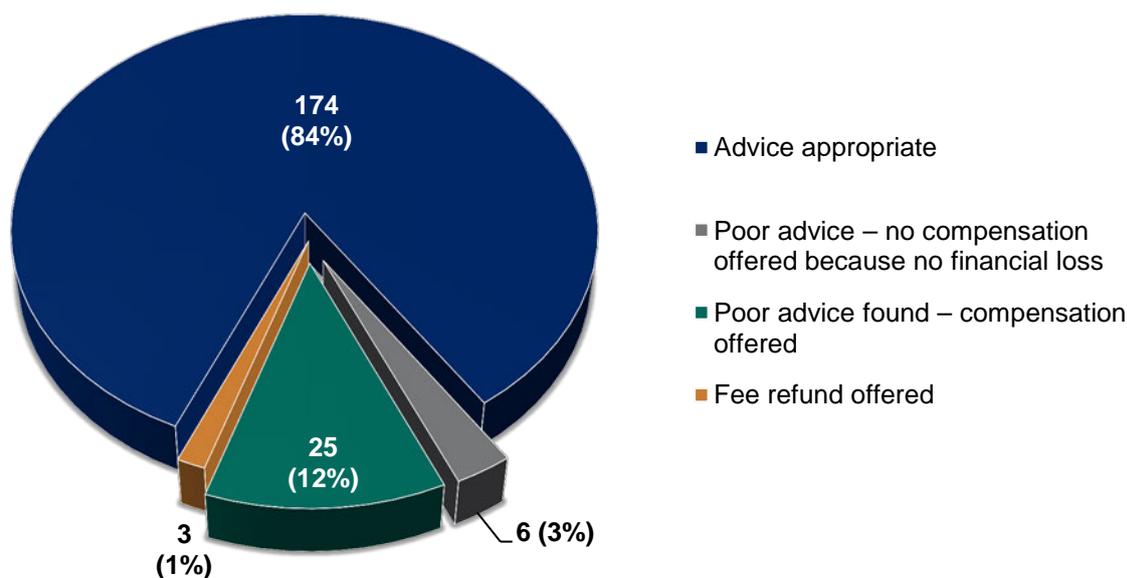
5.4 Assessment outcomes

As the figures in Table 5.3 indicate, 208 cases had progressed through to the Consideration of Assessment Outcome stage as at 30 April 2015 – meaning that 208 assessment outcomes had been issued by the Bank.

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A breakdown of the 208 assessment outcomes that had been issued by the Bank as at 30 April 2015 is set out in Figure 5.2.

Figure 5.2: Breakdown of the 208 Assessment Outcomes issued as at 30 April 2015



The four categories defined in the Figure 5.2 are:

- **Advice appropriate:** this category refers to cases where the Bank had found no evidence of poor advice being provided to the customer, nor any evidence of incorrectly implemented advice or incorrect fees being charged.
- **Poor advice found – no compensation offered because no financial loss:** this category refers to cases where the Bank had found poor or incorrectly implemented advice, but where no offer of compensation was made because the Bank had assessed that no financial loss was suffered by the customer as a result of the poor or incorrectly implemented advice.³⁴
- **Poor advice found – compensation offered:** this category refers to cases where the Bank had found poor or incorrectly implemented advice, and where compensation was offered because the

³⁴ The Bank also takes into account any previous compensation that may have been paid to a customer under past remediation programs completed by the Bank. Where poor advice has been identified during the Review Period and compensation has been previously paid by the Bank for the poor advice identified, the Bank will offset any compensation calculated under the Program for previous compensation paid. To the extent the offset completely eliminates the amount of compensation payable under the Program, such cases will also be captured in this category.

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

- **Fee refund offered:** this category refers to cases where issues were identified with the advice fees charged to the customer, and where compensation was offered that comprised entirely of a fee refund.³⁵

As Figure 5.2 illustrates, the Bank had offered compensation to 28 out of the 208 cases (13%) where an assessment outcome had been issued as at 30 April 2015. In 174 cases (84%), the Bank assessed the advice to be appropriate and consequently made no offer of compensation. The remaining six cases (3%) were assessed by the Bank as having involved poor or incorrectly implemented advice, but where that poor or incorrectly implemented advice was assessed to have not resulted in the customer suffering financial loss (and hence no offer of compensation was made).

We note that the breakdown and percentages presented in Figure 5.2 relate only to assessment outcomes issued by the Bank as to 30 April 2015; they do not reflect the possibility that some cases may change classification after this date if a customer successfully counters the Bank's assessment outcome (as allowed for in the Program's design). Of the 208 cases where an assessment outcome had been issued as at 30 April 2015, only 22 had reached a final decision regarding their assessment outcome. The remaining 186 cases remained under review by the customer or, in cases where the customer had made a counter-offer or counter-assessment to the Bank, remained under review by the Bank. Table 5.5 provides a breakdown of the status of cases that had progressed through to the Consideration of Assessment Outcome stage as at 30 April 2015.

Table 5.5: Status of cases that had been issued an assessment outcome as at 30 April 2015

Case status	Total as at 30 April 2015
Offer of compensation made by Bank	
Offer accepted by the customer	5
Offer under review by the customer	19
Offer rejected by the customer and counter-offer made to the Bank	4
No offer of compensation made by Bank	
Customer subsequently withdrew from the Program	17
Assessment outcome under review by the customer	144
Assessment outcome rejected by the customer and counter-assessment made to the Bank	19
TOTAL	208

³⁵ Cases that involved both poor advice (which resulted in the customer suffering financial loss) and a fee refund are covered in the "Poor advice found - compensation offered" category, and excluded from this category.

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Of the 208 cases that had received an assessment outcome, approximately 60% of cases had retained the services of an ICA to assist with their review of the Bank's assessment outcome as at 30 April 2015. This percentage includes the 60 Pilot cases that were required to retain an ICA as part of their participation in the Pilot.

5.5 Compensation

Table 5.6 sets out the amount of compensation offered and paid by the Bank in the Program as at 30 April 2015. As Table 5.6 illustrates, the Bank had offered \$562,513 in compensation and, of this amount, paid \$79,702.³⁶

Table 5.6: Compensation amounts

Compensation	Prior Total as at 15/12/2014	New	Total to Date as at 30/04/2015
Offered by the Bank	\$0	\$562,513	\$562,513
Paid by the Bank	\$0	\$79,702	\$79,702

The \$482,811 in compensation that had been offered but not yet paid as at 30 April 2015 related to cases where:

- the offer of compensation was still under review by the customer or the Bank (offers amounting to \$248,307); and
- the offer of compensation had been accepted by the customer, but payment was yet to be processed by the Bank as at 30 April 2015 (offers amounting to \$234,504).³⁷

The total amount of compensation paid up to 30 April 2015 related to three cases in the Program.

³⁶ These compensation figures include offers and payments made to customers who participated in the Pilot.

³⁷ The Bank has confirmed that payments related to these offers were made in May 2015.

6. Sample case reviews

6.1. Scope of sampling

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 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 the 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.

Given the focus that has been placed in completing the assessment of the 60 cases in the Pilot since our Initial Report, and the relatively limited number of cases that had progressed through the Program's Assessment stage as at 30 April 2015, Promontory's sampling to date has focused only on cases in the Pilot, and cases exited from the Program prior to assessments being completed (i.e., exits at, or prior to, the Program's Registration stage).

Our findings in relation to cases in the Pilot have been set out in Section 4.5.1 of this Report. As we noted in that section, the focus of our review for the Pilot cases was to understand how the Bank's assessment processes could be further enhanced under the full Program.

Our approach and findings from our review of case exits prior to assessment in the Program are set out in further detail below.

Over the coming months, Promontory will commence its sample review of cases that have gone through the Program's Assessment stage (beyond those assessed as part of the Pilot). We will report on our findings from this sample in our next periodic report. A brief outline of the approach and methodology that Promontory will apply to perform this task is set out in Section 6.4 below.

6.2. Review of cases exited prior to Assessment stage

As noted in Section 5.3 of this Report, customers who exit the Program prior to their case being assessed will generally have exited because:

- the customer has withdrawn from the Program; or
- the Bank has deemed the case to be ineligible for the Program.³⁸

³⁸ A case could also be removed from the Program by the Bank on administrative grounds where, for example, the customer has not responded to a Bank request for additional information within a certain time period (as notified by the Bank to the customer). No cases had exited the Program in this manner as at 30 April 2015.

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As at 30 April 2015, the total population of cases in each of these categories (as set out in Table 5.4) was:

- 235 cases of customer withdrawals since the Program's commencement (comprising of 161 cases that withdrew at the Registration stage, and 74 cases that withdrew prior to the Registration stage); and
- nine cases that were deemed ineligible by the Bank since the Program's commencement.

Given the importance of ensuring each customer in the Program is provided an adequate opportunity to have their case assessed and is not prematurely removed from the Program, we applied a highly conservative approach in this review by reviewing all cases in both categories of exits. We expect that, as the Program progresses and we gain more comfort with the implementation of the Bank's processes, we will be able to sample less than 100% of cases in these categories.

Our approach to reviewing the exits involved the following:

- For the 235 cases of customer withdrawals:
 - Identifying evidence that verified a customer's request to withdraw from the Program by reviewing relevant correspondence between the Bank and the customer. This included a review of written correspondence between the Bank and the customer (where a request was made by writing), as well as a review of call logs, customer files, and other file notes in the Program's advice review systems.
 - Confirming that the Bank's approach for dealing with cases that elected to opt-out was applied on a consistent basis – in particular, whether written confirmations were provided to customers that elected to withdraw from the Program whenever it was practicable and reasonable.
- For the nine cases that were deemed ineligible by the Bank:
 - Identifying evidence that that might indicate a customer should not have been classified as ineligible for the Program. This included a review of any applicable information that was provided by the customer (or retrieved by the Bank) that could indicate the customer was, in fact, eligible for the Program (e.g., evidence that the customer may have received advice from CFPL or FWL during the Program's Review Period).
 - Confirming that the Bank's processes for dealing with cases that were deemed ineligible for the Program had been adhered to – in particular, whether written confirmations were provided to customers informing them of their ineligibility for the Program and, where practicable, providing customers the opportunity to have their concerns reviewed through other avenues (e.g., the Bank's internal complaints handling department or FOS).

6.3. Sample findings

6.3.1. Customer withdrawals

From our review of the 235 cases of customer withdrawal, we identified that the cases could be broadly categorised into the following three categories:

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1. Opt-out cases: These represent cases where we saw evidence that the person who had registered or expressed interest in the Program advised the Bank of his/her request to withdraw from the Program.
2. Referred cases: These represent cases that were withdrawn from the Program after the person who had registered or expressed interest had his/her case referred to the Bank's internal complaints handling department (based on the customer's concerns being identified as outside the scope of the OAR program). Each of these cases was referred prior to the person returning a *You and Your Advice* form to the Bank.
3. Non-genuine cases: These represent (non-opt-out) cases that exhibited one or both of the following characteristics:
 - the person who had registered or expressed interest in the Program was not contactable using the information provided in the registration or expression of interest (e.g., the person's contact details were invalid); and/or
 - the evidence on file indicates that the person never genuinely intended to register for the Program (e.g., the person's enquiry was unrelated to a possible claim of compensation and/or unrelated to concerns about advice or financial products).

Although not required within the Program's documented rules, the Bank has indicated that it will write to customers who opt-out of the Program to confirm their withdrawal, and provide them with the opportunity to re-join the Program at any time before 3 July 2015. This approach is consistent with the Program's objectives and will help ensure customers are treated fairly and consistently in the Program.

Based on the three categories defined above, we found from the population of 235 cases:

- 195 opt-out cases (83% of customer withdrawal cases);
- eight referred cases (3%); and
- 30 non-genuine cases (13%).

The two remaining cases that made up the 235 customer withdrawals could not be classified into any of the three categories noted above. Both these cases were classified by the Bank as opt-outs as at 30 April 2015, but we could not verify from the information we reviewed that the customer had elected to withdraw from the Program. In these two cases, we found no record of a clear instruction provided to the Bank by the customers to withdraw them from the Program. In light of our findings, the Bank has attempted to contact each of the customers concerned to confirm whether they would like to remain in the Program or opt-out. The Bank has also re-affirmed its position that all customers who choose to opt-out of the Program have the opportunity to re-join the Program at any time prior to 3 July 2015 (should they wish to do so).

We also found from our review of the 235 customer withdrawal cases that only 31% of these cases had been sent written confirmation of their withdrawal from the Program as at 30 April 2015. A further 14% of these cases had confirmation letters pending as at 30 April 2015. For the balance of the cases, we recognised that no written confirmation was necessary for the non-genuine cases, and cases where the customer had requested no further contact from the Bank. It was, however, unclear to us in the remaining customer withdrawal cases (approximately 40%) why written confirmation had not been sent as at 30 April 2015. The Bank has indicated that, to ensure consistency in the way opt-out cases are handled, written confirmation will be sent to the remaining (genuine) cases by 5 June 2015. The Bank has also indicated that it will update the

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guidance it provides to its customer contact team to enhance the recording and management of customer withdrawals going forward.

6.3.2. Cases deemed ineligible

From our review of the nine cases that were deemed by the Bank to be ineligible as at 30 April 2015, Promontory found no material concerns with the Bank's decision to classify these cases as ineligible for the Program. For each case, the information we reviewed suggested that the customer had received advice outside the Program's Review Period, and/or had not received advice from a CFPL or FWL adviser.

We found that, of the nine cases deemed ineligible, eight of these were provided written confirmation from the Bank that their case would no longer be assessed as part of the Program. In some of these cases, the customer's concerns were referred to the Bank's internal complaints handling department for further investigation in line with the Program's processes.

We found that, in one of the nine cases, written confirmation of the customer's ineligibility for the Program had not been sent by the Bank as at 30 April 2015. The Bank has indicated written confirmation for this case was sent in May 2015.

6.4. Future sampling approach

As indicated above, Promontory has yet to commence its sampling of cases that have progressed through the Program's Assessment stage as at 30 April 2015 (other than cases we reviewed in the Pilot). Our sampling of such cases will commence shortly, and will involve significantly more time and effort to review than cases that have exited the Program prior to the Assessment stage. The additional time and effort required reflects the more complex nature of the processes involved at the Assessment stage, which Promontory must test adherence to.

In light of the additional time required to review cases that have progressed through the Assessment stage of the Program, we will undertake sampling on a structured basis using a methodology that is consistent with good industry practice. We have agreed with the Bank that the methodology we will apply to determine our sample will be based on the following key principles:

- The application of a "risk-based" method of sampling that allows Promontory to focus our review on those segments of the case population that are likely to require the greatest level of attention. This will involve segmentation of the case population by risk, so that the different risk characteristics across different segments can be taken into account.
- The use of statistical techniques (that are commonly used for quality control testing) to determine initial sample sizes for each segment of the population we review. The statistical tests will aim to allow us to make certain statements and conclusions about the potential rate of exceptions³⁹ in a population segment given the findings for the cases in our sample, up to a certain (high) degree of confidence.

³⁹ In the context of our review activities, an exception is defined as an instance of non-adherence to the Program's documented processes for the cases we review in our sample.

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- The potential use of judgement overlays (i.e., adjustments to the statistical methodology) to determine additional cases that may require sampling, to the extent we find exceptions in a population segment. Such overlays will be applied to provide us with the flexibility to concentrate on those segments that may involve an inherently high rate of exceptions, while minimising the need for a large proportion of cases to be sampled in a segment that exhibits low risk characteristics.

Promontory remains in discussions with the Bank about the specific details of the sampling methodology that we will implement, including details regarding the identification and classification of the relevant segments, the statistical parameters that will apply to each segment, and the data that are required for us to implement the methodology. We will provide further details of the approach and methodology that we apply in our next periodic report, including details of our findings from our initial sample review of cases that have progressed through the Program's Assessment stage.



Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



Commonwealth Bank

Open Advice Review program

Third Report

Prepared by Promontory

30 September 2015

Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



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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 30 April 2015 and 31 August 2015.

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
ESG	Executive Steering Group
FOS	Financial Ombudsman Service
FTE	Full-time equivalent
FWL	Financial Wisdom Limited
ICA	Independent Customer Advocate
IFE	Independent Forensic Expert
Initial Report	Promontory Initial Report (published 19 December 2014)
Independent Panel	Independent Review Panel
IT	Information Technology
OAR	Open Advice Review
Pilot	Pilot Program
Program	Open Advice Review program
PSG	Program Steering Group
Promontory	Promontory Financial Group Australasia
Report	Third Report
Review Period	1 September 2003 to 1 July 2012
Second Report	Promontory Second Report (published 29 May 2015)
SMAT	Special Matters Assessment Team

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1. Background

The Commonwealth Bank Group's (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 open to registrations for one year. From 3 July 2015, the Program ceased accepting new expressions of interest into 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 December 2014, we issued our Initial Report on the Program which detailed the Program's design, independent processes, and steps taken to build the Program's infrastructure. In May 2015, we released our Second Report, which provided a further update on the Program's implementation for the period ending 30 April 2015, including findings of the Pilot Program (Pilot) undertaken by the Bank to further refine the Program's processes.¹

This Third Report (Report) provides an update on the Program for the period ending 31 August 2015. It includes updated statistics on the number of cases that have progressed through the Program, assessment outcomes, and compensation payments made to affected customers. It also provides an overview of ongoing initiatives undertaken by the Bank since 30 April 2015, and the findings from our sample review of cases in the Program.

In all aspects reported, Promontory has exercised reasonable due diligence to verify facts and interpretations included in this Report. We acknowledge the co-operation of the Bank in responding to our information requests, and in our preparation of this Report.

Promontory's next report is scheduled for release at the end of January 2016. Our next report will provide a further update on developments in the Program up to 31 December 2015.

¹ Promontory's previous reports are available on the Bank's OAR program website at: www.commbank.com.au/openadvice.

2. Summary of findings

This Report provides an update in relation to the following main aspects of the Program:

- statistics in relation to the number of cases progressed through the Program, case assessment outcomes issued by the Bank, and the amount of compensation offered and paid under the Program to 31 August 2015 (Section 3 of this Report);
- ongoing initiatives to support the Program's implementation, including refinements to the Program's processes, systems and resources (Section 4); and
- findings from our sample review of cases in the Program (Section 5).

A summary of the main findings in relation to each of these aspects is set out below.

2.1. Program statistics

2.1.1. Progress of case assessments

As communicated at the outset of the Program and in various awareness initiatives conducted by the Bank, the Program ceased accepting new expressions of interest from 3 July 2015. Since its commencement, the Program has received a total of 23,269 expressions of interest, with 8,835 of these cases (38%) having registered for the Program as at 31 August 2015.²

With the refinements made to the Program's case assessment processes following the Pilot, and the addition of extra resources in the Program's assessment team since the end of April 2015, the Bank was able to accelerate the volume of cases it progressed in the Program in the four months to 31 August 2015. In particular, for the period between 30 April 2015 and 31 August 2015, the Bank issued assessment outcomes to an additional 478 cases in the Program, and progressed a further 939 cases to the Program's Assessment stage.³ Table 2.1 provides a breakdown of the number of cases that had progressed to the Program's various stages (beyond expression of interest) as at 31 August 2015.

Table 2.1: Number of cases progressed to each Program stage

Case progress	Prior Total as at 30/4/2015	New	Total as at 31/8/2015
Number of cases registered	7,237	1,598	8,835
<i>of which: cases progressed to Assessment Stage (or beyond)</i>	346	939	1,285
<i>of which: cases that had been issued an assessment outcome</i>	208	478	686

² The difference between the number of expressions of interest and the number of cases registered relates to customers who have asked for additional information about the Program, but had yet to formally confirm their registration in the Program.

³ Appendix 1 of this Report provides a description of the Program's various stages.

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As Table 2.1 illustrates, the total number of cases that had been issued an assessment outcome grew to 686 as at 31 August 2015 – more than three times the corresponding number of cases that had been issued an assessment outcome as at 30 April 2015 (as disclosed in our Second Report).⁴

Of the 686 cases that had been issued an assessment outcome as at 31 August 2015, customers had reached a final decision regarding their assessment outcome (and consequently exited the Program) in 273 cases.⁵ Customers in a further 63 cases had made a counter-offer or counter-assessment to the Bank, following receipt of their assessment outcome. In the remaining 350 cases that had been issued an assessment outcome as at 31 August 2015, the assessment outcome remained under review by the customer. Table 2.2 provides a breakdown of the status of the cases that had been issued an assessment outcome from the Bank as at 31 August 2015.

Table 2.2: Status of cases issued an assessment outcome from the Bank

Case status	Total as at 31/8/2015
Customer accepted the Bank's assessment outcome and offer of compensation	19
Customer accepted the Bank's assessment outcome (with no offer of compensation)	191
Customer rejected or did not respond to the Bank's assessment outcome, and subsequently withdrew from the Program	63
Customer rejected the Bank's assessment outcome and made a counter-offer to the Bank	63
Customer was still reviewing the Bank's assessment outcome	350
TOTAL	686

As at 31 August 2015, no cases had been escalated to the Program's Independent Review Panel (Independent Panel).

An additional 1,137 cases also exited the Program prior to receiving an assessment outcome from the Bank in the period between 30 April 2015 and 31 August 2015.⁶ Of all the cases exited from the Program as at 31 August 2015, only one case had subsequently contacted the Financial Ombudsman Service (FOS) after being

⁴ The Bank has also indicated that a further 326 cases were issued an assessment outcome in the period between 1 September 2015 and 26 September 2015, bringing the total number of cases that had been issued an assessment outcome as at 26 September 2015 to 1,012.

⁵ The figure of 273 cases includes those customers who had accepted or rejected the Bank's assessment outcome as at 31 August 2015. It also includes those cases where the customer did not respond to the Bank's assessment outcome within specified timeframes (such cases were deemed to have rejected the Bank's assessment outcome).

⁶ Cases may exit the Program prior to receiving an assessment outcome for various reasons, such as the customer opting out of the Program, the case being deemed ineligible for the Program, or the case being removed by the Bank on administrative grounds.

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issued an assessment outcome. Furthermore, as at 31 August 2015, no case had exited then subsequently pursued a claim against the Bank through the courts.

2.1.2. Outcomes of case assessments and compensation offered

As at 31 August 2015, the Bank had offered compensation to 53 of the 686 cases where an assessment outcome had been issued (approximately 8% of total cases in which an assessment outcome had been issued). Cases that were offered compensation included those where the Bank assessed the customer to have received poor or incorrectly implemented advice (the result of which saw the customer suffering financial loss), and cases where the Bank had found the customer to have been charged an incorrect fee (where the advice was found to be otherwise appropriate).

In approximately 91% of cases where an assessment outcome had been issued as at 31 August 2015, the Bank assessed the advice (and fees) to be appropriate and made no offer of compensation. The remaining 1% of cases that had been issued an assessment outcome were found to have involved poor or incorrectly implemented advice, which did not result in the customer suffering financial loss (and hence no offer of compensation was made).

Based on assessment outcomes issued to 31 August 2015, the Bank had offered total compensation of \$950,252 to customers in the Program (an increase of \$387,739 from the amount offered to 30 April 2015). Of the total amount of compensation offered as at 31 August 2015, the Bank had paid \$488,815. The total amount paid encompassed payments made to 21 cases.

As at 31 August 2015, all customers who had accepted an offer of compensation had been paid. All compensation that had been offered but not yet paid as at 31 August 2015 related to cases where the compensation offer was still under review by the customer or, for cases where the customer had made a counter-offer or counter-assessment, was still under review by the Bank.

Section 3 of this Report provides further details on statistics about the Program.

2.2. Ongoing Program initiatives

The Bank has continued to invest in resources and systems to support the ongoing implementation of the Program. A number of further refinements to the Program's case assessment processes have also been introduced in recent months, supporting the Bank's increased capacity to assess a greater volume of cases in the Program at any one time.

A high-level summary of these ongoing initiatives, as well as updates in relation to the Program's customer file retrieval processes, awareness initiatives and the Pilot conducted earlier in 2015 is set out below. Section 4 of this Report provides further details of these initiatives.

2.2.1. People and governance

The Bank recruited more than an additional 100 full-time equivalent (FTE) resources to its Advice Review program (ARp) team in the period between 30 April 2015 and 31 August 2015. As at 24 August 2015, the total number of FTE resources in the ARp team had grown to 613 (compared with 496 FTE resources as at 24 April 2015), with most of the recruitment effort during the period since 30 April 2015 focused again on the ARp

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team's Customer and Information Management streams.⁷ The addition of these resources has allowed the Bank to continue to increase the volume of cases it can assess in the Program at any one time.

The Program's governance structure has remained unchanged since our Second Report, with the relevant Bank executive committees and boards having continued to provide oversight and strategic direction over the Program. The Program's risk management and the Bank's Internal Audit functions have also undertaken reviews and testing of processes and controls within the Program in recent months.

2.2.2. Customer file retrieval

In our Second Report, Promontory noted a number of enhancements that the Bank had introduced to retrieve customer advice files from across the country, particularly in relation to hard-copy paper files located in Bank branches, offices and document archiving sites. The implementation of this more centralised and systematic approach to the cataloguing and collection of files aimed to increase the efficiency and comprehensiveness of file retrievals for customers in the Program.

In the four months to 31 August 2015, the Bank made significant progress in cataloguing all customer advice files of CFPL customers, and retrieving those files from locations across the country for customers who had expressed interest in the Program. In particular, as at the end of August 2015, the Bank had catalogued over 930,000 customer advice files (covering more than 600,000 customers), and collected and scanned the files of more than 14,000 cases in the Program.

While significant progress has been made in retrieving customer files of CFPL customers, the retrieval of files for customers of FWL advisers remains a challenge for the Bank – particularly for cases involving advice provided from a *former* FWL adviser. In light of these challenges, the Bank has indicated that, as at 19 August 2015, it was still retrieving hard-copy files in approximately 50% of FWL cases in the Program where a file needed to be located.⁸

For cases in the Program where hard-copy files have yet to be catalogued, the Bank has indicated that it will continue to use other customer identification processes to locate these files, as well as explore electronic files stored on its systems. To the extent a customer's advice files remain incomplete after all avenues of file retrieval have been exhausted, the Bank has indicated it will apply standardised procedures to gather additional information and use its best endeavours to assess such cases.

2.2.3. Systems, tools and processes

The main system and process enhancements introduced by the Bank since our Second Report have focused on the Program's case assessment framework (or ARp Solution) developed following the Pilot. In particular, in August 2015, the Bank made a number of additional refinements to its Case Assessment Tool (CAT), and revised a number of the associated assessment guidelines and procedures supporting this tool. These

⁷ The Customer and Information Management streams are responsible for, inter alia, the assessment of cases and the retrieval of customer files, respectively. As noted in our Second Report, the Bank's recruitment efforts in the early part of 2015 focused most heavily on these streams.

⁸ Since the end of August 2015, the Bank has been able to accelerate its retrieval of FWL customer files in the Program. In particular, as at 23 September 2015, the Bank has indicated that the percentage of FWL cases in the Program (where a hard-copy file needed to be located) had dropped to approximately 33%.

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refinements to the ARp Solution increased the functionality and capabilities of the Program to assess cases with potentially more complex features, such as those involving gearing, structured products or incomplete information.

Over the four months to 31 August 2015, the Bank also completed an independent model validation of the Program's compensation model, and finalised its "Fraud Protocol" with the Program's Independent Forensic Expert (IFE).

The independent model validation tested the accuracy of the model against documented principles and methodology developed by the Bank for remediating customers in the Program. The validation found no material exceptions in relation to the model's accuracy.

The Fraud Protocol sets out the triggers and processes to be followed by the Bank and the IFE in the event a concern is raised in the Program in relation to potential indicators of fraud, forgery or other improper conduct by an adviser. The Fraud Protocol includes roles and responsibilities for the Bank and IFE to refer and investigate cases involving potential fraud or other adviser misconduct.⁹

2.2.4. Program awareness

The main Program awareness initiatives completed since our Second Report focused on raising awareness around the closure date for new expressions of interest in the Program on 3 July 2015. In particular, in June 2015, the Bank undertook a final round of mass marketing regarding the Program to encourage customers to contact the Bank if they had any concerns about past advice they received from CFPL or FWL. The Bank also wrote to each of the community associations it had engaged with previously to provide an update on the Program, and notify them of the closure date for new expressions of interest.

Prior to the closure of new expressions of interest in the Program the Bank continued to run its digital advertising campaigns through the Program's dedicated webpage and through search engine marketing initiatives. On 31 August 2015, the Bank also wrote to customers who had expressed interest in the Program to provide them with an update of the Program, and reminded customers who had not returned their *You and Your Advice* form to do so to confirm their participation in the Program.

2.2.5. Pilot update

In our Second Report, we set out the findings from the Pilot conducted by the Bank in late 2014 and early 2015, including initiatives the Bank undertook to enhance its case assessment processes following this exercise. As noted in that report, our oversight of the Pilot entailed a review of the 60 Pilot cases involved and, from that review process, found that it was difficult to verify whether the Program's documented processes had been adhered to in all cases. In response to our findings, the Bank indicated that it would undertake a further assessment of those cases where we found it difficult to confirm adherence to the Program's processes, to provide assurance that the outcomes communicated to participants in the Pilot remained appropriate.

⁹ As at 31 August 2015, the IFE had been engaged in relation to three cases in the OAR program.

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Since our Second Report, the Bank has undertaken additional reviews for those Pilot cases in which we had difficulties confirming adherence to processes. In some cases, the review involved re-assessing the cases based on counter-offers or counter-assessments made by the Independent Customer Advocates (ICAs) of the Pilot participants. In other cases, the Bank conducted a further review of the case to ensure that the issues we identified in the Pilot would not result in any changes to assessment outcomes previously communicated to customers.

Based on the further work that has been conducted by the Bank since our Second Report, we believe that our previous findings from the Pilot have been sufficiently addressed in the majority of cases. In the remaining small number of cases, the Bank was still finalising its position on whether changes are required to previous assessment outcomes.¹⁰ For these cases, Promontory has indicated that we will continue to monitor the progress of these cases to ensure that the relevant customers have not been disadvantaged from having participated in the Pilot.

2.3. Sample case reviews

2.3.1. Scope of 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.

In our Second Report, we set out the findings of our review of cases that had been assessed as part of the Pilot, and an initial set of cases that had exited the Program prior to assessments being completed. Given the relatively limited number of cases that had progressed through the Program's Assessment stage at the time of our Second Report, we had not yet completed any sampling of cases that had progressed through assessment (beyond those we reviewed in the Pilot).

Since our Second Report, Promontory has completed its initial sample review of cases that had progressed through the Program's Assessment stage outside of the Pilot. Our initial review involved a sample of 52 cases, representing approximately 8% of the case population that had been issued an assessment outcome (outside of the Pilot) as at 31 August 2015.¹¹

We have also undertaken additional sampling of cases that exited the Program prior to the customer receiving an assessment outcome from the Bank, including:

- Cases where the customer had opted out of the Program (customer withdrawals) – we reviewed 269 cases in our sample for this Report, representing all customer withdrawals identified by the Bank in the period between 30 April 2015 and 31 July 2015.

¹⁰ The Bank has confirmed that, where it does identify a need for an assessment outcome to change, it will communicate these findings to the customer, even where the customer has exited the Program.

¹¹ For clarity, Promontory's initial sampling of cases progressed through the Program's Assessment stage included cases that had been assessed prior to 30 April 2015 (i.e., cases that were identified as having been issued an assessment outcome in our Second Report), as well as those cases where an assessment outcome was issued after 30 April 2015.

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- Cases deemed ineligible for the Program by the Bank – we reviewed nine cases in our sample for this Report, including two cases that were deemed ineligible at the Program's Registration stage, and seven cases that were deemed ineligible prior to the Program's Registration stage.
- Cases removed from the Program by the Bank on administrative grounds – we reviewed 42 cases in our sample for this Report, all of which related to cases that were removed by the Bank due to the customer having not returned a completed *You and Your Advice* form within one year from the date of initial registration or expression of interest in the Program.

2.3.2. Sample findings

Promontory's sampling of cases that had progressed through the Assessment stage involved a review of two cohorts:

- cases that had been assessed by the Bank using processes that were similar to those adopted for the Pilot (18 such cases were reviewed); and
- cases that had been assessed by the Bank more recently using the Program's enhanced case assessment framework¹² (34 such cases were reviewed).

Our overall view of the Bank's assessment of these cases is that the Bank has made significant efforts to apply the Program's documented processes in a fair and consistent manner. While there were a small number of cases where we identified exceptions in our sampling (detailed below), we found no evidence of systemic or major failures in the way cases were being assessed.

In relation to our review of the 18 cases that had been assessed using processes that were similar to those used in the Pilot, we found that the Bank had adhered to the Program's documented processes in all but one case. The one case where we identified an exception related to a case where we assessed the Bank to have not undertaken a re-assessment of the asset allocation of the customer's investment portfolio in complete accordance with the Program's documented processes.

In relation to our review of the 34 cases that had been assessed more recently using the Bank's enhanced case assessment framework, we found that the Bank had adhered to the Program's documented processes in all but two cases. In each of the two cases where we identified an exception, we found that the customer was inadvertently placed into an investment product that differed from the product which had been recommended in the Statement of Advice agreed with the customer. In both these cases, the Bank's assessment had not identified the implementation error.¹³

We note that each of the exceptions we identified involved deviations from the Bank's processes. Such exceptions do not necessarily result in the customer's assessment outcome or offer of compensation being adversely impacted. A separate assessment needs to be made on the impact of the exception on the

¹² The enhanced framework incorporates the Bank's CAT and associated assessment guidelines forming part of the ARp Solution.

¹³ We note that, in both these cases, the product that was invested in and the product that was recommended had similar names, which made the difference difficult to detect. We also note that, in each case, the incorrect product invested in was only one of multiple products that formed part of the adviser's overall recommendation. We did not identify any exceptions to the Bank's assessment of other aspects of the advice in relation to these cases.

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customer, including any change in the Bank's assessment outcome or offer of compensation. The Bank has confirmed that, in the event a customer's assessment outcome or offer of compensation is impacted (i.e., requires change), it will notify the customer of the change and offer any compensation due.¹⁴

Beyond the exceptions noted above, our sample review also identified opportunities where the Bank's assessment processes could be further refined to reduce the risk of inconsistent treatment of cases – particularly in relation to fees calculated by reference to investment amounts. The Bank has confirmed that it will proactively work towards strengthening its assessment processes to address our findings, including ways in which its approach could be strengthened to mitigate any potential impact on assessment outcomes.

From our sample review of cases that had exited the Program prior to receiving an assessment outcome, we found no material exceptions in relation to the Bank's treatment of these cases against the Program's documented processes.

Section 5 of this Report provides further details of our sample review and findings.

¹⁴ The Bank has indicated that in two of the cases where we identified exceptions, there was an impact of the customer's assessment outcome and the Bank was in the process of communicating this impact to the customer (including an offer of compensation).

3. Program statistics

This section of the Report provides updated statistics on the number of cases progressed through the Program's various stages as at 31 August 2015. It also provides an update on assessment outcomes issued by the Bank, and offers of compensation made and paid by the Bank to 31 August 2015.

As per our previous reports, the figures quoted refer to cases rather than customers. For the purposes of the Program, customers who express an 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

In our Second Report, Promontory noted the significant increase in the number of customers who had expressed interest following the extended customer contact awareness initiatives undertaken in early 2015 via the direct mail-out of letters to close to 350,000 households around Australia.

In the period between 30 April 2015 and 31 August 2015, the Program received a further 834 expressions of interest – bringing the total number of expressions of interest in the Program since its commencement to 23,269.¹⁵ Table 3.1 sets out the total number of expressions of interest the Program received in the period between 30 April 2015 and 31 August 2015. These figures exclude cases that had been identified by the Bank as duplicates as at 31 August 2015.¹⁶

Table 3.1: Expressions of interest

Number of:	Prior Total as at 30/4/2015	New	Total as at 31/8/2015
Expressions of interest	22,435	834	23,269

Given the Program ceased accepting new expressions of interest from 3 July 2015, the total figure of 23,269 is no longer expected to increase. The Bank has indicated that it is, however, continuing to accept registrations from customers who had expressed interest prior to 3 July 2015, following their return of a completed *You and Your Advice* form to the Bank.

¹⁵ The actual number of expressions of interest since the end of April 2015 was greater than 1,400. The increase of 834 is a net increase, which takes into account additional duplicate cases identified by the Bank since our Second Report.

¹⁶ Duplicate cases are those where the customer had registered or expressed interest in the Program more than once. As at 31 August 2015, the Bank had identified 1,427 duplicate cases. The Bank may continue to find additional duplicates over time as it undertakes further reviews of customer files.

3.2. Customer contact

Table 3.2 below provides an update on the number of cases that had been sent an information pack regarding the Program as at 31 August 2015. In total, approximately 94% of cases that have expressed interest in the Program had been sent an information pack as at 31 August 2015 (up from 91% as at 30 April 2015).

Table 3.2: Information packs sent

Number of cases where:	Total as at 31/8/2015
Information pack sent	21,971
Information pack not sent	1,298
TOTAL	23,269

Of the remaining 1,298 cases where an information pack had not been sent as at 31 August 2015, the Bank has indicated that approximately 42% of these cases (551) do not require an information pack to be sent. These cases include those that exited the Program prior to the customer receiving an information pack (e.g., customers who withdrew or were removed from the Program prior to receiving an information pack), and those that have progressed in the Program without the Bank having sent an information pack to the customer (e.g., customers who received an information pack through an ICA).

The Bank has indicated that the remaining 747 cases that had not been sent an information pack as at 31 August 2015 related to cases:

- involving FWL customers that were referred into the Program, where the Bank was in the process of confirming with the customers their participation in the Program (700 cases); and
- that had not yet been sent an information pack for various other reasons (47 cases).¹⁷

3.3. Case progression

3.3.1. Cases registered and assessed

Following the implementation of its enhanced case assessment framework, and the recruitment of additional case assessors in the Program since the end of April 2015 (refer to Section 4.1 for further detail), the Bank was able to accelerate the volume of cases it assessed in the Program. In particular, in the period between 30 April 2015 and 31 August 2015, the Bank issued assessment outcomes to an additional 478 cases in the Program, bringing the total number of cases with an assessment outcome issued by the Bank to 686 as at 31 August 2015. Over the same period, the total number of cases progressed from the Program's Registration stage to the Assessment stage also increased from 346 cases (as at 30 April 2015) to 1,285 cases (as at 31 August 2015). Table 3.3 below sets out the number of cases progressed to the Program's various stages

¹⁷ This category includes recent expressions of interest (where the information pack was scheduled to be sent in the next mail-out), and customers for whom the Bank had been unable to confirm a mailing or email address to send an information pack.

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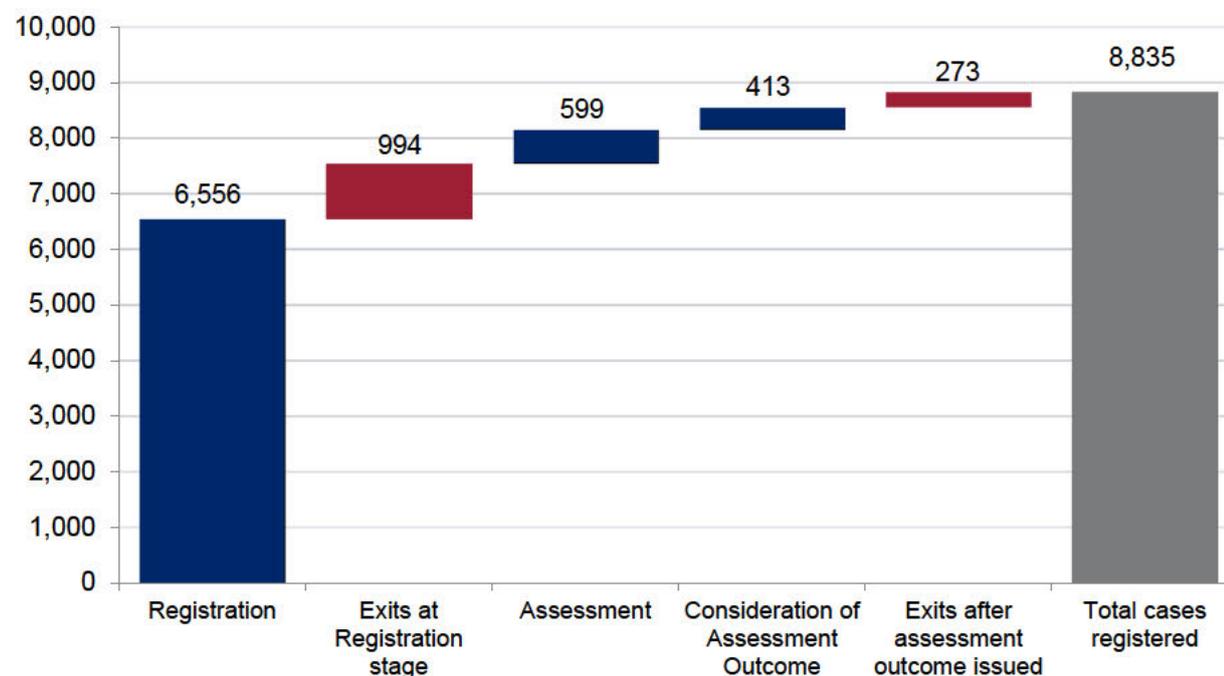
(beyond expression of interest) as at 31 August 2015. The table illustrates the increase in the volume of cases assessed in the Program, as well as the increase in registrations since 30 April 2015.

Table 3.3: Cumulative number of cases progressed to each stage of the Program¹⁸

Stage	Prior Total as at 30/4/2015	New	Total as at 31/8/2015
Registration	7,237	1,598	8,835
Assessment	346	939	1,285
Consideration of Assessment Outcome	208	478	686
Independent Panel Review	0	0	0
Exits at Registration stage	170	824	994
Exits after assessment outcome issued	22	251	273

The figures set out in Table 3.3 above reflect cumulative numbers of cases progressed to the Program's various stages since its commencement. Figure 3.1 below provides a point-in-time view of the number of cases that were active in each stage of the Program as at 31 August 2015.

Figure 3.1: Number of cases active in each stage of the Program as at 31 August 2015



¹⁸ 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 Independent Panel Review stages include those cases that had progressed through these stages, then exited the Program.

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As Figure 3.1 illustrates, a large proportion of cases in the Program (74%) remained in the Program's Registration stage as at 31 August 2015. The Bank has indicated that, over the coming months, it expects to be able to continue to increase the volume of case assessments it commences and completes to reduce this figure.¹⁹

3.3.2. Cases exited

As Table 3.3 and Figure 3.1 above illustrate, the number of cases that exited the Program in the period from 30 April 2015 to 31 August 2015 increased markedly. This increase was driven by a number of factors, including:

- an increased number of customers who accepted their assessment outcome or withdrew from the Program following receipt of an assessment outcome from the Bank;
- additional withdrawals from customers who elected to opt-out of the Program prior to receiving an assessment outcome;
- additional cases that were deemed ineligible for the Program by the Bank (i.e., customers who did not receive advice from CFPL or FWL during the Review Period); and
- the Bank commencing its removal of cases from the Program where the customer had not responded to requests from the Bank to return a *You and Your Advice* form within one year from the date of their expression of interest or registration.

Table 3.4 below provides a breakdown of the number of cases exited from the Program at various stages of the Program as at 31 August 2015.

Table 3.4: Number of cases exited from the Program

Reason for exit	Prior Total as at 30/4/2015	New	Total as at 31/8/2015
Exits prior to Registration stage			
Customer withdrew from Program	74	84	158
Case deemed ineligible for the Program	0	63	63
Case removed on administrative grounds	0	166	166
Exits at Registration stage			
Customer withdrew from Program	161	189	350
Case deemed ineligible for the Program	9	2	11
Case removed on administrative grounds	0	633	633

¹⁹ The Bank has indicated that a further 326 cases were issued an assessment outcome in the period between 1 September 2015 and 26 September 2015, bringing the total number of cases that had been issued an assessment outcome as at 26 September 2015 to 1,012.

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Reason for exit	Prior Total as at 30/4/2015	New	Total as at 31/8/2015
Exits at Assessment stage			
Customer withdrew from Program	0	0	0
Case removed on administrative grounds	0	0	0
Exits after assessment outcome issued			
Customer accepted assessment outcome – compensation was offered	5	14	19
Customer accepted assessment outcome – no compensation was offered	0	191	191
Customer withdrew from Program	17	46	63
Case removed on administrative grounds	0	0	0
TOTAL	266	1,388	1,654

The statistics in Table 3.4 show that in the period between 30 April 2015 and 31 August 2015:

- 251 cases exited the Program after having been issued an assessment outcome from the Bank.
- 273 cases exited the Program after the customer elected to opt-out of the Program prior to the Bank issuing an assessment outcome. This figure includes 84 cases of customer withdrawals prior to the Registration stage, and 189 cases of customer withdrawals at the Registration stage.
- 65 cases exited the Program due to the Bank assessing their case to be ineligible. This figure includes 63 cases deemed ineligible prior to the Registration stage, and two cases deemed ineligible at the Registration stage. The 63 cases deemed ineligible prior to the Registration Stage related to customers who were inadvertently invited to register for the Program as part of the Bank's extended customer contact awareness initiative conducted in early 2015. The customers in this category responded to the Program's direct mail-out (i.e., expressed interest in the Program), but were subsequently found by the Bank to have not received advice from CFPL or FWL during the Review Period.²⁰
- 799 cases were removed from the Program on administrative grounds by the Bank. These cases include:
 - 397 cases assessed by the Bank as having been "non-genuine" expressions of interest or registrations (comprising 166 non-genuine expressions of interest and 231 non-genuine registrations). In 394 of these cases, investigations by the Bank had indicated that the expression of interest or registration was made by a person (other than the customer) without the customer's consent, with one of the following conditions also applying: i) the customer

²⁰ The Bank proactively managed these cases by calling and/or writing to the affected customers to clarify that they were not, in fact, eligible for the Program when it became aware of the inadvertent mail-outs.

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informed the Bank that he/she did not want to participate in the Program; ii) ,the customer did not respond to the Bank's invitation to participate in the Program; or iii) the Bank had no contact details for that customer. For the remaining three cases, the Bank assessed that the person never genuinely intended to register for the Program.

- 402 cases where the customer had not returned a *You and Your Advice* form within one year from the date in which the customer first registered or expressed interest in the Program.²¹

As at 31 August 2015, no case had been escalated to the Independent Panel for review.

Of the total number of exits in the Program, only one case had subsequently contacted the FOS after being issued an assessment outcome as at 31 August 2015. Furthermore, as at 31 August 2015, no case that had exited the Program had then pursued a claim against the Bank through the courts (refer to Table 3.5).

Table 3.5: FOS referrals and legal claims

Number of cases exited from the Program and:	Prior Total as at 30/4/2015	New	Total as at 31/8/2015
Referred a complaint to FOS	0	1	1
Pursued a claim against the Bank	0	0	0

3.4. Assessment outcomes

As at 31 August 2015, a total of 686 cases had been issued an assessment outcome by the Bank. This figure compares to 208 cases as at 30 April 2015 (including 60 cases that were assessed as part of the Pilot).

A breakdown of the 686 cases that had been issued an assessment outcome by the Bank as at 31 August 2015 is provided in Figure 3.2. The figure breaks down the assessment outcomes into the following categories:

- **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.
- **Poor advice found – 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.²²

²¹ For each of these cases, the Bank had requested, or attempted to request, the required information from the customer on multiple occasions.

²² The Bank takes into account any previous compensation that may have been paid to a customer under past CBA remediation programs. Where poor advice has been identified during the Review Period and compensation had 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 will be captured in this category.

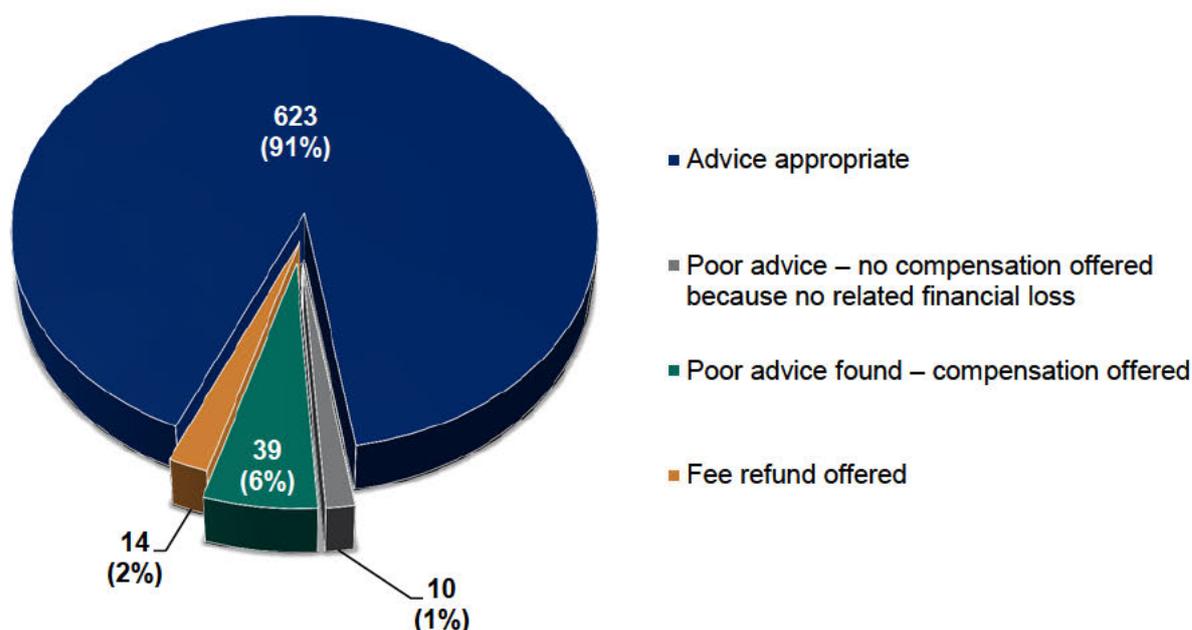
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- **Poor advice found – compensation offered:** this category refers to cases where the Bank found poor or incorrectly implemented advice, and where compensation was offered because the Bank assessed the customer to have suffered financial loss as a result of the poor or incorrectly implemented advice.
- **Fee refund offered:** this category refers to cases where issues were identified with the advice fees charged to the customer, and where the compensation offered related solely to a fee refund.²³

Figure 3.2: Breakdown of assessment outcomes issued as at 31 August 2015



Of the 686 cases that had been issued an assessment outcome as at 31 August 2015, the Bank offered compensation to 53 cases (8%). In 623 cases (91%), the Bank assessed the advice (and fees) to be appropriate and consequently made no offer of compensation. The remaining 10 cases (1%) were assessed by the Bank as having involved poor or incorrectly implemented advice, but where that advice was assessed to have not resulted in the customer suffering financial loss (hence no offer of compensation was made).

The figures presented in Figure 3.2 relate only to the outcomes of cases assessed by the Bank as at 31 August 2015. We note the possibility that the outcomes of some cases may change after this date (i.e., where a customer successfully counters the Bank's assessment outcome as allowed for in the Program's design). Indeed, of the 686 cases where an assessment outcome had been issued as at 31 August 2015, the assessment outcomes from 413 of these cases remained under review by the customer, or were the subject

²³ Cases that involved both poor advice (which resulted in the customer suffering financial loss) and a fee refund are covered in the "Poor advice found - compensation offered" category, and excluded from this category.

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of a counter-offer or counter-assessment that the Bank was still assessing. The final outcome for these cases may impact the breakdown of assessment outcomes going forward.

Table 3.6 below provides a breakdown of the status of the 686 cases that had been issued an assessment outcome as at 31 August 2015. The table illustrates that 31% of cases that had been issued an assessment outcome (either with or without compensation) as at 31 August 2015 had accepted the Bank's assessment. A further 9% of cases (with an assessment outcome issued) had rejected the outcome or, did not respond to the outcome, and subsequently withdrew.²⁴ As noted above, the remaining 60% of cases remained under review by the customer or, in instances where the customer had made a counter-offer or counter-assessment, were under review by the Bank.

Table 3.6: Status of cases that had been issued an assessment outcome as at 31 August 2015

Case status	Total as at 31/8/2015
Offer of compensation made by Bank	
Offer accepted by the customer	19
Offer under review by the customer	23
Offer rejected by the customer and counter-offer made to the Bank	11
No offer of compensation made by Bank	
Assessment outcome accepted by the customer ²⁵	191
Customer rejected or did not respond to the assessment outcome, and withdrew from the Program	63
Assessment outcome under review by the customer	327
Assessment outcome rejected by the customer and counter-assessment made to the Bank	52
TOTAL	686

Of the total cases that had been issued an assessment outcome as at 31 August 2015, approximately 30% of these cases had retained the services of an Independent Customer Advocate (ICA) to assist with their review of the Bank's assessment outcome (down from approximately 40% as at 30 April 2015).²⁶ The Bank has

²⁴ After receiving an assessment outcome, customers may choose not to respond to the Bank as to whether they accept or reject the Bank's assessment outcome. If a customer does not respond to the Bank within the time period specified within his/her assessment outcome, the customer is deemed to have rejected the outcome.

²⁵ After an assessment outcome is issued by the Bank, the Bank attempts to contact the customer and discuss whether he/she accepts the outcome (or wishes to make a counter-assessment or counter-offer). Where a customer accepts the Bank's assessment outcome with no offer of compensation, the Bank writes to the customer confirming their acceptance and exit from the Program (at which point, the case is included in this category). Also included in this category are cases where the customer (or his/her ICA) has sent the Bank written confirmation of acceptance of the assessment outcome.

²⁶ Both figures of 40% and 30% include the 60 cases in the Pilot, where the customers were required to retain an ICA as a safeguard for their participation.

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indicated that a factor driving the reduction in the ICA retention rate is likely to be the increased level of information the Bank has provided to customers in their assessment outcome letters since June 2015. The additional details the Bank has provided has given customers greater transparency as to how the Bank derived its assessment outcome.

3.5. Compensation

In the period between 30 April 2015 and 31 August 2015, the Bank offered an additional \$387,739 in compensation to customers in the Program, and paid \$409,113 in compensation.

Table 3.7 sets out the total amount of compensation offered and paid by the Bank in the Program to 31 August 2015.

Table 3.7: Compensation amounts

Compensation	Prior Total as at 30/4/2015	New	Total as at 31/8/2015
Offered by the Bank	\$562,513	\$387,739	\$950,252
Paid by the Bank	\$79,702	\$409,113	\$488,815

The total amount of \$488,815 in compensation paid to 31 August 2015 consisted of payments made to 21 cases in the Program.²⁷

The difference between the total amount of compensation offered and paid as at 31 August 2015 (\$461,437) related to cases where the offer of compensation was still under review by the customer or, in cases where the customer had made a counter-offer or counter-assessment to the Bank, was still under review by the Bank.

All customers who had accepted an offer of compensation by the Bank as at 31 August 2015 had been paid.

²⁷ Of the 21 cases, two cases involved interim payments where the Bank was yet to finalise the assessment outcome as at 31 August 2015.

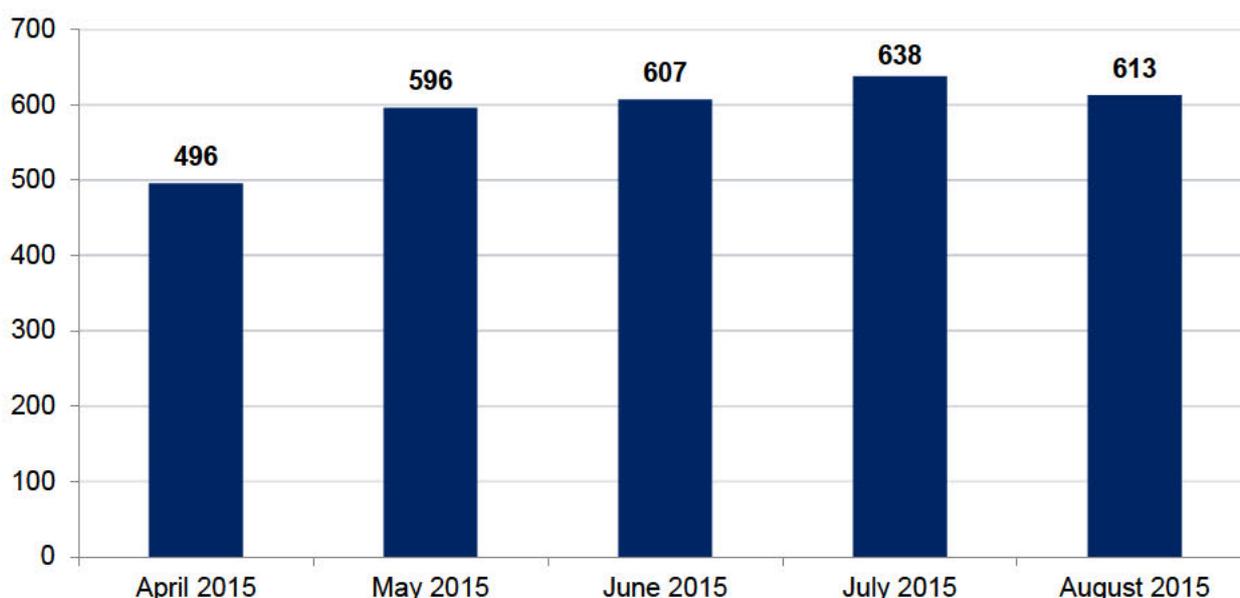
4. Ongoing Program initiatives

This section provides an overview of the ongoing initiatives that have been taken by the Bank in recent months to support the Program's implementation. It covers initiatives related to the people, governance, systems, processes and communications supporting the Program. This section also provides an update on the Pilot conducted in early 2015 and reported in our Second Report.

4.1. People

The ARp team, which is responsible for implementing the Bank's remediation processes for the OAR program and the varied licence conditions of CFPL and FWL agreed with the Australian Securities and Investments Commission (ASIC), has grown to over 600 full-time equivalent resources since the end of April 2015. As at 24 August 2015, the ARp team stood at 613 FTE resources – reflecting an increase of more than 100 FTE resources from the 496 reported as at 24 April 2015 (see Figure 4.1).

Figure 4.1: Number of FTE resources in ARp



Similar to the Program's recruitment focus earlier in 2015, the ARp team's most recent recruitment efforts have again focused on the addition of resources within the Customer and Information Management streams. These streams are responsible for, inter alia, case assessments and customer file retrievals, respectively. The addition of extra resources within these streams allowed the Bank to increase the volume of cases it assessed in the Program at any one time.

The majority of resources within the ARp team continue to be employees or contractors of CBA (over 90% of FTE resources as at 24 August 2015). The remaining team members (less than 10% of FTE resources) are resourced from external professional services firms.

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The increase in team numbers and the ongoing refinement of assessment processes within the Program also required the Bank to undertake additional training initiatives across the ARp streams. In particular, since the end of April 2015, the Bank conducted over 50 training sessions, covering areas such as:

- new starter induction training, including general on-boarding as well as more specialised training programs for new members of the ARp's case assessment team;
- customer contact and relationship management, including complaints handling processes and new procedures to gather additional information from customers;
- new or updated Information Technology (IT) systems and programs;
- enhanced case assessment processes and tools applied in the Program, including training on the identification of potential fraud issues that should be referred to the Program's IFE, and refinements to the Program's Case Assessment Tool (CAT) (refer to Section 4.4 for further details regarding the CAT and protocols for referring cases to the IFE); and
- leadership training for the Program's senior management group.

The Bank also continued to set higher training standards for members of the ARp team who are responsible for conducting case assessments. In particular, ARp team members with responsibility for case assessments are required to meet certain Regulatory Guide 146 (RG 146) minimum training requirements related to the provision of personal advice (even though such members do not provide advice to customers under the Program). Once accredited, these team members are also required to meet mandatory continuing professional development requirements.

As at 24 August 2015, approximately 92% of ARp team members with responsibility for case assessments had completed their necessary RG 146 minimum training requirements. The remaining 8% of team members were working towards completion of their RG 146 requirements.

4.2. Governance

No major changes to the governance structure supporting the OAR program have been made since our Second Report. The main executive committees responsible for oversight of the Program – namely, the Program Steering Group (PSG) and the Executive Steering Group (ESG) – continue to oversee the Program's implementation and provide direction in line with authorised approvals provided by the relevant CBA, CFPL and FWL boards. In the period between 30 April 2015 and 31 August 2015, the PSG convened five times to discuss matters related to the Program, while the ESG convened twice.²⁸

The CBA and CFPL/FWL boards also continued to be updated on developments in the Program during this period, authorising necessary approvals to implement initiatives under the Program where necessary. The CFPL and FWL boards discussed developments regarding the Program twice between 30 April 2015 and 31 August 2015, while the parent CBA board and the Bank's financial planning board oversight committee were each updated about the Program once during this period.

²⁸ From the end of July 2015, the PSG has decided to meet on a monthly basis rather than a fortnightly basis.

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In addition to the oversight provided by the Program's executive committees and boards, the Program's risk management function also monitored governance and risk issues related to the Program. Issues, incidents and risks associated with the Program's implementation were reported to the Program's leadership team, and managed in accordance with the Bank's broader risk management framework. Over recent months, the risk management function also commenced the assessment and testing of controls in line with the Bank's operational risk framework.

Since the start of 2015, the Bank's Internal Audit department commenced a number of targeted reviews of various aspects of the Program. These reviews included those in relation to the Program's training arrangements, governance, reporting arrangements, risk management and information systems. Material issues identified by Internal Audit were reported to the Program's management and have management action plans attached.

4.3. Customer file retrieval

In our Second Report, we noted a number of the enhancements made to the Program's customer file retrieval processes, centring on the more systematic cataloguing of customer files located across the Bank's branches, offices and document archiving sites. One of the main aims of these enhancements was to provide the Bank with a catalogue of all available hardcopy CFPL customer advice files, so that the files of customers who have expressed interest in the Program could be more readily and efficiently retrieved for assessment.²⁹ The more systematic cataloguing and collection of customer files also aimed to provide the Bank with a better understanding of the completeness of each registered customer's file.

As at the end of August 2015, the Bank's cataloguing of advice files for CFPL customers across the Bank's branches, offices and archiving sites was nearing completion. Over 930,000 customer files, spanning 476 Bank branches and offices across Australia, had been catalogued into a software tool developed to assist with the Bank's advice remediation programs (i.e., the OAR program and the varied licence conditions for CFPL and FWL). These catalogued files covered more than 600,000 customers, including customers who are not part of any of the Bank's advice remediation programs.³⁰

Of the 600,000 customers where the Bank had catalogued a customer's advice file, more than 15,000 cases had been identified as those within the OAR program. For the remaining cases in the Program where a hard-copy file had not been catalogued, the Bank continues to use other customer identification processes to locate these files (including the identification of electronic files stored on its systems that may be relevant). To the extent a customer's advice files remains incomplete after all avenues of file retrieval have been exhausted, the Bank has indicated it will apply standardised procedures to gather additional information and use its best endeavours to assess such cases.

With the Bank nearing completion of its cataloguing of hard-copy files for CFPL customers, efforts turned to the collection and scanning of files of customers in the Program. Of the 15,000 cases in the Program where a file had been catalogued, more than 14,000 of these cases have had the relevant customer files collected and

²⁹ Files relating to customers of FWL practices were not included in the catalogue and collect initiatives given differences and difficulties in accessing FWL customer files (refer further below for challenges related to customers of FWL in the Program).

³⁰ A customer may have one or more files related to their case. A file may include multiple advice documents provided to the customer by an adviser (e.g., file notes prepared by an adviser and formal advice documents).

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scanned for review in the Program (as at 24 August 2015). In undertaking these efforts, the Bank also identified the need to return to 124 sites containing files relevant to customers in the Program, and had completed a revisit to 102 of these sites as at 24 August 2015.

While the Bank has made significant progress in retrieving the files of customers of CFPL in the Program, the retrieval of files for customers of FWL remains a challenge. As noted in our Second Report, the different systems and arrangements in place between the Bank and FWL practices has meant that different file retrieval processes have been required for customers of FWL in the Program. In particular, the file retrieval processes for customers of FWL in the Program have required a more manual approach, whereby files are requested from the relevant FWL adviser for scanning into the Program's systems, before being returned to the adviser.

Given these challenges, the Bank has indicated that files for FWL customers in the Program had only been retrieved in approximately 50% of cases where a file was required to be located. The Bank has indicated that it is continuing to retrieve the remaining files of FWL cases in the Program, although it will need to address some further ongoing challenges in retrieving these files. A particular challenge relates to customers in the Program who had received advice from *former* FWL advisers. For these cases, the Bank may not have the contact details of the former FWL adviser and, even when it does, requires the cooperation of the adviser to locate and make available the files.³¹

Given the difficulty in retrieving files for customers of former FWL advisers in the Program, the Bank has indicated that it is introducing additional steps in order to locate and collect these files (e.g., by performing additional searches in ASIC databases and the Bank's other IT systems). The Bank has indicated that it commenced implementing these additional steps in September 2015, and that these steps have accelerated the retrieval of outstanding FWL customer files.³²

4.4. Tools, processes and systems

4.4.1. Case assessment tool and compensation model

In our Second Report, Promontory noted the positive steps that the Bank had taken to enhance the Program's case assessment processes following the completion of the Pilot. These enhancements centred on the development of the CAT, which facilitated more consistent, reliable and traceable outcomes for customers in the Program.³³ The Bank also undertook significant work to refine the associated assessment methodology, guidelines and standard operating procedures supporting the CAT, which together reflected the Program's case assessment framework (referred to as the ARp Solution).

³¹ An additional challenge arises with respect to obtaining the investment history for customers who invested in products issued by third-party product providers. In such instances, the Bank may require the cooperation of third-party product providers to provide access to historical customer investment information.

³² In particular, as at 23 September 2015, the Bank has indicated that the percentage of FWL cases in the Program (where a hard-copy file needed to be located) had reduced from approximately 50% to 33%.

³³ The CAT is a case workflow management system that helps the Bank's assessment team track and record case assessments in a structured, step-by-step manner.

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At the time of our Second Report, we noted that the CAT had yet to be deployed for cases that were assessed up to 30 April 2015. Since that time, more than 450 cases in the Program have been assessed through the CAT, with the CAT also having been reviewed by the Program's ICAs.

In addition to the enhancements that were made following the Pilot, the Bank has also, in recent months, made further refinements to the CAT to extend its scope and capability. In particular, in late August 2015, the Bank finalised its second release of the CAT, which included additional processes to deal with cases:

- involving less common products or types of advice provided to customers of CFPL and FWL, such as those involving Self-Managed Superannuation Funds, agri-business schemes or structured products;
- involving more complex issues or computations, such as gearing (through products that are inherently geared or margin lending);
- with incomplete information (after all efforts had been exhausted to retrieve the customer's advice files);
- involving advisers that had been previously identified by the Bank as having exhibited known issues of poor behaviour or improper conduct, which require special attention due to the heightened risks associated with such cases;³⁴ and
- that may involve potential issues of fraud or forgery (refer to Section 4.4.2 below for a further discussion of initiatives in relation to the assessment of potential fraud and other improper conduct).

The Bank has supported the revised version of the CAT with refinements to associated assessment guidelines and standard operating procedures.

As at 31 August 2015, no cases had been assessed under the revised version of the CAT. Testing of the revised tool, however, had commenced at the start of September and case assessors had commenced training on the revised tool.

The other main component of the advice review system that we noted in our Second Report was the Program's compensation model. The compensation model is the Bank's methodology for determining remediation payments under the Program for cases that have been assessed as having received poor or incorrectly implemented advice (or the incorrect charging of fees).

Since our Second Report, an independent model validation of the compensation model's accuracy was completed by an external party to the Bank. The validation involved testing the model against documented methodology and principles developed by the Bank, and testing a range of illustrative cases to verify the accuracy of the model. The validation found that the model performed calculations that were consistent with the principles and methodology documented by the Bank, and found no exceptions in relation to the illustrative cases used to verify the model's accuracy.

³⁴ The revised version of the CAT includes new assessment processes for identifying and considering the risks and behaviours of specific advisers. The process requires certain adviser themes (of poor or improper conduct) historically related to these specific advisers to be assessed by a Special Matters Assessment Team within the ARp team, which then assess whether the case should be referred to the Program's IFE (McGrathNicol Forensic).

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4.4.2. Fraud protocol

In our Initial Report, Promontory noted the appointment of McGrathNicol Forensic (McGrathNicol) as the Independent Forensic Expert to the Program. The IFE's role is to investigate any concerns about possible fraud, forgery or other improper conduct (which may amount to a breach of criminal law) relating to financial advice received by customers in the Program.

In August 2015, the Bank finalised its "Fraud Protocol" with McGrathNicol setting out the triggers and processes to be followed by the Bank and the IFE in the event a concern is raised in relation to fraud, forgery or other improper conduct by advisers. The Fraud Protocol sets out the roles and responsibilities of the Bank and the IFE, including those in relation to the referral, reporting and documentation of cases potentially involving fraud or improper conduct. At a high-level, the process involves:

- an initial review by the Bank's case assessment team of potential issues of fraud or other improper conduct in a case, based on processes developed by the Bank in conjunction with the IFE;³⁵
- escalation of any cases with potential issues of fraud or improper conduct to a "Special Matters Assessment Team" (SMAT) within the Bank, which is responsible for referring cases to the IFE; and
- the investigation and reporting of all referred cases by the IFE.

All cases that are referred to the IFE and investigated by the IFE will be reported to the Bank. The Bank will provide a copy of any report completed by the IFE to customers as part of their correspondence to communicate the Bank's assessment outcome (or response to a customer's counter-assessment outcome).

To mitigate the risk of the Bank failing to appropriately refer cases to the IFE where concerns of fraud or improper conduct are raised, the IFE will review a sample of cases that have been investigated by SMAT but not referred to the IFE. The IFE's sampling will assess whether cases that had not been referred to it by SMAT have been assessed for fraud or other improper conduct in a manner that is materiality consistent with the processes and objectives of the Program's fraud protocols. The IFE will report to the Bank any instances where adherence to the processes and objectives of the Program's fraud protocols has not been met, with this report also being made available to Promontory as Independent Expert to the Program.

As at 31 August 2015, McGrathNicol had been engaged in relation to three cases in the OAR program.

4.4.3. IT systems

With most enhancements having occurred in late 2014 and early 2015, there were relatively few additional enhancements to the Program's databases and IT systems in the period between 30 April 2015 and 31 August 2015. Areas of the Program's IT infrastructure that were enhanced during this period included:

- refinements to the Program's customer relationship and workflow management systems, to allow for more automated and consistent generation of customer correspondence letters;

³⁵ The processes for assessing potential fraud are set out in documented assessment guidelines which set out indicators of potential fraud or improper conduct that require escalation. Promontory will review adherence to these documented assessment guidelines as part of our ongoing sampling of cases in the Program.

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- the development of a data extraction tool that enables account transaction details to be more easily extracted from the Program's main database to other applications (e.g., compensation model); and
- data loading enhancements between a number of the Bank's product systems and the Program's main database.

As discussed in Section 4.4.1 above, the Bank also made a number of refinements to the CAT used by the Program's case assessment team. These enhancements included improvements to the automated outputs generated by the CAT to assist various stakeholders within the Bank review assessment outcomes.

4.5. Communications and awareness

The main Program awareness initiatives undertaken since the end of April 2015 centred on initiatives to raise awareness of the Program's closure date to new expressions of interest from 3 July 2015. In particular, on 21 June 2015, the Bank undertook a final round of mass advertising across major city centres around Australia to notify customers of the impending closure date for new expressions of interest. Table 4.1 below provides a summary of the publications in which half-page advertisements were published by the Bank to raise awareness of the closing date.

Table 4.1: Additional advertising of Program prior to the close of registration

Publication	Coverage area
The Sunday Telegraph The Sun Herald The Sunday Mail	Sydney, Canberra, Brisbane, Adelaide
The Sunday Canberra Times	Canberra
The Sunday Herald Sun The Sunday Age The Sunday Times	Melbourne, Perth

In addition to the mass advertising undertaken in national and major metropolitan newspapers, the Bank also wrote to each community association it had previously engaged with to inform them of the closure date. This written correspondence reminded each community association about the Program, and the steps that had been undertaken by the Bank recently to improve the consistency and efficiency with which cases would be reviewed under the Program.

The Program's ongoing digital advertising initiatives also continued through to the closure date of new expressions of interest. The Bank has indicated that, since the Program's commencement, close to 43,000 unique visitors had visited the Program's campaign landing page (up from approximately 35,000 as at the end of April 2015).

Beyond the communication and awareness strategies related to the closure date for new expressions of interest, the Bank provided a written update on the Program's progress to over 20,000 customers in the

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Program at the end of August 2015.³⁶ This update provided general information about the Program's progress and, for customers who had yet to return their *You and Your Advice* form, tips to help complete this form. The Consultant Expert Adviser to the Program (Fiona Guthrie) provided input and feedback in the drafting of this update to customers.

4.6. Pilot update

4.6.1. Response to previous findings

The Pilot, which commenced in November 2014, involved an assessment of 60 cases jointly selected by CBA and the ICAs. The Pilot was conducted to test and refine the Program's processes prior to full implementation.

In our Second Report, Promontory provided an overview of the outcomes of the Pilot, and the findings from our review in the context of our Program monitoring role. We noted that the Bank had identified a number of opportunities to enhance its case assessment processes, which we believed would facilitate more consistent, reliable and traceable outcomes for all customers in the Program. We also noted that, in reviewing the 60 Pilot cases as part of the testing and refinement of our own procedures, we identified a number of cases where we found it difficult to trace and verify whether each aspect of the Bank's documented assessment processes was adhered to.

In response to our findings, the Bank indicated that it has undertaken a further review of cases in the Pilot where we found it difficult to verify adherence to the documented processes. In some cases, this review involved re-assessing the cases based on counter-offers or counter-assessments made by the ICAs on behalf of the Pilot participants. Where an issue that we identified was not raised as a concern by an ICA, the Bank also undertook a further review to ensure the outcomes communicated to the customer remained appropriate.

Promontory has reviewed the responses provided by the Bank in relation to the Pilot cases where we had difficulty tracing and verifying the Bank's adherence to documented processes. Our review found that, in the majority of cases, the Bank's re-assessment (through its response to counter-assessments made by the ICAs or as part of reviews to respond to our queries) sufficiently addressed our previous findings.

In the remaining small number of cases, the Bank was still finalising its position on whether or not previous assessment outcomes would require change. For these cases, we have indicated to the Bank that we will continue to monitor the Bank's assessment to ensure that the relevant customers were not disadvantaged from their involvement in the Pilot. To the extent that we identify any material concerns with the Bank's re-assessment of these cases, we will report these issues in our next report.

4.6.2. ICA engagement

Since the end of April 2015, the Bank has undertaken further engagement with the ICAs to provide them with greater transparency into the processes and methodology applied in delivering assessment outcomes under the Program. In particular, the Bank has presented to each of the three ICAs the revised CAT and

³⁶ Customers that were sent an update included all those who had expressed interest or registered for the Program, and had yet to formally exit the Program.

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assessment guidelines following the Pilot, to facilitate their better understanding of the facts and considerations applied by the Bank to derive case assessment outcomes.

The ICAs have reviewed the revised assessment guidelines and methodology, and provided feedback to the Bank on areas where they believe the process could be refined. The Bank and the ICAs have also continued to engage in meetings and workshops to discuss counter-assessments and counter-offers where an assessment outcome had been issued. These workshops have provided the ICAs with an opportunity to further discuss the Bank's assessment guidelines and methodology, and how they were applied in the Bank's response to counter-assessments made.

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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 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.

In our Second Report, we set out the findings from our initial review of cases that had exited the Program prior to receiving an assessment outcome from the Bank. These cases included those where the customer withdrew voluntarily from the Program prior to receiving an assessment, as well as cases that the Bank had deemed ineligible for the Program. Our Second Report also set out the findings from the Pilot, which involved the review of 60 cases.

Given the increase in cases that had progressed through the Program's Assessment stage and the more structured processes that have been developed since the Pilot, we have completed our initial sampling of cases that have progressed through the Program's Assessment stage (beyond those in the Pilot). We have also completed additional sampling of cases that exited the Program prior to receiving an assessment outcome.

5.1. Scope of sampling

Our initial sampling of cases that have progressed through the Program's Assessment stage (beyond those in the Pilot) involved a review of 52 cases that had been issued an assessment outcome by the Bank as at 31 August 2015. This figure represents approximately 8% of all cases that had been issued an assessment outcome by the Bank as at 31 August 2015 (excluding cases in the Pilot).³⁷

Promontory's sampling included both cases that had been issued an assessment outcome prior to 30 April 2015 (i.e., those cases identified as having been issued an assessment outcome in our Second Report), as well as those where an assessment outcome was issued after 30 April 2015. We note that, during this period, the Bank's process for assessing cases had transitioned to the Program's enhanced case assessment framework (i.e., the CAT and associated assessment guidelines), which differed from the processes that were applied for cases assessed earlier in the Program (where the assessment processes used were similar to those adopted in the Pilot).

During the period between 30 April 2015 and 31 August 2015, we also sampled additional cases that exited the Program prior to having an assessment outcome issued by the Bank. These cases included:

³⁷ When the 60 Pilot cases we reviewed previously are taken into account, Promontory's sampling to date for all cases that had progressed through the Program's Assessment stage as at 31 August 2015 is more than 16% of the relevant case population.

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- **Customer withdrawals** (i.e., cases where the customer had opted out of the Program): We reviewed 269 cases in our sample of this population, representing all cases (100% of the population) that were identified by the Bank as a customer withdrawal between 30 April 2015 and 31 July 2015.³⁸
- **Ineligible cases** (i.e., cases deemed ineligible for the Program by the Bank): We reviewed nine cases in our sample of this population, including two new cases (since our Second Report) that were deemed ineligible at the Program's Registration stage (100% of the population), and seven cases that were deemed ineligible prior to the Program's Registration stage (approximately 10% of the population).
- **Administrative exits** (i.e., cases removed from the Program by the Bank on administrative grounds): We reviewed 42 cases in our sample of this population, representing approximately 10% of all cases removed on administrative grounds due to the customer having not returned a *You and Your Advice* form (or other documents requested by the Bank) within one year from the date of registration or expression of interest. We have not yet sampled any cases that were removed by the Bank on the grounds that the case was "non-genuine" (397 cases as at 31 August 2015).³⁹

5.2. Approach to reviewing cases

5.2.1. Cases progressed through the Assessment stage

Our review of the 52 cases that had progressed through the Assessment stage (i.e., cases where the Bank had issued an assessment outcome to the customer) involved a review of the Bank's records of assessment against the Program's documented processes that applied at the time of the Bank's assessment. These documented processes included assessment guidelines, methodology and compensation method documents that set out how the Bank would assess advice in the Program – taking into account the legal and regulatory requirements that applied at the time of the advice. Promontory's approach sought to identify evidence from the Bank's recorded assessments that cases were assessed in a manner that was consistent with the relevant documented processes.

Given that Promontory had yet to complete any review of cases progressed through the Assessment stage in our Second Report (outside of the Pilot), our sampling for this period involved reviewing cases assessed by the Bank both prior to, and after, 30 April 2015. We found that cases that were assessed prior to late May 2015 were assessed according to processes that were similar to those adopted in the Pilot. From late May 2015, most cases were assessed according to the enhanced case assessment framework developed following the Pilot, which involved the recording of case assessments using the CAT.⁴⁰

³⁸ We have yet to sample cases that were identified as customer withdrawals by the Bank in August 2015.

³⁹ As discussed further in Section 5.3.4 below, we were only notified of these "non-genuine" administrative exits towards the end of August 2015, which limited the time we had to conduct a sample review of these cases.

⁴⁰ A number of cases assessed after late May 2015 (approximately 80) were assessed using processes similar to those adopted in the Pilot, given the more limited capabilities of the CAT at that time. The second release of the CAT (discussed in Section 4.4.1) sought to address these limitations.

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From the sample of 52 cases we reviewed in this period, we reviewed:

- 18 cases that were assessed using processes that were similar to those adopted in the Pilot, covering approximately 10% of the relevant population; and
- 34 cases that were assessed using the Bank's revised case assessment framework and CAT, covering approximately 7% of the relevant population.

Our findings in relation to both these cohorts of cases are set out in Section 5.3.1 below.

5.2.2. Case exits

For cases that were identified as customer withdrawals or ineligible by the Bank, we applied the same approach to that set out in our Second Report in our sample review. In particular, for those cases identified as customer withdrawals by the Bank during the period between 30 April 2015 and 31 August 2015, our review involved:

- reviewing relevant correspondence between the Bank and the customer (including written correspondence, call logs and other customer files on the Bank's advice remediation system) to evidence a customer's request to withdraw from the Program; and
- confirming that the Bank wrote to customers who elected to opt-out of the Program whenever practicable and reasonable.

For cases that were deemed ineligible for the Program by the Bank, our review involved:

- reviewing any applicable information that was attached to the case that could indicate the customer should, in fact, have been eligible for the Program; and
- confirming that the Bank wrote to each customer informing them of their ineligibility for the Program and providing customers with the opportunity to have their concerns reviewed through other avenues (e.g., the Bank's internal complaints handling department or FOS).

For cases that were removed from the Program by the Bank on administrative grounds, our review sought to confirm that the basis on which they were removed, and the process that was applied in making that assessment, were consistent with the Program's rules and documented processes. For example, the Bank's documented processes require that customers be provided with at least one year to return their *You and Your Advice* form (from the date in which they first registered or expressed interest in the Program) before the Bank can remove their case from the Program on administrative grounds. The Bank's documented processes also require that the Bank attempt to contact customers twice (via alternative communication mediums where possible) to remind them to provide the information requested, before their case can be removed.

Our findings from our review of each category of case exits are set out in Sections 5.3.2 to 5.3.4 below.

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5.3. Sample findings

5.3.1. Cases progressed through the Assessment stage

As noted earlier, our sampling of cases that had progressed through the Assessment stage involved a review of two cohorts of cases – those that were assessed using processes that were similar to those adopted for the Pilot, and those that were assessed more recently using the Program's enhanced case assessment framework.

Of the 18 cases that we reviewed as part of our sample of cases assessed using processes that were similar to those in the Pilot, we found that the Bank had adhered to the Program's documented processes in all but one case. The one case where we found an exception related to a case where we assessed the Bank to have not undertaken a re-assessment of the asset allocation of the customer's investment portfolio in accordance with the Program's documented processes. In particular, we found that the Bank had not strictly complied with its documented processes when identifying and assessing reasons why the asset allocations within the customer's advised investment exceeded the allowable exposure limits to asset classes.⁴¹

Of the 34 cases that we reviewed as part of our sample of cases assessed using the enhanced case assessment framework developed by the Bank, we found that the Bank had adhered to the Program's documented processes in all but two cases. The two cases where we found an exception involved instances where the customer was inadvertently placed into an investment product that differed from the product which had been recommended in the Statement of Advice agreed with the customer. In both these cases, the Bank's assessment did not identify the difference between the actual product that was invested in, and the product that had been recommended in the Statement of Advice.⁴²

Each case where we identified an exception involved deviations from the Bank's processes. We highlight that the exceptions do not necessarily result in a customer's assessment outcome or offer of compensation being adversely impacted. A separate assessment is required to determine whether the customer's assessment outcome or offer of compensation requires change. In the event that a customer's assessment outcome or offer of compensation requires change, the Bank has confirmed that it will notify the customer of the change, and offer any compensation due (even in circumstances where the customer has exited the Program).⁴³

Beyond the exceptions we identified in this initial sample, our review also identified opportunities where the Bank's assessment processes could be further refined to reduce the risk of inconsistent treatment of cases. In particular, we found that the assessment of fees could be further refined to include scenarios that are not currently catered for in the Program's documented processes (e.g., instances where a customer reduces the amount they invest after having agreed to invest a higher amount in a record of advice). The Bank has

⁴¹ The allowable exposure limits to asset classes are determined by reference to a customer's risk profile.

⁴² We note that in both these cases the two products had similar names, which made the difference difficult to detect. We also note that, in each case, the incorrect product invested in was only one of multiple products that formed part of the adviser's overall recommendation. We did not identify any exceptions to the Bank's assessment of other aspects of the advice in relation to these cases.

⁴³ The Bank has indicated that it has subsequently completed a separate assessment to determine whether there was an impact on the customers' assessment outcomes for two of the cases where we identified an exception. The Bank has confirmed that, for these two cases, changes to the customers' assessment outcomes are required, and the Bank was in the process of notifying these customers of the change and offering the relevant compensation due. The remaining case where we identified an exception was still in the process of having a separate assessment conducted by the Bank.

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confirmed that it will proactively work towards refining its processes in light of our findings, and identify ways in which its approach could be strengthened to mitigate any potential impact on assessment outcomes.

Notwithstanding the exceptions we identified, our overall view of the Bank's assessment of the cases sampled is that the Bank has made significant efforts to apply the Program's documented processes in a fair and consistent manner. The exceptions that we have identified so far have related to specific elements of the overall assessment process, and we found no evidence of systemic or major failures in the way cases were being assessed. That is, we do not consider the exceptions we have identified as undermining the Bank's objective of assessing cases in a manner that is materially consistent with the Program's documented processes and objectives.

We also note that, while we found more exceptions from the cohort of cases that were assessed using the Program's enhanced case assessment framework relative to the earlier assessment processes (i.e., two from a sample of 34 cases compared with one from a sample of 18 cases), we remain of the view that the Program's CAT and associated framework facilitates more consistent and comprehensive case assessments. In particular, it is our view that the CAT makes it easier for us to verify whether cases have been assessed consistently in accordance with the Program's processes and objectives.

5.3.2. Customer withdrawals

From our review of the 269 cases of customer withdrawals in the period between 30 April 2015 and 31 July 2015, we found no material exceptions in relation to the Bank's treatment 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 or expressed interest in the Program advised the Bank of his/her request to withdraw from the Program.

Our review of the 269 customer withdrawal cases also found that the Bank had sent written confirmation of the customer's decision to opt-out of the Program required under the Bank's processes in all but one case. With respect to the one case, the Bank indicated that a letter confirming the customer's withdrawal had been sent in September 2015.

The 269 cases that we reviewed as part of our sample encompassed all cases that were identified as having withdrawn from the Program between 30 April 2015 and 31 July 2015. As noted earlier, we have yet to review any cases that were identified as having withdrawn in August 2015. Given that the findings from our most recent review provide us with confidence that the Bank's processes are being adhered to for customer withdrawal cases, we plan to undertake a smaller sample size for these cases going forward.

5.3.3. Cases deemed ineligible

Promontory sampled nine out of the 65 cases that were deemed ineligible by the Bank in the period between 30 April 2015 and 31 August 2015. This sample included the two new cases that had been deemed ineligible by the Bank at the Program's Registration stage since our Second Report, and seven of the 63 cases that had been deemed ineligible prior to the Registration stage.

Our review of the seven cases in the latter category confirmed that each of the cases related to customers who were inadvertently invited to register for the Program as part of the Bank's extended customer contact awareness initiative in early 2015. The customers in this category had responded to the Program's direct mail-out by expressing interest in the Program, but were subsequently found not to have received advice from

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CFPL or FWL during the Review Period.⁴⁴ We found no material concerns with the Bank's decision to classify these seven cases as ineligible.

We also found no material concerns with the Bank's decision to classify the other two cases deemed as ineligible at the Program's Registration stage. In each of these cases, there was no evidence from the information we reviewed to suggest that the customer had received advice from CFPL or FWL during the Review Period.

Of the nine cases deemed ineligible that we reviewed, we found that the customers had been provided with written confirmation from the Bank notifying them that their case would not be reviewed as part of the Program. The written confirmation sent by the Bank also invited the customer to discuss any advice concerns with the Bank's internal complaints handling department.

5.3.4. Cases removed from the Program on administrative grounds

From our review of the 42 cases that had been removed from the Program on administrative grounds due to the customer having not returned a *You and Your Advice* form within one year from the initial registration or expression of interest, we found no material exceptions with the Bank's adherence to its documented process in all cases we reviewed. In each of these cases, the information we reviewed found:

- evidence that the customer had registered their interest in the Program more than a year prior to 31 July 2015;
- evidence that the Bank had attempted to reach the customer at least twice, 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 request for information.

The Bank had also identified that five of the 402 cases in this population would potentially require re-instatement into the Program (e.g., for customers who had been provided with additional time to submit their *You and Your Advice* form, and did so within the relevant timeframes). Promontory plans to monitor these five cases to ensure that each are re-instated into the Program where the customer has responded to the Bank's request for information within the specified timeframes.

In addition to the 402 cases that were removed on administrative grounds due to the customer having not returned a *You and Your Advice* form within the required timeframe, the Bank also removed a further 397 cases from the Program in the period between 30 April 2015 and 31 August 2015. These 397 cases were classified by the Bank as "non-genuine". In three of the cases, the Bank assessed that the person never genuinely intended to register for the Program. The balance of the 397 cases were classified as non-genuine on the basis that investigations by the Bank had indicated that the expression of interest or registration was made by a person (other than the customer) without the customer's consent, with one of the following conditions also applying:

- the customer had informed the Bank that they did not want to participate in the Program;

⁴⁴ The Bank proactively managed these cases by calling and/or writing to the affected customers to clarify that they were not, in fact, eligible for the Program once it was aware of the inadvertent mail-outs.

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- the customer had not responded to the Bank's invitation to participate in the Program; or
- the Bank had no contact details for the customer.

We have yet to review any of the 397 non-genuine cases that were removed from the Program by the Bank as at 31 August 2015. These cases were only removed towards the latter part of August 2015, limiting the time we had to conduct any sample review of these cases. The Bank has indicated that there are likely to be additional cases that will be removed on similar grounds in the coming months. Promontory will undertake a sample review of these cases and will report on our findings in our next report.

5.4. Future sampling

Promontory's initial sampling of cases in each of the categories noted above has involved applying a simple, judgement-based methodology to determining sample sizes. In general, we have sought to undertake an initial sample of more than 5% in most populations, while applying a 100% sample to those cases that have exited and are relatively straight-forward to review.

As noted in our Second Report, Promontory's intention is to apply a statistical, risk-based methodology to determining our sample sizes. Given some limitations in extracting the relevant case attributes prior to the Bank completing its assessments, however, we were not able to adopt this approach for this reporting period.

We expect that, as further case assessments are completed, we will be able to identify those segments of the population that may exhibit higher risk attributes, and warrant greater attention in our sampling. We also expect that, as the Bank completes additional case assessments and refines its processes for the analysis of case assessment data, we will have available the relevant case attributes to apply a risk-based methodology.

Consistent with the approach we set out in our Second Report, where we find exceptions in relation to the Bank's adherence to documented processes, we will undertake additional sampling using statistical methods, where possible.

Appendix 1: Program stages

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

Program stages	Description
Expression of Interest	Refers to cases that had notified the Bank of their 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 that had: <ul style="list-style-type: none"> Notified the Bank of their interest to participate in the Program prior to 23 January 2015; or Expressed interest in the Program on or after 23 January 2015, where the customer had returned a <i>You and Your Advice</i> form to the Bank. <p>At the Registration stage, the Bank undertakes an assessment of a customer’s eligibility to participate in the Program.</p>
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 in the Program where an assessment outcome had been issued by the Bank and was under consideration by the customer.
Independent Panel Review	Refers to cases where the Bank’s final assessment outcome had been rejected by the customer and the case had been escalated to the Independent 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 cases that had expressed interest in the Program on or after 23 January 2015, and had withdrawn from the Program prior to the customer returning a <i>You and Your Advice</i> form to the Bank. This category also includes cases that had been removed or deemed ineligible for the Program by the Bank prior to the customer returning a <i>You and Your Advice</i> form to the Bank.
Exits at Registration stage	Refers to cases that had withdrawn from the Program prior to assessment (for cases registered prior to 23 January 2015), and cases that had withdrawn from the Program after a <i>You and Your Advice</i> form was returned to the Bank (for cases that expressed interest on or after 23 January 2015). This category also includes cases that had been removed or deemed ineligible for the Program by the Bank.
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 Independent Panel.



Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



Commonwealth Bank

Open Advice Review program

Fourth Report

Prepared by Promontory

2 February 2016

Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



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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 September 2015 and 31 December 2015.

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
CBA/Bank	Commonwealth Bank of Australia (Group)
CAT	Case Assessment Tool
CFPL	Commonwealth Financial Planning Limited
Current Period	1 September 2015 to 31 December 2015
ESG	Executive Steering Group
FOS	Financial Ombudsman Service
FNA	Financial Needs Analysis
FTE	Full-time equivalent
FWL	Financial Wisdom Limited
ICA	Independent Customer Advocate
IFE	Independent Forensic Expert
Initial Report	Promontory Initial Report (published 19 December 2014)
Independent Panel	Independent Review Panel
IT	Information Technology
KPI	Key Performance Indicator
OAR	Open Advice Review
Pilot	Pilot Program
Program	Open Advice Review program
PSG	Program Steering Group
Promontory	Promontory Financial Group Australasia
Report	Fourth Report
Review Period	1 September 2003 to 1 July 2012
RG 146	Regulatory Guide 146
ROA	Record of Advice
Second Report	Promontory Second Report (published 29 May 2015)
SOA	Statement of Advice
SMAT	Special Matters Assessment Team
STI	Short-term Incentive
Third Report	Promontory Third Report (published 30 September 2015)

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1. Background

The Commonwealth Bank Group's (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 Fourth Report (Report) provides an update on the Program for the period ending 31 December 2015. It includes updated statistics on the number of cases that have progressed through 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.

Promontory's previous three reports are available on the Bank's OAR program website.¹

In all aspects reported, Promontory has 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.

Promontory's next (fifth) report is scheduled for release at the end of May 2016.

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

2. Summary of findings

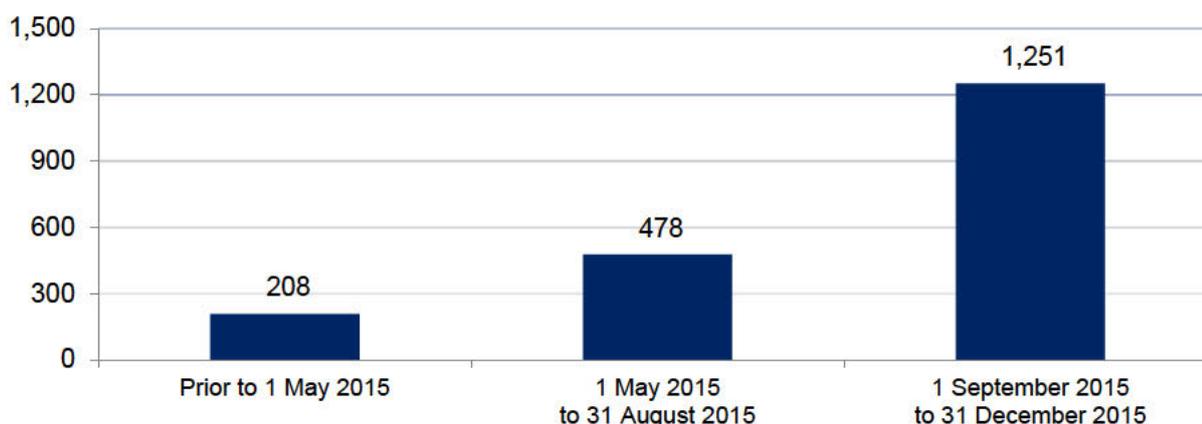
2.1. Program statistics

2.1.1. Progress of case assessments

As at 31 December 2015, the Program had received a total of 23,221 expressions of interest since its commencement, with 9,346 of these cases having formally registered for the Program. Of the 9,346 cases registered for the Program, 1,937 of these cases had been issued an assessment outcome by the Bank as at 31 December 2015.

An analysis of those 1,937 cases by reporting period shows a marked acceleration during the period from 1 September 2015 to 31 December 2015 (the Current Period). More specifically, the Bank issued assessment outcomes to 1,251 cases registered in the Program in the Current Period – a 162% increase in issued assessments relative to the Program's prior four-month period (refer to Figure 2.1).

Figure 2.1: Number of cases with assessment outcomes issued (by reporting period)



Of the 1,937 cases with an assessment outcome issued, 810 cases have exited the Program,² with two of these cases having subsequently contacted the Financial Ombudsman Service (FOS). The remaining cases with assessment outcomes issued were still being considered by customers (or the Bank, in the event a counter-assessment has been made by a customer).

After taking into account the 1,937 cases that had been issued an assessment outcome as at 31 December 2015, the remaining cases that have formally registered for the Program consist of:

- 2,104 cases that had commenced assessment but were yet to be issued an assessment outcome as at 31 December 2015;

² Of this number, 587 cases accepted the Bank's assessment outcome, while 223 cases rejected the assessment outcome or otherwise withdrew from the Program following receipt of the Bank's assessment.

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- 1,298 cases that had exited the Program prior to having received an assessment outcome from the Bank;³ and
- 4,007 cases that remain in the Program's Registration stage.

As at the time of this Report, no case that had exited the Program to 31 December 2015 had subsequently pursued a legal claim against the Bank through the courts.

2.1.2. Assessment outcomes and compensation offered

From the total number of 1,937 cases that had been issued an assessment outcome in the Program to 31 December 2015, the Bank had offered compensation to 171 cases (up from 53 cases as at 31 August 2015). These 171 cases involved cases where the Bank found:⁴

- poor or incorrectly implemented advice, the result of which saw the customer suffer financial loss (122 cases);⁵ or
- the incorrect charging of fees, where the advice was found to be otherwise appropriate (49 cases).⁶

In a further 54 cases, the Bank assessed the case as having involved poor or incorrectly implemented advice, but where that poor or incorrectly implemented advice did not result in financial loss to the customer (hence no offer of compensation was made).

The remaining 1,712 cases included 1,684 cases where the Bank assessed the customer to have received appropriate advice, and 28 cases where the Bank found no evidence of advice being provided to the customer by a CFPL or FWL adviser during the Review Period.

As at 31 December 2015, the total amount of compensation that had been offered by the Program since its commencement stood at \$2,892,864 (up from \$950,252 as at 31 August 2015). Of this amount offered, \$2,000,834 had been paid by the Bank (up from \$488,815 as at 31 August 2015).

A summary of the compensation that has been offered by the Program to 31 December 2015, and the overall progress in assessing cases through the Program, is set out in Table 2.1. Section 3 of this Report provides further detailed statistics on the Program.

³ This category includes cases that had withdrawn from the Program (i.e., a customer opting out of the Program) and cases that have been removed from the Program on administrative grounds (e.g., due to a lack of customer response to progress the case further).

⁴ In addition to these 171 cases, the Bank also offered payments to 11 other cases in the Program after negotiations with the customer, even though the advice was assessed by the Bank to have been appropriate.

⁵ Poor advice refers to advice that failed to satisfy the relevant legal obligations that applied at the time advice was provided.

⁶ Cases where the Bank found both evidence of poor advice and the incorrect charging of fees are included in the first category of "poor or incorrectly implemented advice".

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Table 2.1: Overall Program progress to 31 December 2015

Program statistic	Breakdown by period:			Cumulative Total as at 31/12/2015
	Prior to 1/5/2015	From 1/5/2015 to 31/8/2015	From 1/9/2015 to 31/12/2015	
Number of cases:				
Registered	7,237	1,598	511	9,346
Commenced assessment	346	939	2,756	4,041
Issued an assessment outcome	208	478	1,251	1,937
Number of registered cases exited:				
Prior to an assessment outcome issued	170	824	304	1,298
After an assessment outcome issued	22	251	537	810
Number of cases with an assessment outcome of:				
Advice appropriate	174	449	1,061	1,684
Poor advice – no financial loss to customer	6	4	44	54
Poor advice – compensation to customer	25	14	83	122
Fee refund to customer	3	11	35	49
No evidence of advice found by Bank	0	0	28	28
Amount of compensation:				
Offered by the Bank	\$562,513	\$387,739	\$1,942,612	\$2,892,864
Paid by the Bank	\$79,702	\$409,113	\$1,512,019	\$2,000,834

2.2. Program implementation

2.2.1. People and governance

The Advice Review program (ARp) team responsible for implementing the Program (and the Bank's other advice remediation activities) employed over 500 full-time resources as at 31 December 2015. The team is divided into a number of streams and sub-streams, with the largest stream responsible for dealing with customer case assessments and other aspects of the customer relationship (i.e., the Customer stream) employing approximately 65% of all ARp team members. The Customer stream includes 191 members who are responsible for performing or reviewing case assessments in the Program.

Each member of the ARp team responsible for performing case assessments is subject to minimum training and qualification requirements, centring on compliance with Regulatory Guide 146 (RG 146) requirements for

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the provision of personal advice. These requirements remain unchanged since our Third Report. In addition, members of the ARp team continue to attend training on various aspects of the advice assessment process, with over 20 types of training courses having been delivered by the Bank during the Current Period.

Further details regarding the people resources employed in the Program are set out in Section 4.1 of this Report. Section 4.2 sets out the governance controls in place to mitigate the risk of the Program delivering outcomes that are inconsistent with the Program's objectives, including details of the Bank's quality assurance and review processes for case assessment outcomes.

2.2.2. Customer file retrieval

The Current Period saw the Bank largely complete its file retrieval initiatives for the Program set out in our previous reports. Since these initiatives commenced, over 970,000 hard-copy advice files of customers of CFPL across the country have been catalogued by the Bank, with files for over 16,000 cases in the Program having been retrieved and scanned into the Program's systems.

Efforts to retrieve the files of customers registered in the Program who received advice from FWL advisers, however, remains ongoing. While the Bank made significant progress in collecting the files of customers in the Program who were advised by *current* FWL advisers during the Current Period (with only two cases left remaining for retrieval), the retrieval of advice files for customers of *former* FWL advisers remains in progress.⁷ The Bank has recently adopted a dual approach to the collection of advice files for customers of former FWL advisers, with the approach used depending on whether the adviser is now connected to a large, third-party advice entity (where the Bank can use a central contact point to retrieve files). The Bank expects to continue to undertake file retrievals for customers of former FWL advisers registered in the Program throughout the first quarter of 2016.

Based on the file retrieval efforts completed to 31 December 2015, the Bank had retrieved an advice file (in either hard-copy or electronic format) for close to 8,000 registered cases in the Program. After excluding those cases that have already exited the Program, approximately 1,050 cases registered in the Program are left with no advice file that is currently available for assessment. Given the material number of cases without an advice file available for assessment, the Bank has recently developed a number of processes to deal with these types of cases in a fair, consistent and efficient manner. These processes are set out in further detail in Section 4.7.2.

2.2.3. Pilot cases

Since our Third Report, the Bank has provided us with additional information on the further work it has undertaken to review cases in the Pilot Program (Pilot) where we had difficulties verifying whether the Program's processes had been adhered to. This work included the Bank undertaking re-assessments on specific elements of the cases where we found it difficult to verify adherence to the Program's processes.

Based on the further work conducted by the Bank during this Current Period, we have no residual concerns with the Bank's implementation of the Pilot. We note that there was one case in the Pilot where the further

⁷ As noted in our Third Report, the retrieval of advice files for customers of former FWL advisers in the Program presents additional challenges such as obtaining the contact details and co-operation of each former FWL adviser.

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work that we requested during the Current Period had an impact on the customer's assessment outcome and offer of compensation. The Bank has indicated that it will communicate this change in outcome to the customer's Independent Customer Advocate (ICA) as part of its counter-assessment response.

Given our most recent findings and the safeguards that were introduced for Pilot participants, we are now satisfied that the Pilot participants were not disadvantaged by having been involved in the exercise.

2.2.4. Assessment processes

Section 4.7 of this Report provides an update on three areas of the Program's assessment processes.

The first area relates to the Program's processes for dealing with cases involving potential fraud, forgery or other adviser misconduct. In particular, it discusses the procedures established by the Program to have concerns about these matters escalated to a Special Matters Assessment Team (SMAT) within the ARp team, including the triggers that may cause a case to be referred to the SMAT and/or the Program's Independent Forensic Expert (McGrathNicol Forensic). The SMAT also deals with cases involving "high-risk" advisers identified by the Bank.

The second area covered in Section 4.7 relates to recent processes the Bank has introduced to deal with cases where there are limited or no advice documents available to assess. These processes were developed following the completion of much of the Program's file retrieval efforts (discussed in Section 2.2.2 above). At a high level, the Bank has developed three broad approaches to deal with these cases. The approach that applies to an individual case depends on the extent to which the Bank has been able to find any evidence of advice, including whether any advice documents were retrieved from the Bank's systems or physical locations. Section 4.7.2 of this Report covers the three approaches developed by the Bank in further detail.

The final area covered in Section 4.7 provides an update on the Bank's assessment of certain ongoing adviser service fees. In our Second Report, we noted that the Bank had identified some potential issues in relation to adviser service fees, where some customers within CBA's advice business may have been charged a service fee where not all of the services paid for were received. Section 4.7.3 of this Report provides an update on developments in relation to this issue and the impact on customers in the OAR program.

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.

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

- **206 cases progressed through the Program's Assessment stage:** Based on the number of cases we have sampled in this population for this Current Period (206) and prior periods (52), we have sampled 14% of the overall population for this category of cases.⁸
- **26 cases of customer withdrawals:** Based on the number of cases we have sampled in this population for this Current Period (26) and prior periods (481), we have sampled 38% of the overall population for this category of cases.
- **205 cases removed from the Program on administrative grounds ("administrative exits"):** Based on the number of cases we have sampled in this population for this Current Period (205) and prior periods (40), we have sampled 16% of the overall population for this category of cases.

We note that, in reviewing the sample of 206 cases that had progressed through the Program's Assessment stage in this Current Period, we commenced applying a risk-based sampling methodology by focusing our sample on those cases with attributes indicating potentially higher risk. In particular, from the sample of 206 cases that we selected for this period, 92 cases (45% of the cases we sampled) were identified as containing attributes of higher risk⁹ (e.g., cases involving vulnerable customers or high-risk advisers – refer to Section 5.2 for further details regarding these attributes).

We reduced our sampling of cases of customer withdrawals in this Current Period due to our finding from previous reviews that the Bank had demonstrated strong adherence to the Program's documented processes for these cases.

2.3.2. Sample findings

The large number of cases we sampled in this Current Period has allowed us to further test the Bank's implementation of the Program, and whether the Program is meeting its objectives.

Based on our sample review of cases to date, we believe that the Bank is continuing to apply the Program's processes in a manner that is materially consistent with the Program's objectives. While there were a number of cases we identified in this Current Period where the Bank's assessment did not fully adhere to the Program's documented processes (referred to as "exceptions" in this Report), in our opinion none of these exceptions represented serious or intentional failings to assess poor advice. In particular, the majority of the exceptions we identified (7 out of the 10) related to instances where the Bank's assessment did not identify incorrect advice implementation or issues with fee over-charging, as required under the Program's documented processes. We found only three exceptions relating to the Bank's assessment of whether poor advice was provided to the customer. Details of the case exceptions we found in our sampling for this Current Period, including the Bank's response to these exceptions, are set out in Section 5.3.1 of this Report.

⁸ The figures and percentages quoted here exclude the 60 Pilot cases we reviewed.

⁹ We defined higher-risk cases as those where a failure of the Bank to adhere to the Program's documented processes could have a greater impact on the customer's outcome and hence undermine the success or effectiveness of the Program.

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Our review of additional cases in the Current Period also identified some areas of the Program's assessment process that could be strengthened. The main area in which we identified a need for strengthening related to the Program's assessment of certain one-off fees that may be paid by a customer to implement advice. In particular, we found in our most recent sampling of cases that the Program was not assessing product entry fees that a customer may pay to implement advice.¹⁰ We believe this omission could lead to inconsistent outcomes in the Program. In response to this finding, the Bank has indicated it will conduct a thorough review of relevant one-off fees that should be included in the Program's assessment, including entry fees and other one-off fees. The Bank has also agreed to communicate to us the outcomes of its review to identify an appropriate course of action to address our findings. We will provide an update on these actions in our next report.

The other area where we have identified some opportunity for further refinement in the Program's assessment process relates to the processes for dealing with cases with limited or no advice documentation. As noted in Section 2.2.4, these processes have only recently been implemented by the Bank and we believe there are opportunities to further strengthen the consistency, quality and efficiency of assessing these cases by using customer transactions data. Further details of our findings in this area, as well as the issue relating to fee assessments, are set out in Section 5.3.2 of this Report.

In relation to our sample review of cases in other categories for this Current Period – namely, customer withdrawal and administrative exit cases – we found that the Bank had adhered to the Program's documented processes in all but one case. The one case where we identified an exception was among the 205 administrative exit cases we sampled for this Current Period. In response to our finding for this case, the Bank subsequently contacted the customer, who confirmed that he/she did not want to participate in the Program.

Based on our most recent review, we believe that the processes that have been applied to deal with cases that have exited the Program without an assessment outcome continue to be implemented in line with the Program's objectives.

¹⁰ Fees that are being assessed in the Program are limited to fees directly associated with the provision of financial advice, such as fees associated with the preparation of advice documents and adviser service fees.

3. Program statistics

This section of the Report provides updated statistics on cases progressed through the Program's various stages as at 31 December 2015. It also includes more detailed statistics on assessment outcomes issued and compensation offers made by the Bank.

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

As noted in our Third Report, the Program closed to new expressions of interest on 3 July 2015 following an extensive marketing and communications campaign to raise public awareness.

As at 31 December 2015, the total number of expressions of interest in the Program stood at 23,221 cases. This figure compares to 23,269 expressions of interest as at 31 August 2015. The net reduction of 48 cases reflected duplicate cases being found by the Bank following further analysis of information in the customer files of some cases.¹¹

Table 3.1 sets out the total number of expressions of interest in the Program. The figures in Table 3.1 exclude cases identified by the Bank as duplicates.

Table 3.1: Expressions of interest

Number of:	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Expressions of interest	23,269	-48	23,221

3.2. Customer contact

In our Third Report, we noted that the Bank had sent information packs about the Program to all but a small percentage of cases (6%) in the Program that had expressed interest as at 31 August 2015. Since our Third Report, the Bank was able to contact some of these customers and send them the necessary information pack.

Table 3.2 below provides an update on the number of cases where the Bank had sent an information pack as at 31 December 2015.

¹¹ Duplicate cases are those where the customer had registered or expressed interest in the Program more than once. As at 31 December 2015, the Bank identified 1,597 duplicate cases (1,427 as at 31 August 2015). The increase of 170 duplicate cases since 31 August 2015 is offset by 122 new expressions of interest in the Program. The Bank may continue to find additional duplicates over time as it undertakes further reviews of customer files.

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Table 3.2: Information packs sent

Number of cases where:	Total as at 31/12/2015
Information pack had been sent	22,050
Information pack had not been sent	55
Information pack is not required	1,116
TOTAL	23,221

As Table 3.2 illustrates, the Bank also identified (as at 31 December 2015) 1,116 cases where an information pack was not required to be sent to the customer. These cases included:

- customers who had voluntarily withdrawn from the Program prior to receiving an information pack;
- “non-genuine” and “ineligible” cases that had been removed by the Bank (refer to Section 3.3.2 for further details of these categories of case exits); and
- cases that had progressed to the Program’s Assessment stage (or beyond) without having previously been sent an information pack.¹²

The 55 cases where an information pack had not been sent as at 31 December 2015 related to either: i) cases that were recent expressions of interest;¹³ or ii) cases where the Bank had been unable to contact the customer or confirm a correct mailing address after having made efforts to retrieve these details through phone calls and searches in its system.¹⁴

3.3. Case progression

3.3.1. Cases registered and assessed

The Current Period saw the Bank significantly accelerate the number of cases it had assessed in the Program. This acceleration can largely be attributed to the various initiatives and investments made in the Program’s infrastructure earlier in 2015 (for details see our Third Report).

During the four-month period to 31 December 2015, the Bank issued 1,251 assessment outcomes to customers in the Program. This figure represents a more than doubling of the 478 cases assessed in the prior four-month period. When added to the aggregate of 686 cases that had been issued an assessment outcome

¹² These were typically cases where the customer had submitted their details to the Bank through an ICA.

¹³ While the Program closed to new expressions of interest on 3 July 2015, the Bank accepted (at its sole discretion) a number of cases into the Program following this date.

¹⁴ For most of these cases, the Bank is likely to remove the case from the Program on administrative grounds after sufficient time (typically 12 months) has passed since the expression of interest in the Program.

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as at 31 August 2015, the total number of cases that had been issued an assessment outcome as at 31 December 2015 stood at 1,937 (refer to Table 3.3 below).¹⁵

Table 3.3: Cumulative number of cases progressed to each stage of the Program¹⁶

Stage	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Registration	8,835	511	9,346
Assessment	1,285	2,756	4,041
Consideration of Assessment Outcome	686	1,251	1,937
Independent Panel Review	0	0	0
Exits at Registration	994	304	1,298
Exits after assessment outcome issued	273	537	810

As Table 3.3 illustrates, 511 new cases also registered in the Program during the Current Period – bringing the total number of registered cases in the Program to 9,346 as at 31 December 2015. This increase in the number of registered cases during the Current Period reflected additional customers having returned their *You and Your Advice* forms to the Bank over recent months (after having previously expressed an interest in the Program).

Table 3.3 also illustrates that the total number of cases progressed from the Program's Registration stage to its Assessment stage increased by 2,756 cases during the Current Period. These cases reflect those that moved from the Bank's initial eligibility assessments into the Program's formal case Assessment stage during the Current Period. Given the number of cases in the Assessment stage as at 31 December 2015 (see Figure 3.1 below), the number of cases with assessment outcomes issued is likely to continue to increase markedly over coming months.

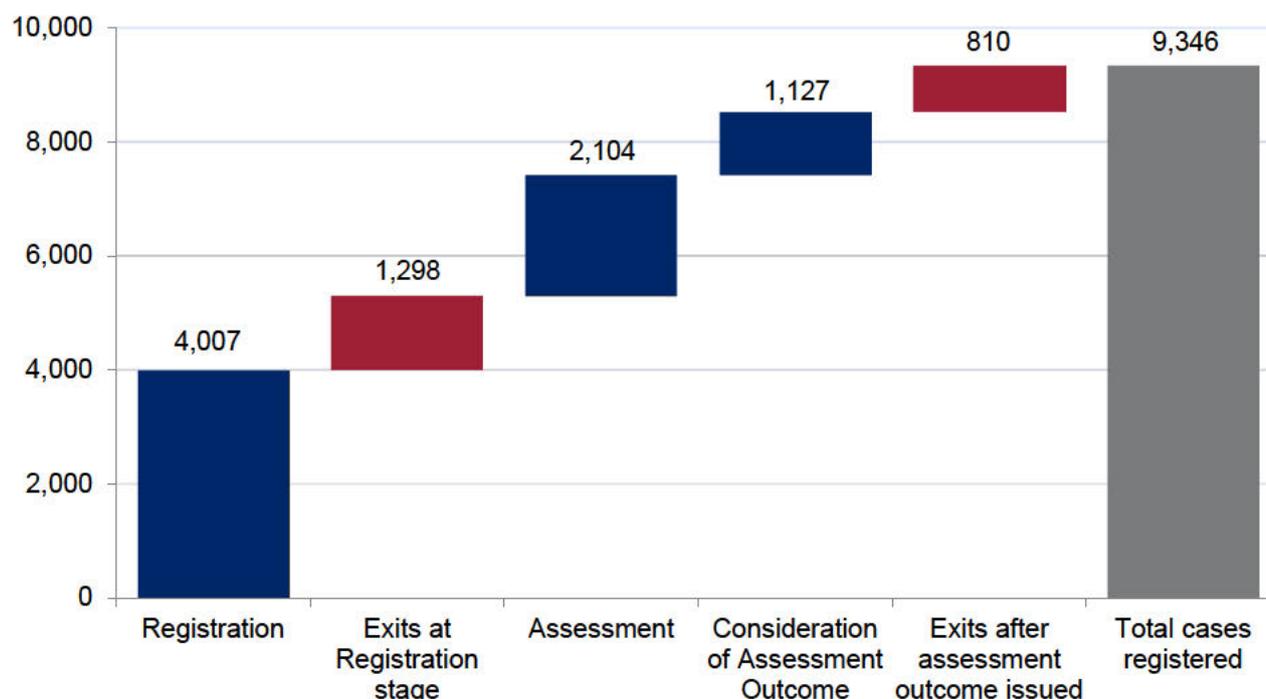
Figure 3.1 provides a point-in-time snapshot of the number of cases that were in each stage of the Program as at 31 December 2015. The figure shows that, as at 31 December 2015, 2,104 cases were in the Assessment stage of the Program, and 1,127 cases had assessment outcomes issued that were still the subject of review/finalisation between the Bank and the customer. Figure 3.1 also shows the number of registered cases that had exited the Program to 31 December 2015 (coloured in red).

¹⁵ The figures presented under the "Consideration of Assessment Outcome" stage represent those customers who had been issued an assessment outcome by the Bank.

¹⁶ 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 Independent Panel Review stages include those cases that had progressed through these stages, then exited the Program.

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Figure 3.1: Number of cases in each stage of the Program as at 31 December 2015 (including registered case exits)



3.3.2. Cases exited

The Current Period saw 2,060 new cases (including expressions of interest) exit the Program – bringing the total number of cases that had exited the Program since its commencement to 3,714 (as at 31 December 2015). The 3,714 cases that have exited the Program to 31 December 2015 include 2,108 registered cases, and 1,606 expressions of interest (where the customer had not formally registered by returning a *You and Your Advice* form to the Bank).

Table 3.4 below provides a breakdown of the number of cases that had exited at various stages of the Program.

Table 3.4: Number of cases exited from the Program

Reason for exit	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Exits prior to Registration stage			
Customer withdrew from Program	158	769	927
Case deemed ineligible for the Program	63	0	63
Case removed on administrative grounds	166	450	616

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Reason for exit	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Exits at Registration stage			
Customer withdrew from Program	350	40	390
Case deemed ineligible for the Program	11	0	11
Case removed on administrative grounds	633	264	897
Exits at Assessment stage			
Customer withdrew from Program	0	0	0
Exits after assessment outcome issued			
Customer accepted assessment outcome – compensation was offered	19	50	69
Customer accepted assessment outcome – no compensation was offered	191	327	518
Customer withdrew from Program	63	160	223
TOTAL	1,654	2,060	3,714

The statistics in Table 3.4 show that during the Current Period:

- 537 registered cases exited the Program after having been issued an assessment outcome from the Bank (up from 251 cases in the prior four-month period to 31 August 2015).
- 1,219 expressions of interest in the Program exited due to either: i) the customer electing to opt out of the Program; or ii) the Bank removing the case from the Program due to administrative reasons (e.g., the customer having not returned a *You and Your Advice* form within 12 months from the date of initial expression of interest, or the Bank classifying the case as “non-genuine”).¹⁷
- 304 registered cases exited prior to having an assessment outcome issued by the Bank.
- No new cases exited the Program due to an assessment of ineligibility.¹⁸

As at 31 December 2015, no case had been referred to the Independent Panel for further review.

¹⁷ Non-genuine cases were those where investigations by the Bank indicated that the expression of interest or registration was made by a person (other than the customer) without the customer’s consent, with one of the following conditions also applying: i) the customer informed the Bank that he/she did not want to participate in the Program; ii) the customer did not respond to the Bank’s invitation to participate in the Program; or iii) the Bank had no contact details for that customer. It also included cases where the Bank assessed that the person never genuinely intended to register for the Program.

¹⁸ The Bank has effectively revised its approach to dealing with cases that are ineligible for the Program after recently having completed much of its file retrieval activities. One of the approaches that the Bank has recently introduced is the “No Evidence of Advice” Assessment approach detailed in Section 4.7.2.

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Of the total number of cases exited from the Program, one case had subsequently contacted the FOS during the Current Period following receipt of an assessment outcome. This brings the total number of cases that have exited the Program and subsequently contacted the FOS to two (as at 31 December 2015).

No case that had exited the Program as at 31 December 2015 had subsequently pursued a claim against the Bank through the courts (refer to Table 3.5).

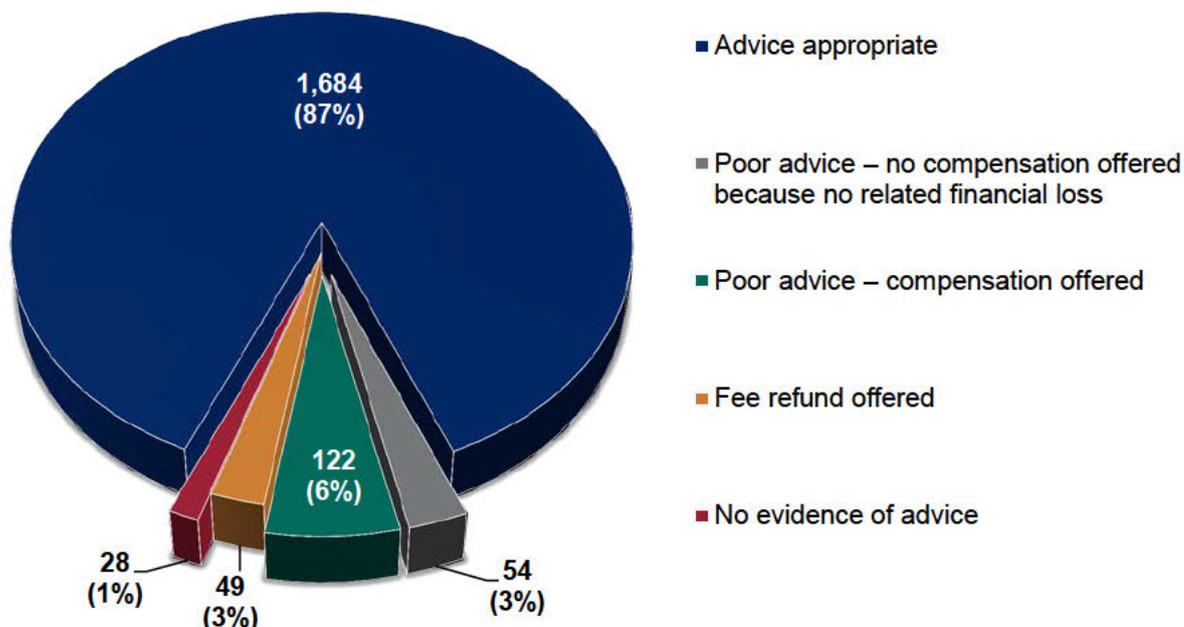
Table 3.5: FOS referrals and legal claims

Number of cases exited from the Program and:	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Referred a complaint to FOS	1	1	2
Pursued a claim against the Bank	0	0	0

3.4. Assessment outcomes

As at 31 December 2015, a total of 1,937 cases had been issued an assessment outcome from the Program since its commencement (up from 686 cases as at 31 August 2015). A breakdown of the 1,937 cases that had been issued an assessment outcome by the Bank as at 31 December 2015 is provided in Figure 3.2.

Figure 3.2: Breakdown of assessment outcomes issued from Program commencement to 31 December 2015



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

- **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.
- **Poor advice found – 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.¹⁹
- **Poor advice found – compensation offered:** This category refers to cases where the Bank found poor or incorrectly implemented advice, and where compensation was offered because the Bank assessed the customer to have suffered financial loss as a result of the poor or incorrectly implemented advice.
- **Fee refund offered:** This category refers to cases where issues were identified with the advice fees charged to the customer, and where the compensation offered related solely to a fee refund.²⁰
- **No evidence of advice:** This category, introduced for the first time in this Report, refers to cases where the Bank had been unable to find evidence that the customer received advice from a CFPL or FWL adviser during the Program's Review Period. This category was introduced following the Bank's recent completion of much of its file retrieval activities (discussed further in Section 4.3). Cases in this category relate to those cases where the Bank's searches (in systems, branches and other locations) were unable to identify documents or any other evidence that the customer received advice from a CFPL or FWL adviser during the Review Period.

As Figure 3.2 illustrates, the Bank had offered compensation to 171 of the 1,937 cases (9%) that had been issued an assessment outcome in the Program to 31 December 2015. A further 54 cases (3%) were assessed by the Bank as having involved poor or incorrectly implemented advice, but where that advice was assessed to have not resulted in the customer suffering financial loss (hence no offer of compensation was made).

In 1,684 cases (87%), the Bank assessed the advice (and fees) to be appropriate and consequently made no offer of compensation.²¹

The remaining 28 cases with assessment outcomes issued (1%) were those where the Bank was unable to find any evidence of advice being provided by CFPL or FWL to the customer during the Review Period. Customers who have been issued an assessment outcome letter with a finding of no evidence of advice are

¹⁹ The Bank takes into account any previous compensation that may have been paid to a customer 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 will be captured in this category.

²⁰ Cases that involved both poor advice (which resulted in the customer suffering financial loss) and a fee refund are covered in the "Poor advice found - compensation offered" category, and excluded from this category.

²¹ In 11 of these cases, the Bank had offered a payment after negotiations with the customer, even though it assessed the advice to be appropriate.

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invited to provide information to the Bank for further assessment and may access the services of an ICA to assist them with their cases.

As in previous reports, we note that the figures and percentages in Figure 3.2 may change over time (due both to increases in the number of assessment outcomes issued, and to the possibility of customers successfully countering the assessment outcomes issued by the Bank). Of the 1,937 cases where an assessment outcome had been issued as at 31 December 2015, 147 cases were the subject of a counter-offer or counter-assessment by the customer.²² A further 980 cases with assessment outcomes issued were under review by the customer (including the 28 cases where the Bank found no evidence of advice).

Table 3.6 below provides a detailed breakdown of the status of the cases that had been issued an assessment outcome as at 31 December 2015.

Table 3.6: Status of cases that had been issued an assessment outcome as at 31 December 2015

Case status	Total as at 31/12/2015
Offer of compensation made by Bank	
Offer accepted by the customer	69
Offer under review by the customer	96
Offer rejected by the customer and counter-offer made to the Bank	17
No offer of compensation made by Bank	
Assessment outcome accepted by the customer ²³	518
Customer rejected or did not respond to the assessment outcome, and withdrew from the Program	223
Assessment outcome under review by the customer	884
Assessment outcome rejected by the customer and counter-assessment made to the Bank	130
TOTAL	1,937

During the Current Period, a total of 133 cases chose to retain an ICA – representing 11% of new cases that were issued an assessment outcome during the Current Period.²⁴ In total, the number of cases that had

²² Since the Program's commencement, 218 customers had submitted a counter-assessment or counter-offer to the Bank as at 31 December 2015. In 16 of these cases, the Bank had increased its offer of compensation to the customer.

²³ After an assessment outcome is issued by the Bank, the Bank attempts to contact the customer(s) and discuss whether they accept the outcome (or wish to make a counter-assessment or counter-offer). Where customers accept the Bank's assessment outcome with no offer of compensation, the Bank writes to them confirming their acceptance and exit from the Program (at which point, the case is included in this category). Also included in this category are cases where the customer(s) (or their ICA) have written to the Bank confirming their acceptance of the assessment outcome.

²⁴ This percentage continues to reduce from ICA retention rates in earlier periods of the Program.

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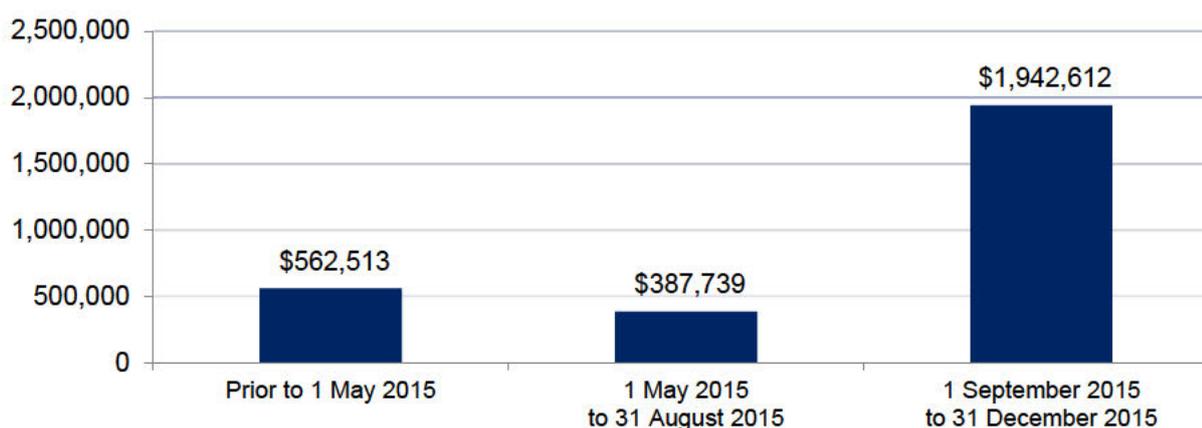
retained an ICA since the Program's commencement stood at 855 (as at 31 December 2015). This figure includes 503 cases where the customer chose to retain an ICA prior to receiving an assessment outcome from the Bank.

3.5. Compensation

The amount of compensation offered and paid by the Program continued to increase during the Current Period with the growing number of cases being issued an assessment outcome by the Bank.

During the Current Period, the Bank offered compensation of \$1,942,612 in the Program – more than doubling the amount of compensation that had previously been offered since the Program's commencement (refer to Figure 3.3). Taking into account the compensation offered in this Current Period, the Program had offered total compensation of \$2,892,864 as at 31 December 2015.

Figure 3.3: Amount of compensation offered by reporting period



Of the total amount of compensation offered to 31 December 2015, the Bank had paid \$2,000,834 to affected customers (69% of total compensation amounts offered). The difference between the total amount of compensation offered and the total amount paid as at 31 December 2015 (\$892,030) 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 a customer).²⁵

The total amount of \$2,000,834 in compensation paid to 31 December 2015 consisted of payments made to 101 cases in the Program. The 101 cases include 67 cases where the customer had accepted the Bank's assessment outcome, and 34 cases where the Bank was yet to finalise the assessment outcome (as at 31 December 2015) but had issued an interim payment of compensation to the customer.²⁶

²⁵ The difference also includes two cases where compensation had been accepted by the customers but had yet to be paid as at 31 December 2015.

²⁶ 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-assessment under the Program, or pursue other actions outside of the Program.

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Table 3.7 sets out details of the amount of compensation offered and paid by the Program to 31 December 2015.

Table 3.7: Compensation amounts

Compensation	Prior Total as at 31/8/2015	New	Total as at 31/12/2015
Offered by the Bank	\$950,252	\$1,942,612	\$2,892,864
Paid by the Bank	\$488,815	\$1,512,019	\$2,000,834

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4. Program implementation

This section provides an update on the Program's implementation, including the people, governance, systems 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 provided updates about the people resources in the ARp team – the team responsible for implementing both the Bank's remediation processes under the OAR program and remediation activities associated with the varied licence conditions for CFPL and FWL. This Report provides a further update on the ARp team's people resources and related arrangements. It also provides further details regarding the various team structures established within the Program to complete case assessments, including controls in place to mitigate the risk of assessment outcomes being inconsistent with the Program's objectives.

4.1.1. ARp structure and resources

As noted in our Initial Report, the ARp team is structured into a number of "streams" which are responsible for delivering different aspects of the Program. These streams include, *inter alia*, teams dealing specifically with customer engagement and case assessments, information technology (IT), legal issues, risk management and finance.²⁷

As at 14 December 2015, the total number of full-time equivalent (FTE) resources within the ARp team (across all streams) stood at 540 – a 12% reduction in the number of FTE resources that were within the ARP team as at 24 August 2015 (refer to Figure 4.1).²⁸ This reduction was driven largely by a decrease in the number of resources dedicated to the Information Management stream, given the recent completion of much of the Program's file retrieval activities (refer to Section 4.3).

²⁷ Refer to our Initial Report for further details of the various streams in the ARp team, including their roles and responsibilities.

²⁸ Statistics in relation to people resources are compiled prior to each month-end (hence the reference to the number of FTE resources as at 14 December 2015).

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Figure 4.1: Total number of FTE resources in ARp

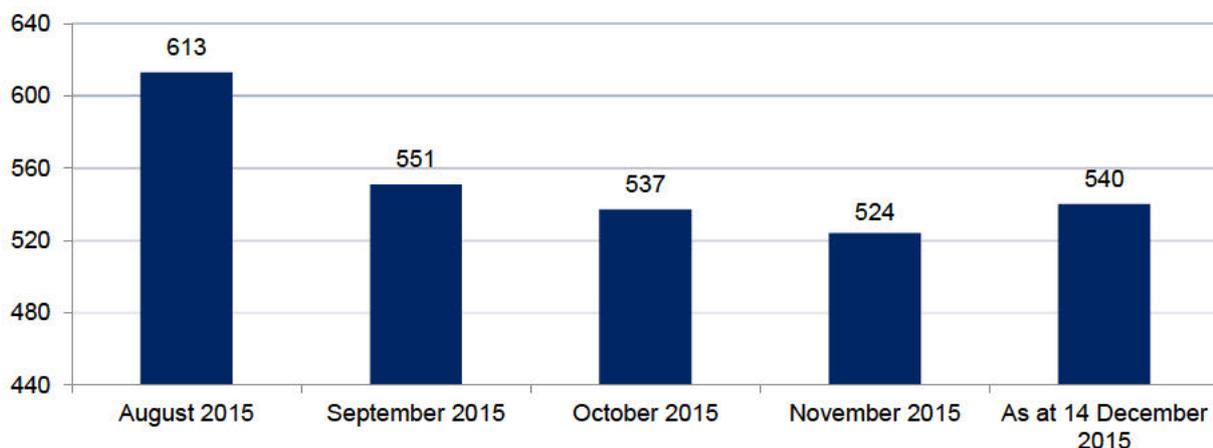
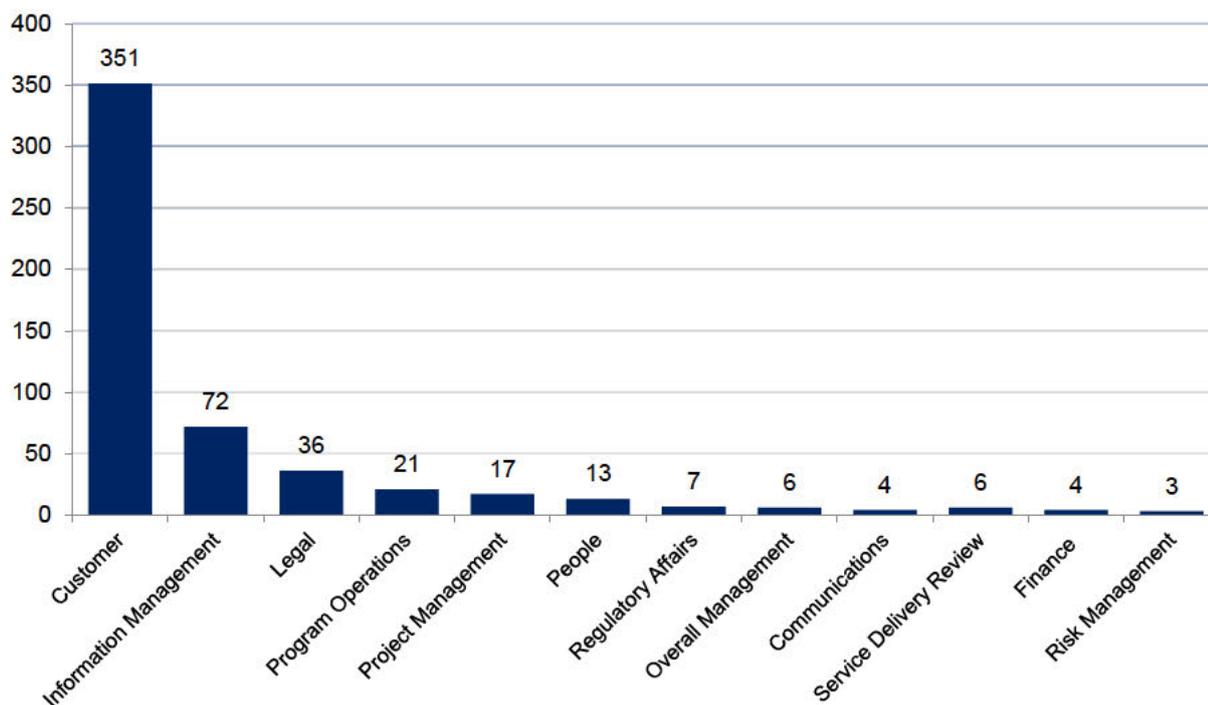


Figure 4.2: Number of FTE resources in each ARp stream (as at 14 December 2015)



As Figure 4.2 illustrates, the majority of people within the ARp team reside in the Customer stream. The Customer stream is responsible for a broad range of activities related to managing customers' concerns in the Program, including contacting customers to communicate updates and outcomes, preparing customer files prior to assessment, and assessing the advice during the Review Period. Given the breadth of activities undertaken by this stream, the group is further divided into a number of sub-streams. These sub-streams, including their roles and responsibilities, are described in Table 4.1 below.

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Table 4.1: Customer sub-streams

Customer sub-stream	Description
Advice Assessment	<ul style="list-style-type: none"> The Advice Assessment team is responsible for performing case assessments in accordance with the Program's case assessment framework and documented processes. The team includes case assessors with varying degrees of experience, including Assessment Officers (e.g., recent graduates with relevant degrees and qualifications in law, finance or a related field), Assessment Managers (e.g., more experienced case assessors with relevant qualifications, including former financial advisers), and senior team leaders/managers. Members of the Advice Assessment team are not responsible for directly contacting customers to communicate outcomes or to obtain additional information. Instead, a separate team of Review Managers (see below) is responsible for undertaking these activities. This separation of duties between members of the Advice Assessment and Review Manager teams allows for greater efficiencies and independence in the assessment process.²⁹ The Advice Assessment sub-stream accounts for 54% of FTE resources in the Customer stream (191 headcount).
Review Managers	<ul style="list-style-type: none"> Review Managers are responsible for communicating and guiding customers through their assessment outcomes. Review Managers are assigned to a case once the case progresses to the Program's Assessment stage, and provide a consistent contact point for customers throughout their assessment. Review Managers have specific experience in customer relationship management and are provided with specialist training in customer communications. Review Managers are required to have a detailed understanding of each case they are assigned, and work with the relevant Assessment Officer/Manager on a case where information is required to be obtained from the customer. The Review Management sub-stream accounts for 8% of FTE resources in the Customer stream (28 headcount).
Forensic Accounting	<ul style="list-style-type: none"> The Forensic Accounting team is responsible for undertaking calculations of compensation offers in accordance with the Program's compensation methodology.³⁰

²⁹ Greater efficiencies are introduced as case assessors (i.e., Assessment Officers or Assessment Managers) do not have to spend considerable time taking numerous phone calls that may come from customers (which could also impact on the quality of assessments). Greater independence is introduced as the person who assessed the advice does not discuss the assessment outcome with the affected customer and therefore cannot influence the customer's decision with respect to their acceptance or non-acceptance of the assessment outcome.

³⁰ For clarity, only members of the Forensic Accounting team conduct calculations regarding the financial impact that results from an assessment. Members of the Advice Assessment team do not perform these calculations. This helps prevent customer financial impact being a factor in a case assessor's review of a case.

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Customer sub-stream	Description
Forensic Accounting (continued)	<ul style="list-style-type: none"> The Forensic Accounting team also performs other calculations as requested by the Advice Assessment team, such as calculations of financial gains and losses made by a customer on their investment portfolios. The Forensic Accounting sub-stream accounts for approximately 7% of FTE resources in the Customer stream (25 headcount).
Advice Technical Support	<ul style="list-style-type: none"> The Advice Technical Support team provides technical advice on specific or complex issues that may arise during a case assessment. The team also provides coaching and mentoring to members of the Advice Assessment team. The Advice Technical Support team consists of members with broad experience in financial advice/compliance, and also includes members of the SMAT, who are responsible for assessing possible concerns of fraud, forgery or other types of adviser misconduct in a case (refer to Section 4.7.1 for further details). The Advice Technical Support sub-stream accounts for 3% of FTE resources in the Customer stream (9 headcount).
Operations	<ul style="list-style-type: none"> The Operations team is responsible for providing support and assistance to the other Customer sub-streams, including the compilation and preparation of advice files prior to assessment. The Operations team is also responsible for all payments to customers where compensation is payable. The Operations sub-stream accounts for 11% of FTE resources in the Customer stream (39 headcount).
Contact Centre	<ul style="list-style-type: none"> The Contact Centre includes all call centre staff who are responsible for making and receiving calls from customers in the Program whose cases have yet to be assigned to a Review Manager. Each team member has prior experience in customer relationship management. The Contact Centre sub-stream accounts for 3% of FTE resources in the Customer Stream (11 headcount).
Other sub-streams	<ul style="list-style-type: none"> The remainder of the Customer stream is made up of team members responsible for process governance, quality assurance, customer engagement and general management/administration. Separate sub-streams that deal specifically with the Bank's business-as-usual advice remediation activities and licence conditions requirements for CFPL and FWL also reside within the Customer Stream. The other sub-streams account for 14% of FTE resources (48 headcount).

As Table 4.1 sets out, most members of the Customer stream are part of the Advice Assessment team. Within the Advice Assessment team, 43% of members are Assessment Officers (83 headcount), 43% are

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Assessment Managers (83 headcount) and 12% are senior team leaders/managers (23 headcount).³¹ To mitigate the risk of inconsistent assessment outcomes between members of the Advice Assessment team who are Assessment Officers and those who have greater experience, the Program includes a number of controls. These controls include:

- the application of a structured and auditable Case Assessment Tool (CAT) that the Bank developed after the Program's Pilot to facilitate more consistent and transparent assessment outcomes;³²
- the multiple layers of independence embedded within the Program's design, including the involvement of the ICAs and Promontory's ongoing sample review of cases assessed through the Program;
- the application and monitoring of various training requirements for members of the Advice Assessment team (refer to Section 4.1.2 below); and
- the implementation of appropriate governance arrangements and case approval structures to internally review all assessment outcomes completed (refer to Section 4.2.3 below).

4.1.2. Training

As noted in our previous reports, all member of the ARp team responsible for case assessments (i.e., Assessment Officers and Assessment Managers) are subject to minimum training and accreditation requirements. These requirements have remained unchanged since our previous report. All Assessment Officers and Assessment Managers in the ARp team are required to comply with RG 146 requirements related to the provision of personal advice. Once accredited, these ARp team members are required to meet mandatory continuing professional development requirements to keep their accreditation current.³³ Customer stream members are also required, where relevant, to attend training courses related to any changes to the Program's assessment processes.

The nature and duration of training courses undertaken by ARp team members varies according to the members undertaking the training. For example, courses relating to RG 146 accreditation for Assessment Officers involve a full-time study program that runs for up to seven weeks. Courses provided to more experienced Assessment Managers may involve only several days (typically undertaken on a part-time basis), targeted at closing gaps in an individual manager's accreditation status. Other courses run internally by the Bank (e.g., on new systems or processes) usually run for less than a day.

³¹ The remaining 2% of members in the Advice Assessment team (two headcount) work in administrative roles.

³² As noted in our Second Report, we believe that the refinements made through the CAT significantly increased our ability to gain assurance that cases were being assessed in accordance with the Program's documented processes. We also believe that the CAT reduced the level of judgement and discretion left to individual case assessors to determine outcomes, which would help in facilitating more consistent assessments in the Program.

³³ The ARp team's People stream regularly monitors and tracks compliance with minimum training and accreditation requirements. As at 30 November 2015, 96% of Assessment Officers and Assessment Managers had completed their necessary RG 146 requirements. The remaining 4% were working towards completion of their RG 146 requirements.

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During the Current Period, over 20 different types of training courses were conducted for various members of the ARp team, covering areas such as:

- induction for new starters;
- RG 146 courses for Assessment Officers and Assessment Managers;
- specific training on updated assessment processes adopted by the Program (e.g., new releases of the CAT); and
- leadership development and cultural initiatives for the Program's management group.

Training courses will continue to be implemented by the Bank in line with the development needs of the ARp team.

4.1.3. Incentive structures

Most CBA employees working on the ARp team are subject to the Bank's performance management framework and are eligible to receive annual short-term incentive (STI) payments (e.g., bonuses) for their performance.³⁴ For those CBA employees eligible for an STI payment, individual outcomes are based on an assessment of their performance, capabilities and behaviours, as well as risk management and compliance.

The performance of individuals eligible for an STI payment is assessed using Key Performance Indicators (KPIs) developed and set by the Bank during the first quarter of its financial year.³⁵ The Bank applies different KPIs to different streams and sub-streams within the ARp team.

For those team members in the Customer stream with responsibility for case assessments, KPIs are set with respect to quality and timeliness of case assessment against the Program's case assessment framework. The KPIs for quality and timeliness are assessed equally, with the Bank providing team managers with discretion to prioritise quality outcomes for customers over timeliness, where relevant. KPIs in relation to productivity and people management are also assessed, although with a lower weighting.

Individuals' behaviours are assessed against the Bank's group-wide people capability framework. This framework assesses how individuals have demonstrated capabilities in relation to customer management, teamwork, culture, continuous improvement, communication and results. This people capability assessment is tailored to the specific role and level of the individual.

The final determination of an individual's STI payment for the relevant performance period is derived by combining the results from the individual's performance and capability assessment.³⁶ If an individual has been

³⁴ Members of the ARp team who are contractors or are sourced from external professional services firms fall outside the scope of the Bank's performance management framework.

³⁵ KPIs were first introduced for ARp team members for the Bank's 2015/16 financial year.

³⁶ The performance ratings guide the range of STI outcomes to apply to an individual, while the capability rating guides where in the range an individual's STI payment will fall.

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the subject of a material risk issue or compliance breach, the STI payment for that individual may be reduced or forfeited.

4.2. Governance

4.2.1. Program oversight

The OAR program continues to be overseen by a number of executive committees and boards at the highest levels of the Bank. As noted in our previous reports, overall oversight and strategic direction in relation to the implementation of the Program is performed by the boards of CBA, CFPL and FWL, as well as the Program Steering Group (PSG) and the Executive Steering Group (ESG).³⁷

No major changes to this oversight structure occurred in the four-month period to 31 December 2015, although a change was made to the head of the ARp team (i.e., the Program Sponsor) in December 2015. The PSG, ESG and boards of CBA, CFPL and FWL continue to be regularly updated as to developments in the Program, and monitor issues that arise.

During the Current Period, the PSG convened three times to discuss matters related to the Program, while the ESG convened on five occasions. The parent CBA board was also informed of developments in relation to the Program on three occasions during the Current Period.³⁸ The CFPL and FWL boards have each met twice during the Current Period, where they continue to be updated as to developments in relation to the Program.

4.2.2. Risk management and audit

To provide an additional layer of governance and review over the Program's systems and controls, the activities of the ARp team are subject to the Bank's internal audit program and group-wide risk management framework. As noted in our Third Report, issues and risks associated with the Program identified by the Bank's risk management teams are escalated to the Program's senior management according to the Bank's risk management framework.

The Bank's internal audit department has conducted reviews of the Program, focussing on key suppliers, data loss prevention and the design of key business processes (including Program governance, risk management, staff on-boarding and case assessment). Based on reviews conducted to date, management action plans have been agreed by the ARp's senior management to address the findings identified by internal audit.

In the first half of 2015, the Bank's risk management teams (i.e., risk teams within the ARp team and at the CBA group level) have conducted a series of controls testing procedures consistent with the requirements of the Bank's risk management framework. Controls tested include those related to procedures adopted in the Customer, Information Management, Program Operations and support functions. Reviews of certain procedures adopted by the ARp team (e.g., procedures to manage conflicts of interest) were also undertaken by risk management, with findings from these reviews escalated to the ARp's senior management for action.

³⁷ The PSG and ESG are the main executive committees responsible for oversight of the Program. Refer to our Initial Report for further details about the composition of each committee.

³⁸ The Bank's financial planning board oversight committee also convened once in the Current Period.

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As at 31 December 2015, management actions that were suggested by risk management had been completed, or were on track to be completed by the first quarter of 2016.

4.2.3. Case approval structures and controls

While the executive committees and boards noted in Section 4.2.1 provide overall oversight and strategic direction for the Program, the Program also includes internal review processes and governance structures to test the accuracy and quality of individual case assessments. These internal review structures and controls include:

- the requirement for all cases assessed to be “peer reviewed” by another member of the Advice Assessment team to validate the facts and findings identified by the initial case assessor;
- a structured approvals process that requires each case assessment outcome to be approved by a designated member of the ARp team who has the appropriate delegated authority;³⁹
- the establishment of the Advice Technical Support team, and an Advice Technical Forum, to provide guidance and mentoring to members of the Advice Assessment team where complex or technical issues arise in a case (including instances where existing guidelines or processes developed by the Bank do not sufficiently cater for the circumstances of an individual case); and
- a Decision Review Committee to review and approve cases referred to it by the Advice Assessment team because of their complex nature or where they were related to inappropriate advice.⁴⁰

These internal review structures and controls aim to mitigate the risk of assessment outcomes being inconsistent with the Program’s objectives. They also aim to minimise the risk that individual case assessments are undertaken inconsistently with the Program’s documented processes.

4.3. Customer file retrieval

In our Third Report, we noted that the Program’s file retrieval initiatives had seen the cataloguing of over 930,000 files of customers of CFPL, with the Bank then focussing its attention on the collection and scanning of all (hard-copy) advice files for customers in the Bank’s advice remediation programs. We also noted that the Bank was continuing its effort to retrieve files of FWL customers in the Program, where there were numerous additional challenges faced by the Bank (e.g., obtaining the contact details of advisers who were no longer at a FWL practice).

³⁹ The Bank designates certain members of the ARp team as “approvers” or “case sponsors” (generally senior managers and high-performing case assessors that have been identified through data metrics and qualitative feedback from other team members). These members of the team are assigned delegated authority to approve assessment outcomes for certain case types (excluding cases that may be outside an individual’s RG 146 qualifications). The scope and authorities of approvers and case sponsors remains subject to ongoing refinement by the Bank.

⁴⁰ This committee is chaired by a member of the ARp team with experience in customer remediation and complaints processes. The committee also includes other members of the Program’s Advice Technical Support team.

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During the Current Period, the Bank was able to complete its cataloguing initiatives of hard-copy advice files across various branches, offices and other document archiving sites around the country. In total, the Program's file retrieval initiatives saw the cataloguing of over 970,000 advice files, covering over 640,000 customers of CFPL.

The Current Period also saw the Bank largely complete its collection, scanning and reconciliation of all hard-copy advice files of customers in the Program. As at 27 November 2015, hard-copy advice files had been scanned for over 16,000 expressions of interest and registered cases in the Program, including cases involving customers advised by CFPL and FWL advisers.

The main area where the Bank continues to undertake initiatives in relation to file retrieval is in relation to customers registered in the Program who were advised by advisers of FWL. For cases involving customers of *current* FWL advisers, the Bank has largely completed its contact with each relevant adviser to obtain the necessary files, with all but two registered cases having files retrieved as at 31 December 2015. For cases involving customers of *former* FWL advisers, the Bank has adopted two approaches to collecting these files – with the approach depending on the size of the entity with which the adviser is now associated. For former FWL advisers that currently practice in larger third-party advice entities, the Bank commenced contacting the relevant third-party entities to inform them of the need for the Bank to contact their advisers. The Bank has then been working through a central contact point at the third-party entities to obtain the necessary customer files of each adviser. For all other former FWL advisers (not working in a large third-party advice entity), the Bank plans to contact these advisers directly on an individual basis from February 2016.

Based on all file retrieval efforts completed to 31 December 2015, the Bank had retrieved a hard-copy advice file for approximately 6,600 cases registered in the OAR program. Further searches on the Bank's systems were also able to recover electronic copies of advice files for approximately 1,300 cases where a hard-copy file was not located. Consequently, the number of registered cases in the Program where the Bank had been unable to retrieve any advice file (hard-copy or electronic) from its systems or sites stood at slightly over 1,400 cases as at 31 December 2015. In approximately 350 of these cases, the Bank has identified that the customer has subsequently exited the Program, leaving the remaining number of cases where a file is not available for assessment in the Program at approximately 1,050 as at 31 December 2015.

While there is the possibility that the Bank may be able to reduce this number to some extent in coming months (e.g., for cases involving FWL advisers where the collection of advice files is still ongoing), it is more than likely that a material number of cases where no advice file is found will remain. The Bank has therefore needed to develop a range of new processes to deal with these cases where there is no (or very limited) advice documentation available. These processes are detailed further in Section 4.7.2 below.

4.4. IT systems

The main IT systems and databases used in the Program are now at a stage of sufficient maturity that significant investments or upgrades to these systems have not been required. Consequently, the initiatives undertaken in relation to the Program's IT infrastructure during the Current Period were limited. These initiatives focused on improving the efficiency of existing databases and applications, such as the transfer of some data from the Program's main database to other databases, and the addition of new functionality to some of the Program's case assessment applications to assist with workflow.

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4.5. Communications and awareness

Since the Program closed to new expressions of interest from 3 July 2015, the Program has ceased undertaking any new marketing activities to raise awareness.⁴¹ The Program's website was updated in July 2015 to reflect this closure to new expressions of interest. In November 2015, the Bank made further amendments to the OAR program website to provide updates to customers in the Program.

4.6. Pilot cases

In November 2014, the Bank initiated a Pilot to test and refine the Program's assessment processes prior to their full implementation to all cases in the Program. The Pilot involved 60 cases jointly selected by CBA and the ICAs, and involved Promontory overseeing the Bank's assessment of these cases.

In our previous reports, we noted our review of the Pilot cases found it difficult to verify whether all aspects of the Bank's documented assessment processes had been adhered to in all cases. This finding reflected some of the limitations we identified with the assessment processes used in the Pilot, which the Bank subsequently addressed. In response to our findings, the Bank agreed to undertake further reviews of the Pilot cases where we had difficulty verifying adherence to processes.

In our Third Report, we indicated that the Bank's further reviews of the cases that we identified as requiring re-assessment had sufficiently addressed our previous findings in all but a small number of cases. For the small number of cases that were still outstanding at the time of our previous report ("outstanding cases"), the Bank indicated that it was still in the process of finalising its position on whether there would be any impact on customers' case assessment outcomes.

Since our Third Report, the Bank has provided us with additional information on the assessments it has conducted to review the outstanding cases (using the Program's current assessment processes). The Bank has also shared with us some of the comments and responses that have been made by the ICAs in relation to the cases that remained outstanding from our perspective.

Based on our review of the additional information that has been provided to us since our Third Report (including the additional assessments that have been conducted by the Bank), we have no residual concerns with the Bank's assessment of the Pilot cases. All cases that were outstanding as at the time of our Third Report have been addressed, with the Bank amending its assessment outcomes in one case that we identified for re-assessment. For this case, the Bank has indicated it will communicate the change in its assessment outcome (and offer of compensation) as part of its counter-assessment response to the customer's ICA.

Given the further work that the Bank has undertaken during this Current Period, and the safeguards that were introduced for Pilot participants, we are now satisfied that Pilot participants were not disadvantaged by their involvement in the exercise.

⁴¹ Our previous reports provide details of the different types of marketing the Bank had undertaken prior to the close of new expressions of interest into the Program.

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4.7. Assessment processes

This section provides an update on developments in relation to a number of assessment processes recently implemented, enhanced or introduced by the Bank. It also provides an update on the assessment of certain advice service fees whose assessment was placed on hold in the Program due to further investigations being conducted by the Bank.

4.7.1. Dealing with potential fraud and other improper adviser conduct

In our Third Report, we provided an overview of developments in relation to the Bank's processes for dealing with cases involving potential fraud, forgery and other improper conduct by advisers within the Program. This overview included the steps taken by the Bank to formalise a Fraud Protocol with the Program's Independent Forensic Expert (IFE), McGrathNicol Forensic, and the Bank's processes for escalating concerns about fraud or other improper conduct to its internal team of forensic specialists (SMAT).⁴²

With the release of the revised version of the CAT in September 2015, the Bank commenced implementing its procedures in relation to issues of potential fraud and other improper conduct. Cases with possible indicators of fraud, document tampering/manipulation, forgery or other potential misconduct identified by case assessors would be referred to the SMAT for further investigation.⁴³ Where a claim of fraud, forgery or other adviser misconduct was raised by a customer to the Bank, the case could also be referred by the SMAT to the IFE.⁴⁴ The IFE then conducts its investigations based on the processes and guidelines that are defined under its Fraud Protocol with the Bank.

During the Current Period, the IFE had been engaged for one case (in addition to the three cases that had been referred to it as at 31 August 2015). As at 31 December 2015, the IFE had yet to sample any cases that had been referred to SMAT and not subsequently referred to the IFE.

Other matters that may be escalated to the SMAT include cases involving potentially "high-risk" advisers identified by the Bank, which require additional processes to be undertaken as part of the assessment (e.g., where there are known issues about adviser misconduct in relation to a case, the case may be referred to the SMAT and any known adviser themes must be factored into the assessor's review of the case). Potentially high-risk advisers include advisers reviewed under previous Bank remediation programs, those who are the subject of the Bank's current business-as-usual advice remediation processes, those who have previously been referred to CBA's Group Security department or to the police, as well as any other high-risk advisers identified by the SMAT. Advisers who are classified as potentially high-risk for the purposes of the Program are regularly reviewed by the Bank, with new advisers potentially being added for new information gathered during the Program and/or the Bank's other advice review/remediation activities.

⁴² The SMAT forms part of the ARp's Advice Technical Support team. Members of the SMAT have prior experience dealing in forensic or other investigations, including document verification and determining document authenticity.

⁴³ Prior to the implementation of these procedures, the Bank had put these cases on hold until the relevant processes to deal with these issues had been finalised.

⁴⁴ As noted in our Third Report, to prevent the risk of the Bank failing to appropriately refer cases to the IFE where concerns of fraud or improper conduct are raised, the IFE will review a sample of cases that have been investigated by SMAT but not referred to the IFE.

4.7.2. Dealing with cases with limited or no documentation

With the Program's customer file retrieval initiatives now nearing completion, the Bank has recently been able to gain a better understanding of the completeness of each registered customer's advice file. As noted in Section 4.3 above, it is likely that a material number of cases in the Program will have very limited or no advice documentation to assess, meaning that a different process will need to be applied by the Bank to complete an assessment. To address this issue, the Bank has recently developed a number of new processes for dealing with these cases where there is insufficient information.

At a high level, the process that will apply to a case with insufficient information will depend on the extent to which the Bank has been able to find any evidence of advice, including whether any advice documents were able to be retrieved. The three broad approaches that are available for assessing a case with insufficient information are summarised in Table 4.2 below.

Table 4.2: Approaches to dealing with cases with limited or no documentation

Approach	When it applies?	Overview of process
1. "Insufficient Information" Assessment approach	<ul style="list-style-type: none"> When the Bank has been able to identify at least one "critical advice document" that can be assessed through the Program's standard procedures but, at the same time, the Bank has identified indicators of additional advice where the Bank does not have the relevant critical advice documents for assessment;⁴⁵ or When the Bank has identified a FNA document in relation to the case, but does not have the critical advice document (i.e., SOA or ROA) associated with the FNA. 	<ul style="list-style-type: none"> The Bank identifies all potential indicators of advice using any (non-critical) advice documents retrieved and other information available in Bank systems. Where there is sufficient evidence that an indicator of advice is a possible instance of advice, the Bank performs a set of standard procedures to gather additional information from the customer. The procedures involve a Review Manager contacting the customer to answer a series of questions that help the Bank determine whether the indicator of advice is an instance of advice, as well as to obtain the relevant facts and circumstances relevant to the indicator of advice.⁴⁶ The Bank then makes an assessment of the case using the information gathered, and communicates to the customer its assessment outcome. The customer retains the right to provide a counter-assessment, submit additional information and/or obtain assistance from an ICA.

⁴⁵ The Bank defines a "critical advice document" to be a Statement of Advice (SOA) or a Record of Advice (ROA) that is accompanied by another supporting advice document such as a Financial Needs Analysis (FNA) document.

⁴⁶ These questions effectively seek to understand, *inter alia*, the customer's personal circumstances, goals, objectives and risk tolerance at the time advice was provided. The information requested is the minimum information required to make an assessment of the case.

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Approach	When it applies?	Overview of process
2. "No Evidence of Advice" Assessment approach	<ul style="list-style-type: none"> When the Bank has been unable to retrieve any critical advice documents for the case; and There is no evidence in the Bank's systems that the customer ever received advice from CFPL or FWL during the Review Period. 	<ul style="list-style-type: none"> The Bank writes to the customer informing him/her that the Bank found no evidence of advice as part of its assessment. The Bank's assessment outcome letter responds to any specific concerns raised by the customer in his/her <i>You and Your Advice</i> form, and invites the customer to provide any additional information that may be available for the Bank to assess. The customer retains the right to access an ICA to assist with his/her case.
3. "Targeted" Assessment approach	<ul style="list-style-type: none"> When the Bank has been unable to retrieve any critical advice documents for the case; but There is evidence available to the Bank from searches of its systems that the customer may have received advice from CFPL or FWL during the Review Period (e.g., the Bank's systems indicate that advice revenue, such as from fees or commissions, were allocated to a CFPL or FWL adviser from the customer's investments). 	<ul style="list-style-type: none"> The Bank uses data analytics on transactions data from the customer's accounts to scan for potential instances of advice.⁴⁷ For each potential instance of advice identified, the Bank applies a standard set of rules and criteria to determine an assessment outcome of "likely inappropriate" advice or "no evidence of inappropriateness". The rules and criteria for determining the assessment outcome is based on information that is available to the Bank about the customer's age, investment holdings and asset allocation around the time of each potential instance of advice (e.g., the proportion of the customer's investment holdings in growth assets).⁴⁸ The Bank writes to the customer setting out its assessment outcome and its approach to determining this outcome. The letter invites the customer to respond with any additional information that may be relevant for assessment. The letter also provides the customer the opportunity to provide a counter-assessment if he/she disagrees with the Bank's assessment, as well as the offer of assistance from an ICA.

⁴⁷ Where the results from performing this data analytics suggests that there are no potential instances of advice throughout the Review Period, the Bank is likely to assess the case using one of the other approaches for cases with limited or no documentation.

⁴⁸ The complete set of rules and criteria for the Targeted Assessment approach has yet to be finalised by the Bank. Currently, only cases involving pension, superannuation and investment products held by customers in Colonial First State products during the Review Period are within the scope of the Targeted Assessment approach, although other products and types of cases are being considered for inclusion. We will provide additional details on this approach once the complete set of rules and criteria has been finalised.

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As described in Table 4.2, the second and third approaches for dealing with cases with limited or no advice documentation (i.e., the No Evidence of Advice Assessment and Targeted Assessment approaches) typically involve the Bank determining an assessment outcome without first contacting the customer for further information. This position was taken after the Bank identified a number of significant challenges associated with adopting the more detailed Insufficient Information Assessment approach set out in Table 4.2.

In particular, based on a trial application of the Insufficient Information Assessment approach to a number of cases that are within the scope of the Bank's advice remediation programs, the Bank found that requesting the information required from the customer to assess any advice that may have been given via its "insufficient information questionnaire" was protracted. The Bank also found that applying this approach did not always provide the details necessary for it to complete an assessment of the customer's case. For example, in many instances, customers could not recall the details of the advice they were provided (e.g., due to the passage of time since advice was received), or could not distinguish between advice received versus transactions that were not the subject of advice.

The Bank therefore determined that the second and third approaches described in Table 4.2 would likely result in more active and expedited outcomes for those customers with limited or no advice documentation. These approaches would also provide transparency to customers in relation to potential instances of advice the Bank identified through its data analytics (such as significant transactions and/or products switches in the case of the Targeted Assessment approach) – allowing customers to make a more informed response to the Bank's assessment. Importantly, to ensure these customers would be treated fairly under the Program, customers assessed under the No Evidence of Advice Assessment and Targeted Assessment approaches would continue to have access to an ICA, and have the opportunity to submit additional information to the Bank for assessment.

As noted in Section 3.4, as at 31 December 2015, the Bank had completed 28 assessments of cases where it found no evidence of advice. As at 31 December 2015, 12 cases had been issued an assessment outcome under the Targeted Assessment approach.

As part of our ongoing sample review of cases, we will test whether the Bank's assessment of these cases adheres to the relevant documented processes, and is consistent with the Program's objectives.

4.7.3. Service fee assessments

Some customers who received advice during the Review Period may have paid certain ongoing adviser service fees which entitled them to additional services. As noted in our Second Report, the Bank identified that certain customers within CBA's advice business may have been charged an ongoing adviser service fee but may not have received all of the services they paid for. The Bank has established a separate work stream to deal specifically with this issue.

Measures to address potential issues regarding adviser service fees remain subject to finalisation, and no customers in the Program to date have received an assessment of whether fee refunds are payable for service delivery issues. Fee refunds that have been paid to date under the Program relate only to instances

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where a customer was charged a fee that was not properly disclosed, or exceeded the set maximum amount at the time of the advice.⁴⁹

The Bank has advised us that customers in the Program who have had their cases assessed and have been potentially affected by the issue of service delivery have been notified in their assessment outcome letters that an investigation is currently underway, and that they will be contacted if they have been affected by this issue.

⁴⁹ To be clear, any adviser service fees paid by customers that were above those disclosed to customers have been assessed in the Program. Only the service delivery component of the assessment has yet to be completed.

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 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 of cases for this Current Period involved a review of cases progressed through the Assessment stage of the Program, and cases that exited the Program prior to having an assessment outcome issued by the Bank. Our review sample for this period incorporated:

- **A review of 206 cases progressed through the Program's Assessment stage** – This review was in addition to the 52 cases we reviewed from this population in previous periods, and the 60 cases we reviewed as part of the Pilot. The total number of Assessment stage cases that we have sampled from the Program's commencement to 31 December 2015 is 258 (excluding the 60 cases in the Pilot), which represents 14% of the relevant population.⁵⁰
- **A review of 26 cases of customer withdrawals** (i.e., cases where the customer had opted out of the Program) – This review was in addition to the 481 cases we reviewed from this population in previous periods.⁵¹ The total number of customer withdrawal cases that we have sampled from the Program's commencement to 31 December 2015 is 507, which represents 38% of the relevant population.
- **A review of 205 cases removed from the Program on administrative grounds ("administrative exits")** – This review was in addition to the 40 cases we reviewed from this population in previous periods.⁵² The total number of administrative exit cases that we have sampled from the Program's commencement to 31 December 2015 is 245, which represents 16% of the population.

Table 5.1 below provides a summary of the case populations in each category above as at 31 December 2015, and the total number of cases we have reviewed in our sample to date.

⁵⁰ With the inclusion of the 60 Pilot cases, we have sampled a total of 318 cases progressed through the Program's Assessment stage since the Program's commencement. This figure represents 16% of the relevant population.

⁵¹ We had reviewed 504 customer withdrawal cases in previous periods, however, 23 of these cases have since been reclassified into other categories by the Bank (e.g., into the Program's Assessment stage where a customer has requested to be re-instated into the Program). We have adjusted the figures sampled in this category for previous periods (from 504 to 481) to account for this change.

⁵² Two of the cases we had previously reviewed in this category have since been re-instated into the Program (i.e., no longer exits). We have therefore adjusted the figures sampled in this category for previous periods (from 42 to 40) to account for this change.

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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 31/12/2015	Overall population as at 31/12/2015	Percentage sampled as at 31/12/2015
Cases progressed through the Assessment stage (excluding 60 Pilot cases)	52	206	258	1,877	14%
Customer withdrawals	481	26	507	1,317	38%
Administrative exits	40	205	245	1,513	16%

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 within each category, taking into account that additional cases will be allocated to each of the categories as the Bank progresses more cases through the Program;
- the number of exceptions that we find in our sample review of cases during each reporting period (i.e., cases where we identify issues with the Bank's implementation of its documented processes); and
- our application of appropriate statistical tests to enable us to draw conclusions about the various populations based on the rate of exceptions we find in the relevant case category.

5.2. Approach to sampling

5.2.1. Cases progressed through the Assessment stage

We commenced the implementation of a risk-based sampling methodology in this Current Period for cases that had progressed through the Assessment stage. In particular, our sample of 206 cases focused mainly on those cases that we classified as being potentially "higher risk". We defined higher-risk cases as those cases where a failure by the Bank to adhere to the Program's documented processes could have a greater impact on the customer's outcome and hence undermine the success or effectiveness of the Program.

In order to implement this risk-based sampling methodology, we requested a number of "case attributes" for the population of cases where assessment outcomes had been issued by the Bank. The case attributes were characteristics of a case that could assist us in identifying higher-risk cases, and included those related to the customer, the adviser, and the complexity of advice provided (e.g., whether the advice involved gearing or complex products).

Due to a number of limitations associated with the Bank's ability to extract data from systems used earlier in the Program, case attributes were available to us for 81% of the cases that had been issued an assessment

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outcome as at 31 December 2015 (1,577 cases).⁵³ Of these 1,577 cases with attributes, 163 of them qualified as higher-risk. We sampled 92 cases in this Current Period from the population of cases that we classified as higher-risk, which represented 56% of all higher-risk cases where case attributes were available (and 45% of our total sample for the Current Period). The remainder of the cases we sampled were those for which the Bank was unable to obtain attributes (9 cases), and cases that did not meet our classification of higher-risk (105 cases).

The cases that we classified as higher-risk for this Current Period included those with one or more of the following attributes:⁵⁴

- cases where the customer was advised by an adviser identified as potentially “high-risk” by the Bank (see Section 4.7.1 for further details regarding the types of advisers classified as potentially high-risk within the Program);
- cases that were accelerated by the Program due to a customer’s special circumstances, such as cases involving a “vulnerable” customer (e.g., customers with an intellectual impairment, mental disorder or language difficulty that potentially made it difficult for them to understand the risks involved); and
- cases that involved a customer beyond a certain age (i.e., 65 years or older at the time they first received advice during the Program’s Review Period) and where the advice provided indicated the customer had a “growth” or “aggressive” risk profile.

For each of the 206 cases that formed part of our sample for this Current Period, we reviewed the Bank’s records of assessment against the Program’s documented processes that applied at the time of the Bank’s assessment. In particular, our review involved tracing through the various facts, analysis and conclusions that were recorded by the Bank’s assessment team to determine an assessment outcome (including verification of these facts as recorded in the customer’s advice file), and sought to verify that the Program’s documented processes were adhered to.

Our findings in relation to our sample review of these cases are set out in Section 5.3.1 and 5.3.2 below.

5.2.2. Customer withdrawals

The percentage of customer withdrawal cases we reviewed in our sampling for this Current Period reduced significantly from earlier periods given our previous findings. In particular, we noted that the nature of the few exceptions we had found in our sampling from previous periods gave us no reason to conclude that the Bank was deviating materially from its documented processes. We therefore believed that the highly conservative requirement to sample 100% of cases from this category was no longer warranted.

⁵³ We are continuing to engage with the Bank on measures to resolve the data extraction issues, and expect to be able to reduce the number of cases where case attributes are not available.

⁵⁴ We note that we may continue to refine our definition of “higher-risk case” as additional cases are assessed in the Program and as limitations with the Bank’s data extraction capabilities are addressed.

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For the 26 cases that we reviewed in our sampling for this Current Period, we followed the same approach as that used previously. Namely, our review of customer withdrawal cases involved:

- reviewing the relevant correspondence between the Bank and the customer (including written correspondence, call logs and other customer files on the Bank's advice remediation system) 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 (whenever practicable and reasonable).

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

5.2.3. Administrative exits

The Current Period saw a further increase in cases that were removed by the Bank due to administrative reasons (refer to Section 3.3.2). This category of cases included customers who had not returned a *You and Your Advice* form within 12 months from initial registration or expression of interest into the Program, as well as other "non-genuine" cases identified by the Bank.

For this Report, we sampled an additional 51 cases that were removed due to the customer not submitting a *You and Your Advice* form within 12 months of registration/expression of interest in the Program (from a population of 565 cases). We also completed an initial sample review of 154 cases that were identified by the Bank as non-genuine (from a population of 948 cases).⁵⁵

Our approach to reviewing these administrative exit cases involved seeking confirmation that the process in which the customer was removed from the Program adhered to the Program's documented processes. For cases assessed as non-genuine by the Bank, we also reviewed the facts and evidence used by the Bank to classify these cases as non-genuine to gain assurance that there were valid reasons for removing them from the Program.

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

5.3. Sample findings

The large number of cases we have sampled in this Current Period across the various categories of cases has allowed us to further test the Bank's implementation of the Program, and whether the Program is meeting its objectives.

Based on our review of cases in our sampling this period, we believe that the Bank is continuing to apply the Program's processes in a manner that is materially consistent with the Program's objectives. While there were

⁵⁵ This was the first reporting period in which we sample reviewed "non-genuine" cases identified by the Bank. Our review of the cases identified as non-genuine included three cases where the Bank assessed that the person never genuinely intended to register for the Program, and 151 cases where the Bank indicated that the expression of interest or registration was made by a person (other than the customer) without the customer's consent, with one of the following conditions also applying: i) the customer had informed the Bank that they did not want to participate in the Program; ii) the customer had not responded to the Bank's invitation to participate in the Program; or iii) the Bank had no contact details for the customer.

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a number of cases (10) we identified in this Current Period where the Bank's assessment did not fully adhere to the Program's documented processes, none of these exceptions, in our opinion, represented serious or intentional failings to assess poor advice. In particular, 7 out of the 10 exceptions we identified related to issues with the Bank's assessment of incorrect advice implementation or the over-charging of fees, rather than the Bank's assessment of whether poor advice was provided to the customer. The specific nature of the exceptions we found in our sampling for this Current Period are set out in further detail in Section 5.3.1 below.

In addition to the procedural exceptions we identified, our review of sample cases during this Current Period identified a number of areas of the Program's assessment processes that we believed could be strengthened. The main area in which we identified a need for strengthening was the Program's assessment of particular one-off fees associated with implementing advice. Specifically, we found during our sampling for this Current Period that the Program was not assessing product entry fees.⁵⁶ We believe such an omission could result in inconsistent outcomes in the Program. We also identified opportunities for refinement in the Program's (recently introduced) assessment processes for dealing with cases with limited or no advice documentation. Further details of our findings in relation to these issues are set out in Section 5.3.2 below.

In relation to our review of sample cases in other categories for this Current Period – namely, customer withdrawal and administrative exit cases – we found only one exception with the Bank's assessment of these cases. The one exception we identified related to a case that was removed on administrative grounds, where the Bank has subsequently rectified the exception by making further contact with the customer who confirmed that he/she did not wish to participate in the Program. Based on our most recent sampling of these cases, we believe that the processes that have been applied to deal with cases that have exited the Program without an assessment outcome continue to be implemented in accordance with the Program's documented processes and objectives.

5.3.1. Cases progressed through the Assessment stage

In our Third Report, we identified three cases that had progressed through the Assessment stage of the Program where the Bank had not adhered to the Program's documented processes. Since our Third Report, the Bank has contacted the customers in all three of these cases to notify them of the changes in their assessment outcomes, including offers of compensation.⁵⁷

⁵⁶ These product entry fees include, *inter alia*, contribution, establishment and portfolio implementation fees that a customer may have paid to implement advice. For clarity, the issue of service delivery noted in Section 4.7.3 of this Report does not apply to these entry fees.

⁵⁷ For clarity, not all cases where we identify exceptions will result in a change in assessment outcome or offer of compensation for the affected customer.

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In relation to the 206 cases that we reviewed in our sample for the Current Period, we found that the Bank had adhered to the Program's documented processes in all but 10 cases.⁵⁸ The 10 cases where we found exceptions for this Current Period related to:

- five cases where the Bank did not identify, in its assessment, advice that was incorrectly implemented ("implementation exceptions");
- two cases where the Bank did not identify, in its assessment, a fee that was charged in excess of the amount disclosed to the customer at the time advice was given ("fee exceptions"); and
- three cases where the Bank did not adhere to its processes for assessing the appropriateness of advice provided to customers ("advice exception").

In the five cases where we identified an implementation exception, our review found that the Bank's assessment did not identify differences between the product actually purchased by the customer, and the product that was recommended in the customer's SOA. In all five of these cases, the mismatched products had similar names, which suggests to us that the exceptions were likely to have been caused by a case assessor's oversight rather than any intentional failure by the Bank to address issues of incorrect implementation.⁵⁹

The five implementation exceptions we found in this Current Period are in addition to two implementation exceptions found in our sampling for the Third Report. This brings the total number of implementation exceptions we have found from our sampling to 31 December 2015 to seven cases (out of a sample population of 258). Given the overall frequency of implementation exceptions that we have found to date, the Bank has agreed to take steps to strengthen its controls relating to the assessment of advice implementation (e.g., by adding specific steps in the Bank's peer review processes to look at the issue of mismatched product names). The Bank has also advised us that, as with the previous exceptions we identified, it will perform an analysis for the five implementation exceptions identified in the Current Period to determine whether the customer has suffered loss as a result of the incorrect advice implementation, and will offer any relevant compensation due.

The two cases where we found fee exceptions involved cases where the Bank's assessment did not identify discrepancies between the fees disclosed to the customer in the SOA, and the fees ultimately paid by the customer following implementation of the recommended advice. In one of these cases, the fees disclosed in the SOA included a tax credit where we found no evidence of the credit having been given to the customer (i.e., there was no evidence that the customer received the benefit of the disclosed tax credit via a reduced fee). The Bank has suggested that, as such tax credits are applied by the fund manager rather than the advice licensee, they are not within the scope of the Program's assessment. Our view, however, remains that

⁵⁸ We also identified three cases where there was insufficient evidence that steps in the assessment process had been performed, but we were satisfied that the steps not evidenced were not material to the cases concerned (i.e., the performance of the steps missed would not have changed either the assessment outcomes or the amount of any relevant compensation due). In one of these cases, we have requested that the Bank fully document its analysis and judgements (using the Program's current processes) given the complexity involved with the case.

⁵⁹ This view is supported by the fact that there were other cases we found in our sampling where the Bank had correctly identified instances of incorrect advice implementation.

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because the fees paid by the customer were greater than the fees disclosed in the SOA (once the disclosed tax credits are taken into account), the Bank's assessment should have assessed this discrepancy.

In the other case where we found a fee exception, the Bank accepted that the customer was over-charged a fee for one of the investments that the adviser had recommended, which was not picked up in its assessment. The Bank has indicated that it will increase its offer of compensation for this case (having already made an initial offer of compensation to the customer) and notify this change in offer to the customer's ICA.

In two of the three cases where we identified an advice exception, we found that the Bank had not assessed advice that was documented in a ROA. In both these cases, the advice given was "subsequent advice" (i.e., advice that was given to the customer subsequent to earlier advice), where the recommendation was for the customer to maintain (or "hold") their existing investments in line with earlier recommendations. The Bank's assessment did not consider whether the "hold advice" was appropriate for the customers in both cases (i.e., it did not consider whether the customer's existing portfolio and asset allocation at the time the hold advice was given was in line with their risk profile, goals and objectives). These exceptions were due to a misinterpretation by some of the Bank's assessors who had incorrectly understood that hold advice was not assessable, since no change to investments was recommended to the customer.⁶⁰

In response to these exceptions, the Bank has indicated it will conduct further analysis where hold advice may have been given to a customer (including the two cases where we identified exceptions) to ensure any misinterpretations were isolated. The Bank has also noted that the revised version of the CAT implemented in September 2015, as well as additional guidance it provided to its Advice Assessment team in October 2015, would prevent the risk of incorrect assessments of hold advice from having occurred after September 2015. Based on our review of the revised CAT and the guidance issued in October 2015, we agree with the Bank's view that any misinterpretations were likely to have been limited to those cases assessed using earlier versions of the Program's CAT. We have therefore suggested to the Bank to focus on those cases as part of its analysis, and will provide an update on the Bank's actions in our next report.

In the other case where we identified an advice exception, the Bank's assessment did not identify the correct allowable asset allocation exposure limits that should have applied to the case assessment (i.e., the percentage exposure limits applied for this case did not adhere to the limits required under the Program's processes). Our overall sampling of cases to date, however, suggests that this appears to be an isolated case (i.e., there have been no other instances where we found the Bank to have incorrectly applied the exposure limits to be used in a case assessment from the cases we have reviewed to date). For this case, the Bank has agreed that it will re-assess its assessment outcome to ensure it remains appropriate. Where the assessment outcome requires change, the Bank will communicate this to the customer and offer any compensation due.

Finally, we note that, of the 206 cases we sampled in this category during the Current Period, two of the cases were ones where the Bank had found no evidence of advice being provided to the customer.⁶¹ We had no

⁶⁰ To provide further context, the scope of the OAR program does not extend to reviewing advice that was not implemented by a customer (unless specific concerns about the advice were expressed by the customer when registering for the Program, which led to non-implementation). As hold advice requires no changes to a customer's investment portfolio, some assessors incorrectly interpreted the Program's processes by assuming that hold advice was advice that was not implemented, and therefore required no assessment. To mitigate the risk of this possible misinterpretation, the Bank developed further guidance for its Advice Assessment team in October 2015 to clarify the need for hold advice to be assessed.

⁶¹ As set out in Section 3.4 of this Report, there were 28 cases with this assessment outcome as at 31 December 2015.

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concerns with the Bank's assessment of these cases. We note that in one of the cases, the available evidence suggested that the advice provided to the customer was provided by an adviser group outside of CBA. The other case related to the provision of advice from a CFPL adviser outside the Review Period.

5.3.2. Other findings from our review of cases assessed

As noted earlier, our review of cases in this Current Period identified certain aspects of the Program's assessment process that we believe could be strengthened. The main area in which we identified a need for strengthening related to the Program's assessment of one-off fees that may be paid by a customer to implement advice.⁶² Specifically, the Bank has included one-off advisory service fees within the scope of its assessment process, while excluding the assessment of one-off product entry fees.⁶³ Our sampling revealed a small number of instances where the one-off fees paid by a customer were disclosed using different terms by the adviser. In these instances, there is the potential that some of the fees paid by the customer may have been excluded from the assessment when they should have been included.⁶⁴ This raises the possibility that excluding product entry fees from the assessment process could result in inconsistent outcomes in the Program.

The Bank has indicated that it will undertake a thorough review of the scope of one-off fees (including product entry fees) that should be included in the Program's assessment. The Bank has agreed to communicate with us over the coming months the outcomes of its review, including its proposed course of action to address our findings. We will provide an update on the actions the Bank has taken to address our findings in our next report.

The other area of the Program's assessment process where we have identified some opportunity for further refinement relates to the Bank's assessment of cases where there may be indicators of advice, but where the relevant critical advice documents are not available for the Bank to assess. As we noted in Section 4.7.2, a new "Insufficient Information Assessment" approach has recently been adopted by the Bank to deal with such cases. This approach currently relies on the Bank identifying indicators of advice from other (non-critical) advice documents or files retrieved from the Bank's systems, and contacting customers to confirm any advice received (particularly details of the advice they received). The approach does not currently involve a review of transactions data (such as significant withdrawals or contributions in a customer's investment account) to identify potential instances of advice.

Having considered the work undertaken by the Bank to develop its Targeted Assessment approach (discussed in Section 4.7.2) for dealing with other types of cases with limited or no documentation, we believe there is merit in looking at transactions data to identify possible instances of advice for cases where only

⁶² The Program's assessment processes also require a review of *ongoing* advice fees paid to CFPL or FWL (which are different to one-off fees that may be paid by a customer).

⁶³ The one-off fees being assessed by the Program for potential over-charging are SOA fees, ROA fees, one-off adviser service fees and certain "Transaction Without Advice" fees. These are one-off fees that are directly associated with services provided by an adviser and/or the relevant advice licensee at the time advice was given. Product entry fees excluded from the assessment include entry, contribution and establishment fees that may be paid by a customer on implementation of advice.

⁶⁴ For example, an adviser disclosing an "entry fee" when preparing the SOA may subsequently refer to this fee as a "one-off adviser service fee" when filling out the customer's product application form to implement the advice. The fee paid in this example may not be assessed because it was initially disclosed as an entry fee.

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some (but not all) critical advice documents are available. This would assist in ensuring greater consistency in the way that cases with insufficient information are dealt with in the Program.

Based on our review of cases in the Current Period, we also noted that there was a small number of cases that we believed had possible indicators of advice based on transactions or non-critical advice documents evidenced in the customer's file. In each of these instances, the case was assessed by the Bank using an earlier version of the Program's CAT, where cases with possible instances of advice (without the relevant advice documentation) were meant to be placed on hold pending finalisation of the Insufficient Information Assessment process. In light of our identification of these cases, the Bank has agreed to undertake a further assessment of the cases we identified with possible indicators of advice using the Program's current Insufficient Information Assessment process. This further assessment would help ensure that the possible indicators of advice we identified are assessed appropriately and that the customers' assessment outcomes for these cases remained appropriate.

5.3.3. Customer withdrawals

As noted earlier, we have undertaken a smaller sampling percentage for customer withdrawal cases in this Current Period given the Bank's previously demonstrated adherence to the Program's documented processes for these cases.

Of the 26 cases that we reviewed in our sample for this Current Period, we found no material exceptions in relation to the Bank's treatment 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 or expressed interest in the Program advised the Bank of his/her request to withdraw from the Program.

Our review of the 26 customer withdrawal cases also found that, in all cases, the Bank had sent written confirmation of the customer's decision to opt out of the Program as required under the Bank's processes.

5.3.4. Cases removed from the Program on administrative grounds

From our review of the 51 cases that had been removed from the Program on administrative grounds due to the customer having not returned a *You and Your Advice* form within 12 months from the initial registration or expression of interest, we found one procedural exception with the Bank's adherence to its documented process. In all but one of these 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 reach the customer at least twice, 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 request for information.

The one case where we found an exception involved a customer who the Bank had attempted to contact only once before removing the customer from the Program on administrative grounds. The Bank has subsequently contacted this customer who confirmed that he/she did not want to participate in the Program.

From our review of 154 cases that had been classified as "non-genuine" and removed from the Program by the Bank, we found no material exceptions with the Bank's adherence to its documented process in all cases

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we reviewed. As this was the first period in which we sample reviewed cases in this category, we will continue to undertake further sampling of non-genuine (and other administrative exit cases) for our next report.

5.4. Future sampling

Our sampling for the Current Period (as well as the previous period) focused largely on those cases that had progressed through the Program's Assessment stage, as well as other types of cases that had exited the Program prior to receiving an assessment outcome from the Bank.

While our sampling of cases that have exited the Program's Assessment stage will remain the focus of our efforts throughout this Program, we anticipate adding cases that have progressed through the Program's Consideration of Assessment Outcome stage (that have subsequently exited the Program) to our next sample review. In reviewing these cases, our focus will be on testing whether the Bank's communications and responses to customers who have received their assessment outcomes are in line with the Program's documented processes and objectives. We do not intend to review the Bank's assessments for these cases, as we are already conducting separate sampling of the Bank's implementation of these processes.

The other category of cases for which we will commence sampling in our next report are those that have been assessed by the Bank using the recently developed Targeted Assessment approach. As this approach had only recently been developed, we had yet to conduct any sampling of cases in this category at the time of writing this Report.

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 presented 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, 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.
Independent Panel Review	Refers to cases where the Bank's final assessment outcome had been rejected by the customer and the case had been escalated to the Independent 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 and 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 Independent Panel.



Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



Commonwealth Bank

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Prepared by Promontory

1 June 2016

Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



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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 January 2016 and 30 April 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
CBA/Bank	Commonwealth Bank of Australia (Group)
CAT	Case Assessment Tool
CFPL	Commonwealth Financial Planning Limited
Current Period	1 January 2016 to 30 April 2016
FOS	Financial Ombudsman Service
Fourth Report	Promontory Fourth Report (published 2 February 2016)
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	Fifth 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

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1. Background

The Commonwealth Bank Group's (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 Fifth Report (Report) provides an update on the Program for the period ending 30 April 2016. It includes updated statistics on the number of cases that have progressed through 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.

Promontory's previous reports are available on the Bank's OAR program website.¹

In all aspects reported, Promontory has 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.

Promontory's next periodic report is scheduled for release around the end of September 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 January 2016 to 30 April 2016 (the Current Period) saw a steady progression in the number of cases proceeding through the Program's various stages. As outlined in further detail below, over 60% of registered cases had either progressed into or completed the Program's Assessment stage as at 30 April 2016, with a further 14% having withdrawn and no longer requiring assessments.

During the Current Period, 466 new cases registered for the Program, bringing the total number of registered cases to 9,812 as at 30 April 2016.² Of the 9,812 registered cases, 2,084 cases commenced assessment during the Current Period while assessments of 1,101 cases were completed (with the Bank issuing assessment outcomes to these customers). During the Current Period, the first case to be referred to the Program's Independent Review Panel (Panel) also took place, with the case heard by all members of the Panel in March 2016 (refer to Table 2.1).

Table 2.1: Overall Program progress to 30 April 2016

Program statistic	Breakdown by period:			Cumulative Total as at 30/4/2016
	Prior to 1/9/2015	Previous period: 1/9/2015 to 31/12/2015	Current Period: 1/1/2016 to 30/4/2016	
Number of cases:				
Registered	8,835	511	466	9,812
Commenced assessment	1,285	2,756	2,084	6,125
Issued an assessment outcome	686	1,251	1,101	3,038
Referred to the Panel	0	0	1	1
Number of registered cases exited:				
Prior to an assessment outcome issued	994	304	69	1,367
After an assessment outcome issued	275	674	837	1,786

² While the Program closed to new expressions of interest on 3 July 2015, customers who had expressed interest prior to this date but subsequently returned their *You and Your Advice* forms during the Current Period count as new registrations in the Program.

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As Table 2.1 illustrates, between the Program's commencement and 30 April 2016, the Bank had issued assessment outcomes to 3,038 cases in the Program. This figure represents 31% of all registered cases in the Program.

In a further 3,081 cases (31% of all registered cases), the Bank was in the process of completing its assessments of the cases, while an additional 1,367 registered cases (14%) had exited the Program prior to receiving assessment outcomes from the Program.³ This left a balance of 2,326 cases (24%) that remained in the Program's Registration stage as at 30 April 2016.

Of the 3,038 cases with assessment outcomes issued as at 30 April 2016, 1,786 (59%) had exited the Program by the customer having either:

- accepted the Bank's assessment outcome or offer of compensation (as applicable); or
- withdrawn from the Program, after rejecting or not responding to the Bank's assessment outcome within the specified period of time (not less than 30 days).

As at 30 April 2016, 10 cases that had been issued assessment outcomes from the Program had subsequently referred a claim to the Financial Ombudsman Service (FOS) (up from two cases as at 31 December 2015). As at 30 April 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

The Current Period saw an increase in the number of cases that had been offered compensation for poor or incorrectly implemented advice, or the incorrect charging of fees. In particular, during the Current Period, an additional 161 cases were offered compensation for poor advice or incorrectly charged fees, which had resulted in the customer suffering financial loss. This brought the total number of cases with compensation offered for poor advice, incorrectly implemented advice or the incorrect charging of fees to 332 as at 30 April 2016. This figure of 332 cases includes:

- 191 cases where the Bank identified poor advice, which resulted in the customer suffering financial loss;
- 46 cases where the Bank identified incorrectly implemented advice, which resulted in the customer suffering financial loss; and
- 95 cases where the Bank identified the incorrect charging of fees, where the advice was found to be otherwise appropriate.

As at 30 April 2016, the total amount of compensation that had been offered by the Program since its commencement stood at \$4,857,974. This amount offered relates to 414 cases in the Program,⁴ and

³ This latter category of cases includes those where the customer had opted out of the Program, as well as those removed from the Program due to administrative reasons (e.g., due to a lack of customer response to progress the case further).

⁴ In addition to the 332 cases noted above, the Bank offered payments to 82 cases that were resolved following counter-assessment, with no change to the Bank's assessment that the advice was appropriate.

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represents an increase of \$2,315,214 from the \$2,542,760 (91%) that had been offered by the Program to 31 December 2015.

Of the total amount of compensation that had been offered as at 30 April 2016, \$3,123,551 of this had been paid by the Bank (relating to 209 cases). The remaining amount that had been offered but not paid related to cases where the Bank's assessment outcome was still under review by the customer (or by the Bank in the event that a counter-assessment had been made by a customer).

Table 2.2 below provides an overview of the assessment outcomes and compensation offers made to 30 April 2016. More detailed statistics regarding the Program can be found in Section 3 of this Report.

Table 2.2: Assessment outcomes and compensation figures to 30 April 2016

Program statistic	Breakdown by period:			Cumulative Total as at 30/4/2016
	Prior to 1/9/2015	Previous period: 1/9/2015 to 31/12/2015	Current Period: 1/1/2016 to 30/4/2016	
Number of cases with an assessment outcome of:				
Advice appropriate	623	1,061	877	2,561
Poor advice – no financial loss to customer	10	44	41	95
Poor advice – compensation to customer	39	83	115	237
Fee refund to customer ⁵	14	35	47	96
No evidence of advice found by Bank	0	28	21	49
Amount of compensation:				
Offered by the Bank	\$950,252	\$1,592,508	\$2,315,214	\$4,857,974
Paid by the Bank	\$488,815	\$1,512,019	\$1,122,717	\$3,123,551

⁵ One of the cases included in this category involved the incorrect charging of fees where compensation was offered under the Bank's remediation activities related to CFPL's licence conditions. For this case, no separate compensation was offered under the OAR program for the incorrect charging of the same fees. This case accounts for the difference between the 96 cases with a "Fee refund to customer" in Table 2.2, and the 95 cases where the Bank had offered compensation in the Program for the incorrect charging of fees noted earlier.

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2.2. Program implementation

2.2.1. People and governance

The Current Period saw no major changes to the structure of the team or governance arrangements that support the Program's implementation. The Advice Review program (ARp) team responsible for implementing the Program (as well as the Bank's other advice remediation activities) continues to be structured into various streams and sub-streams as described in our Fourth Report. As at 11 April 2016, the ARp team employed 527 team members, which included 165 team members dedicated to assessing cases in the Program.

Further details regarding the people resources employed in the Program, as well as the training provided to the ARp team, are set out in Section 4.1 of this Report. The Program's governance arrangements, which have remained unchanged since our previous report, are summarised in Section 4.2.

2.2.2. Customer file retrieval

The Program's file retrieval efforts during the Current Period focused mostly on the collection of advice files of FWL customers registered in the Program.⁶ As noted in our previous reports, there have been several challenges associated with the collection of advice files for FWL customers, particularly those where the adviser has subsequently left FWL (i.e., former FWL advisers).

During the Current Period, the Bank completed its retrieval of available files for customers of current FWL advisers. Progress was also made in retrieving the files of customers of former FWL advisers, although retrieval of these files may continue for some months given the need for interaction with, and co-operation from, third-party licensees.

Based on the file retrieval efforts completed to 30 April 2016, the Bank had retrieved an advice file (in either hard-copy or electronic format) for just over 8,100 registered cases in the Program. After excluding those cases that have already exited the Program, the Bank has approximately 860 registered cases in the Program where an advice file had not been retrieved as at 30 April 2016 (despite extensive searches in Bank systems and physical locations). In some of these cases, the Bank's analysis of the relevant transaction data suggests that the customers may not have received advice from CFPL or FWL during the Review Period (and, consequently, no advice files may exist).⁷ In all cases where the Bank is unable to locate the necessary files to conduct its usual assessment, the Bank is likely to apply one of its processes for dealing with cases where there is limited or no documentation (refer to Section 2.2.3 below).

2.2.3. Assessment processes

Section 4.5 of this Report provides an update on three areas of the Program's assessment processes.

⁶ File retrieval initiatives related to the cataloguing and collection of CFPL customer files had been largely completed by the end of 2015. Further details of these initiatives can be found in our previous reports.

⁷ Further details of this analysis are set out in Section 4.3 of this Report.

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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 Fourth Report, the Bank had developed a number of approaches to deal with these cases toward the end of 2015. During the Current Period, the Bank continued to refine these processes, including refinements to the correspondence it sends to customers to enhance transparency regarding how the Bank undertook the assessment with the (limited) information it had available. The Bank also continued to refine the types of cases that may be assessed under the various approaches for dealing with cases with limited or no documentation.

The second area relates to processes the Bank has implemented to deal with circumstances where it finds additional documents related to a case that were not available at the time of original assessment. During the Current Period, the Bank refined its processes to require a case assessor to return to a case where additional documents are found. This requires the case assessor to assess the impact of the additional documents on the original assessment conducted and, where the impact is considered potentially material, the case assessor must undertake a review of those additional documents using the Program's usual tools and processes.⁸

The third area covered in Section 4.5 provides an update on the Program's processes for dealing with cases with potential fraud, forgery or other similar adviser misconduct. In particular, it discusses refinements that have been made to the processes for referring cases to the Program's Special Matters Assessment Team (SMAT), and how this team deals with cases where potential adviser misconduct is identified.

2.2.4. Measures to address previous sample findings

During the Current Period, the Bank implemented a number of measures to respond to the issues raised in our Fourth Report that we believed could be further strengthened in light of findings from our sampling of cases. These areas included:

- the assessment of certain one-off fees that may be paid by a customer to implement advice, which were being excluded from the Program's assessment;
- the Program's "Insufficient Information Assessment" approach, where we believed there was an opportunity to enhance the way in which possible instances of advice could be identified by using data analytics on customer transaction data; and
- the assessment of "hold" advice, where we identified two exceptions in our previous sampling and where the Bank agreed to undertake further analysis to confirm these exceptions were limited.

Section 4.6 of this Report provides an update of these measures.

⁸ Any additional documents evidencing a new instance of advice eligible for assessment under the Program are considered to have a potentially material impact upon the original assessment.

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:

- **206 cases that had been issued assessment outcomes after having progressed through the Program's Assessment stage:** Based on the number of cases we sampled in this population during the Current Period (206) and in prior periods (258), we have sampled 16% of the overall population for this category of cases.⁹
- **159 cases that had exited the Program after having been issued assessment outcomes and progressed through the Program's Consideration of Assessment Outcome stage:** This was the first period in which we sampled cases from this stage. The 159 cases we sampled during this period represented 9% of the overall population for this category of cases.
- **30 cases where the customer withdrew from the Program prior to receipt of an assessment outcome from the Bank (customer withdrawals):** Based on the number of cases we sampled in this population during the Current Period (30) and in prior periods (498), we have sampled 34% of the overall population for this category of cases.
- **20 cases removed from the Program on administrative grounds (administrative exits):** Based on the number of cases we have sampled in this population for the Current Period (20) and in prior periods (245), we have sampled 3% of the overall population for this category of cases.¹⁰

2.3.2. Sample findings

Based on our sample review of cases in the Current Period, we believe that the Bank is continuing to apply the Program's processes in a manner that is materially consistent with the Program's objectives. While we identified a number of cases (nine) in the Current Period where the Bank's assessment did not fully adhere to the Program's documented processes (referred to as "exceptions" in this Report), in our opinion none of these exceptions represented systemic failings by the Bank to assess for poor advice.

The Bank has continued to appropriately respond to the exceptions we have identified in our sampling by conducting re-assessments of the relevant cases and, where necessary, notifying affected customers of any changes in their assessment outcomes. For the exceptions we identified during this period, the Bank has re-

⁹ The figures and percentages quoted here exclude the 60 cases we reviewed as part of the Program's Pilot.

¹⁰ The lower sample percentage for this category of cases reflects a significant increase in the population during the month of April 2016 (discussed further in Section 3.3.2 of this Report). Due to the timing of these exits, we have not conducted any sampling of cases that were exited for administration reasons in April 2016 as at the time of this writing (therefore lowering our overall sampling percentage). We will conduct sampling of these cases for our next report.

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assessed eight out of the nine cases where we identified exceptions,¹¹ and was in the process of completing its re-assessment of the remaining case.

Similar to our Fourth Report, the majority of the exceptions we identified this period (six out of the nine) related to instances where the Bank's assessment of incorrect advice implementation or fee over-charging did not fully adhere to the Program's documented processes. These exceptions were not connected to the Bank's assessment of whether poor advice was provided to the customer.

The other three exceptions we identified for this period included:

- one exception where the Bank's analysis of the customer's asset allocation did not fully adhere to the Program's documented processes;
- one exception where the Bank did not assess significant changes in the customer's risk profile between instances of advice, as required under the Program's documented processes; and
- one exception where the Bank did not assess an indicator of advice on the customer's advice file, as required under the Program's documented processes.

Details of these case exceptions, which all relate to our sample review of cases that had progressed through the Program's Assessment stage, are set out in Section 5.3.1 of this Report.

In respect of our sample review of cases from other stages of the Program (i.e., cases exited from the Program's Consideration of Assessment Outcome Stage, customer withdrawals and administrative exits), we found no exceptions in relation to the Bank's implementation of the Program's documented processes. Further details of our approach to sampling these cases and our findings are set out in Sections 5.3.2 to 5.3.4 of this Report.

Other findings from our sample review of cases during this period are set out in Section 5.3.5 of this Report. This section discusses two areas of the Program's assessment processes (relating to the assessment of possible implementation errors and fees) where we believe further refinements could be made to assist with the ongoing consistency of assessments in the Program.

¹¹ Three out of the eight cases the Bank has re-assessed for this period resulted in no change to the customer's offer of compensation.

3. Program statistics

This section of the Report provides updated statistics on cases progressed through the Program's various stages as at 30 April 2016. It also includes the latest statistics on assessment outcomes issued and compensation offers made by the Bank.

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

As at 30 April 2016, the total number of expressions of interest in the Program stood at 23,014 cases – a decrease of 207 cases from the 23,221 expressions of interest reported as at 31 December 2015 (refer to Table 3.1). The net reduction of 207 cases during the Current Period reflected the Bank's identification of further duplicate cases in the Program following further analysis of customer files.¹²

Table 3.1: Expressions of interest

Number of:	Prior Total as at 31/12/2015	New	Total as at 30/4/2016
Expressions of interest	23,221	-207	23,014

As noted earlier, the Program closed to new expressions of interest on 3 July 2015. The total number of expressions of interest in the Program is therefore unlikely to change materially in future periods.

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 his/her registration in the Program.

As at 30 April 2016, the Bank had sent information packs to customers in 21,881 cases out of the total 23,014 expressions of interest in the Program.¹³ In a further 1,124 cases, the Bank identified that an information pack

¹² Duplicate cases are those where the customer had registered or expressed interest in the Program more than once. As at 31 December 2015, the Bank identified 1,597 duplicate cases. As at 30 April 2016, the Bank identified 1,831 duplicate cases. The increase in duplicate cases of 234 during the Current Period was offset by 27 new expressions of interest in the Program. The Bank may continue to find additional duplicates as it undertakes further reviews of customer files.

¹³ In our Fourth Report, we noted that 22,050 cases had been sent an information pack as at 31 December 2015. The decrease of 169 cases during the Current Period reflects additional duplicates being found during the period (which are excluded from the statistics in this section).

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was not required to be sent due to, for example, the customer having withdrawn from the Program prior to receiving an information pack.¹⁴ As at 30 April 2016, there were just nine cases for which the Bank had yet to send an information pack.¹⁵

Table 3.2 below provides an overview of the status of information packs as at 30 April 2016.

Table 3.2: Information packs

Number of cases where:	Total as at 30/4/2016
Information pack had been sent	21,881
Information pack had not been sent	9
Information pack is not required	1,124
TOTAL	23,014

3.3. Case progression

3.3.1. Cases registered and assessed

The four-month period to 30 April 2016 saw a steady progression in the number of cases that proceeded to the various stages of the Program.

During the Current Period, the Program saw 466 new cases register for the Program (i.e., customers who had returned their *You and Your Advice* forms following an earlier expression of interest), and 2,084 cases progress from the Program's Registration stage to its Assessment stage. The Current Period also saw assessment outcomes issued to 1,101 new cases, bringing the total number of cases that had been issued assessment outcomes since the Program's commencement to 3,038 (as at 30 April 2016).

Table 3.3 below provides an overview of the number of cases that had progressed through the Program during the Current Period, and since the Program's commencement.

¹⁴ 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 Bank through an ICA).

¹⁵ These include cases where the Bank had only received telephone contact details from the customer and attempts to contact the customer had been unsuccessful. It is likely that most (if not all) of these cases will be removed from the Program once the relevant time period has elapsed and further attempts to contact the customer are unsuccessful.

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Table 3.3: Cumulative number of cases progressed to each stage of the Program since Program commencement¹⁶

Stage	Prior Total as at 31/12/2015	New	Total as at 30/4/2016
Registration	9,346	466	9,812
Assessment	4,041	2,084	6,125
Consideration of Assessment Outcome	1,937	1,101	3,038
Panel Review	0	1	1
Exits at Registration or Assessment stage	1,298	69	1,367
Exits after assessment outcome issued ¹⁷	949	837	1,786

The addition of 1,101 cases with assessment outcomes issued during the Current Period compares to a similar increase of 1,251 cases in the previous four-month period.¹⁸ This progression of cases is reflective of the Program's mature operating state, following significant investments that were made by the Bank to increase resourcing and capacity during 2014 and 2015.

The Current Period also saw the first case referred to the Independent Review Panel, after the customer (with their Independent Customer Advocate (ICA)) had completed the relevant certifications to have the case referred. After all three members of the Panel were convened to determine the procedural steps needed to make a determination for this case, the Bank and the ICA (on behalf of the customer) reached a negotiated outcome. This outcome was reached prior to the Panel making a final determination.

We note that the figures in Table 3.3 above are cumulative (i.e., they show the total number of cases that had progressed to, and beyond, the Program's various stages since the Program's commencement). A point-in-time view of the number of cases that were active in each stage of the Program as at 30 April 2016 is shown in Figure 3.1 below. Figure 3.1 also includes the number of registered cases that had exited as at 30 April 2016 (shown in red).

¹⁶ 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.

¹⁷ In our Fourth Report, we reported the number of "exits after assessment outcome issued" as 810 cases as at 31 December 2015. Further analysis of data during the Current Period found that this figure was understated by 139 cases. This correction has been amended in the figures in Table 3.3 and Table 3.4.

¹⁸ The slight reduction in the number of cases with assessment outcomes issued during the Current Period was driven in part by a temporary reduction in capacity post the Christmas and New Year holiday period.

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Figure 3.1: Number of cases in each stage of the Program as at 30 April 2016 (including registered case exits)

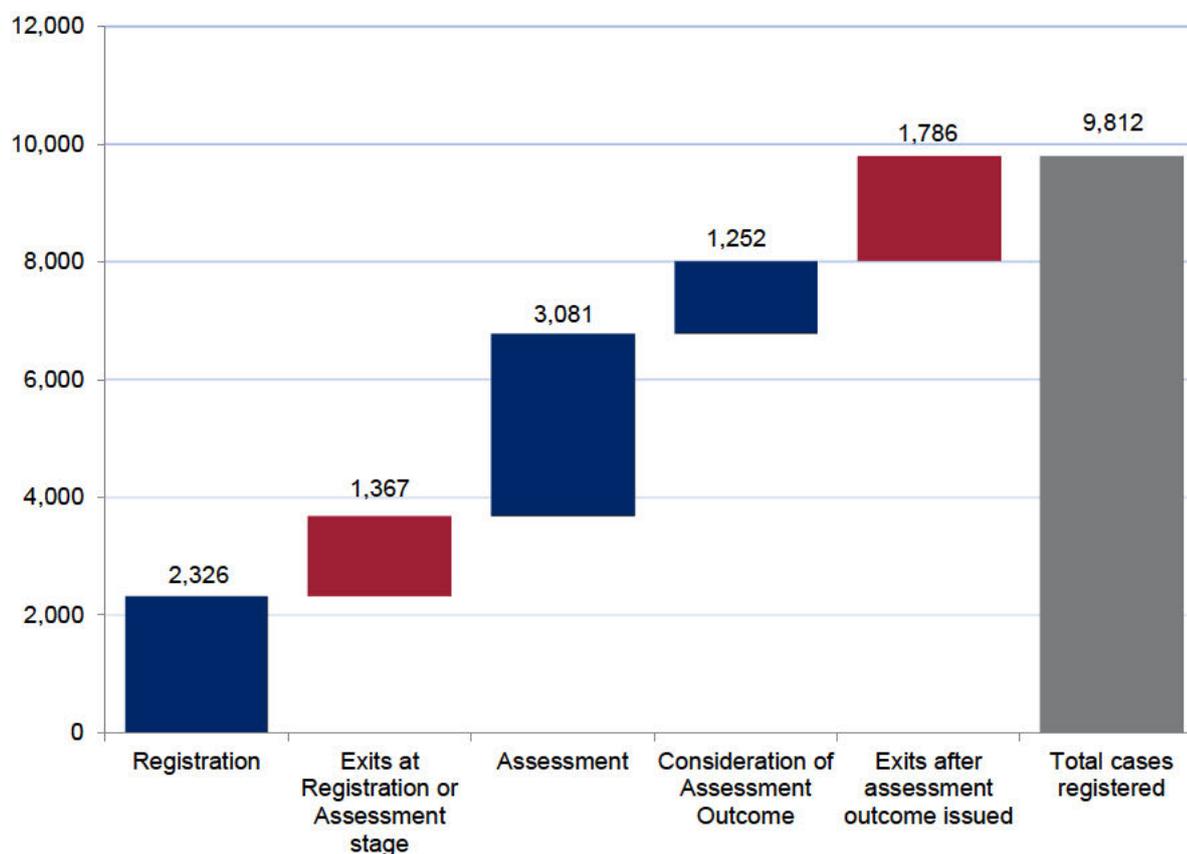


Figure 3.1 shows that, as at 30 April 2016:

- 1,786 cases had exited the Program after having been issued assessment outcomes from the Bank;
- 1,252 cases had assessment outcomes issued that were the subject of review/finalisation between the Bank and the customer (i.e., cases that were still active in the Consideration of Assessment Outcome stage);
- 3,081 cases were in the process of having their assessments completed (i.e., cases that were in the Assessment stage of the Program);
- 1,367 cases had exited the Program before having been issued assessment outcomes from the Bank (and therefore do not require an assessment); and
- 2,326 cases remained in the Program's Registration stage.

Further details regarding cases that have exited the Program are set out in Section 3.3.2 below.

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3.3.2. Cases exited

Table 3.4 below provides a breakdown of the number of cases (registered and non-registered) that had exited the Program to 30 April 2016. The table illustrates that, of the 23,014 cases in the Program (including expressions of interest that have not registered), 13,834 (60% of total expressions of interest) had exited the Program as at 30 April 2016.

Table 3.4: Number of cases exited from the Program

Reason for exit	Prior Total as at 31/12/2015	New	Total as at 30/4/2016
Exits prior to Registration stage			
Customer withdrew from Program	927	209	1,136
Case deemed ineligible for the Program	63	1	64
Case removed on administrative grounds	616	8,901	9,517
Exits at Registration stage			
Customer withdrew from Program	390	9	399
Case deemed ineligible for the Program	11	0	11
Case removed on administrative grounds	897	54	951
Exits at Assessment stage			
Customer withdrew from Program	0	6	6
Exits at Consideration of Assessment Outcome stage			
Customer accepted assessment outcome ¹⁹ – compensation was offered	76	118	194
Customer accepted assessment outcome – no compensation was offered	602	489	1,091
Customer withdrew from Program	271	229	500
Exits at Panel Review stage			
Panel decision accepted by customer	0	0	0
Panel decision was rejected by customer	0	0	0
Case resolved by agreement prior to Panel decision	0	1	1
TOTAL	3,853	10,017	13,870

¹⁹ This includes cases where the customer accepted the Bank's offer of compensation.

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During the Current Period, a large number of (non-registered) cases that were in the expression of interest stage had exited the Program (represented by statistics under “Exits prior to Registration stage”). In particular, there were 8,901 non-registered cases removed from the Program on administrative grounds, one case removed due to ineligibility (i.e., the case not involving advice from CFPL or FWL during the Review Period), and 209 cases where the customer had withdrawn from the Program (i.e., opted out). The large increase during the Current Period in the number of cases removed from the Program on administrative grounds (8,901 cases) primarily reflected the removal of cases where the customer expressed interest in the Program over 12 months ago, but chose not to submit a completed *You and Your Advice* form to formally register for the Program.²⁰

The Current Period also saw 906 registered cases exit the Program. The registered cases that exited during the Current Period included:

- 69 cases that exited prior to being issued an assessment outcome by the Bank: This figure includes 15 cases where the customer withdrew from the Program and 54 cases that were removed by the Bank on administrative grounds at the Registration stage of the Program.
- 837 cases that exited after having been issued assessment outcomes by the Bank: This figure includes 607 cases that had accepted the Bank’s assessment outcome or offer of compensation, 229 cases that had withdrawn from the Program after having rejected (or not responded to) the Bank’s assessment outcome, and one case that exited the Program after having been referred to the Panel.

Of the total number of cases that had been issued assessment outcomes as at 30 April 2016, eight cases had subsequently contacted FOS during the Current Period. This brought the total number of cases that had been issued assessment outcomes from the Program and subsequently contacted FOS to 10 (as at 30 April 2016).

As at 30 April 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 31/12/2015	New	Total as at 30/4/2016
Referred a complaint to FOS	2	8	10
Pursued a claim against the Bank	0	0	0

²⁰ To provide further context, the majority of expressions of interest in the Program related to customers who responded shortly after the extended customer contact initiatives implemented by the Bank in early 2015. The extended customer contact initiatives involved the direct mail-out of information about the Program to approximately 350,000 households around the nation who were current or previous customers of CFPL, and who held a product issued by certain related entities of the Bank’s wealth management division. Given the period of time that these expressions of interest have had to formally register for the Program (i.e., over 12 months), the Bank commenced contacting these customers during the Current Period to confirm whether they intended to register for the Program. Where a customer did not indicate his/her intention to register, the Bank wrote to the customer to confirm their exit from the Program.

3.4. Assessment outcomes

Between the Program's commencement and 30 April 2016, a total of 3,038 cases had been issued assessment outcomes from the Bank (up from 1,937 cases as at 31 December 2015). A breakdown of the 3,038 cases that had been issued assessment outcomes as at 30 April 2016 is set out in Figure 3.2 below.²¹

Figure 3.2: Breakdown of assessment outcomes issued from Program commencement to 30 April 2016

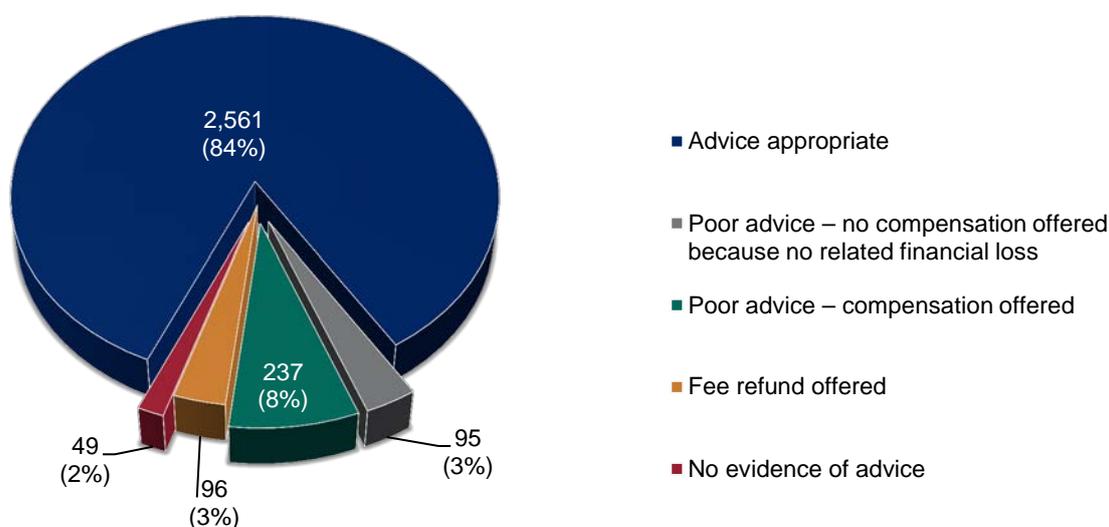


Figure 3.2 breaks down the assessment outcomes into the following categories:

- **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.²²

²¹ The statistics in Figure 3.2 are based on the most recent assessment outcome issued by the Bank to the customer. As we have noted in previous reports, the Bank may choose to change its assessment outcome following a customer's response to an assessment outcome. Where the Bank accepts a customer's counter-assessment, Figure 3.2 captures only the most recent assessment outcome issued to the customer.

²² This category also includes cases where the Bank found no evidence of inappropriateness in relation to potential instances of advice identified by the Bank under its Targeted Assessment approach (discussed in Section 4.5.1).

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- **Poor 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.²³
- **Poor advice – compensation offered:** This category refers to cases where the Bank found poor or incorrectly implemented advice, and where compensation was offered because the Bank assessed the customer to have suffered financial loss as a result of the poor or incorrectly implemented advice.²⁴
- **Fee refund offered:** This category refers to cases where issues were identified with the advice fees charged to the customer, and where the compensation offered related solely to a fee refund.²⁵
- **No evidence of advice:** This category refers to cases where the Bank was unable to find evidence that the customer received advice from a CFPL or FWL adviser during the Program's Review Period following searches in the Bank's systems, branches and other locations.

Figure 3.2 shows that, from the Program's commencement to 30 April 2016, the Program had:

- Identified 2,561 cases (84% of cases with assessment outcomes issued) where the Bank assessed the advice and fees to be appropriate (compared with 1,684 cases as at 31 December 2015).
- Identified 95 cases (3%) 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 54 cases as at 31 December 2015).
- Offered compensation to 332 cases (11%) where the Bank found poor advice, incorrectly implemented advice or incorrect charging of fees in its assessment (compared with 171 cases as at 31 December 2015). The figure of 332 cases includes:
 - 191 cases where poor advice was found by the Bank, which resulted in the customer suffering financial loss;
 - 46 cases where incorrectly implemented advice was found by the Bank, which resulted in the customer suffering financial loss; and

²³ 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 will be captured in this category.

²⁴ This category also includes cases where the Bank found potential instances of advice identified by the Bank under its Targeted Assessment approach (discussed in Section 4.5.1) that were likely inappropriate.

²⁵ Cases that involved both poor advice (which resulted in the customer suffering financial loss) and a fee refund are covered in the "Poor advice found - compensation offered" category and excluded from this category. Where a fee refund has been previously paid to a customer, including under another remediation program conducted by the Bank, the Bank will offset its compensation under the Program for any previous fee refund paid.

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- 95 cases where the Bank identified the incorrect charging of fees, where the advice was found to be otherwise appropriate.²⁶
- Identified 49 cases (2% of cases with assessment outcomes issued) where there was no evidence of advice having been provided to the customer during the Review Period from CFPL or FWL (compared with 28 cases as at 31 December 2015).

We note that, of the 2,561 cases where the Bank found the advice and fees to be appropriate, the Bank subsequently offered payments to 82 cases, which were resolved following counter-assessment with no change to the Bank's assessment that the advice was appropriate. These payments were offered at the Bank's sole discretion following considerations regarding the customer's specific personal circumstances.

Of the 3,038 cases where assessment outcomes had been issued as at 30 April 2016, 1,286 cases (42%) had accepted the Bank's assessment outcome or offer of compensation, and 500 cases (17%) had subsequently withdrawn from the Program after rejecting or not responding to the Bank's assessment outcome.

In a further 302 cases (10%), a counter-assessment had been made by the customer (or his/her ICA) to the Bank, as provided for in the Program's design. These 302 cases include 73 cases where the Bank had made an offer of compensation to the customer (and the customers sought an increase in their offers of compensation), and 229 cases where the Bank had made no offer of compensation.

The remaining 950 cases (31%) in the Consideration of Assessment Outcome stage related to cases that remained under review by the customer as at 30 April 2016.

Table 3.6 below provides a breakdown of the status of cases that had been issued assessment outcomes as at 30 April 2016.

²⁶ One case that involved the incorrect charging of fees (and recorded as having a "Fee refund offered" in Figure 3.2) 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.

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Table 3.6: Status of cases that had been issued assessment outcomes as at 30 April 2016

Case status	Total as at 30/4/2016
Offer of compensation made by Bank²⁷	
Offer accepted by the customer	195
Offer under review by the customer	145
Offer rejected by the customer and counter-assessment made to the Bank	73
Customer withdrew after receiving an interim payment from the Bank ²⁸	1
No offer of compensation made by Bank	
Assessment outcome accepted by the customer ²⁹	1,091
Customer rejected or did not respond to the assessment outcome, and withdrew from the Program	499
Assessment outcome under review by the customer	805
Assessment outcome rejected by the customer and counter-assessment made to the Bank	229
TOTAL	3,038

During the Current Period, a total of 210 cases chose to retain the services of an ICA after having received assessment outcomes from the Bank. The total number of cases that had retained an ICA from the Program's commencement to 30 April 2016 stood at 1,021.³⁰

²⁷ The number of cases with compensation offered in this table includes the 82 cases that were resolved following counter-assessment with no change to the assessment outcome.

²⁸ This case involved a customer who received an interim payment pending determination of their assessment outcome. The assessment was subsequently completed and an assessment outcome letter issued. The customer did not accept the assessment outcome, withdrew from the Program and was not expected to return the interim payment.

²⁹ After an assessment outcome is issued by the Bank, the Bank attempts to contact the customer and discuss whether he/she accepts the outcome (or wishes to make a counter-assessment). Where customers accept the Bank's assessment outcome with no offer of compensation, the Bank writes to them confirming their acceptance and exit from the Program (at which point, the case is included in this category). Also included in this category are cases where the customer (or his/her ICA) has written to the Bank confirming acceptance of the assessment outcome.

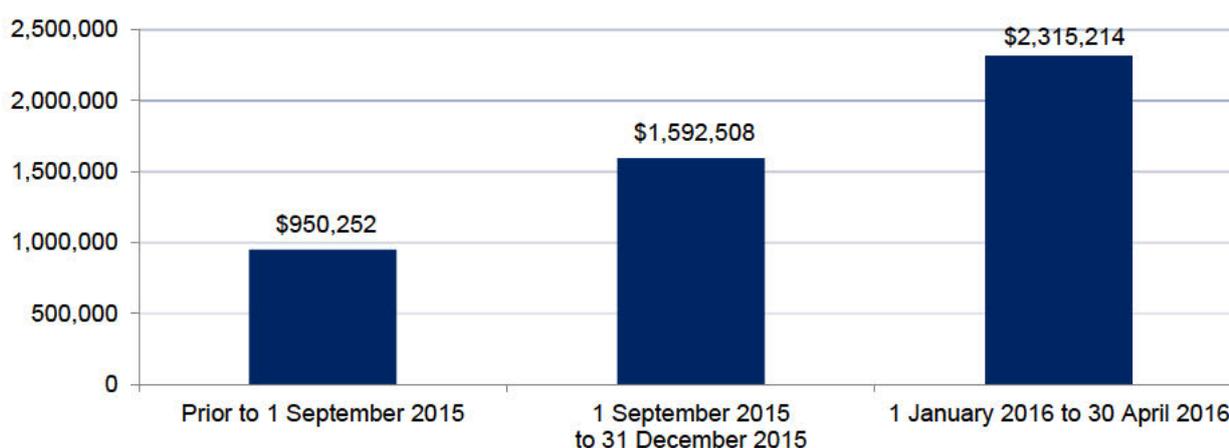
³⁰ This figure includes 306 cases that had retained an ICA prior to receiving assessment outcomes from the Bank as at 30 April 2016. We note that, following further data verifications completed during this period, the reported number of cases that chose to retain an ICA during the four-month period to 31 December 2015 was understated in our Fourth Report by 152 cases. In the four-month period to 31 December 2015, the total number of cases that had retained an ICA was 285 cases (rather than 133 cases).

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3.5. Compensation

The Current Period saw \$2,315,214 in compensation offered to customers – a 45% increase from the \$1,592,508 that had been offered in the prior four-month period to 31 December 2015 (refer to Figure 3.3 below).³¹

Figure 3.3: Amount of compensation offered by reporting period



Taking into account the most recent compensation offered in the Current Period, the Program had offered total compensation of \$4,857,974 since its commencement – an increase of 91% from the \$2,542,760 that had been offered to 31 December 2015 (refer to Table 3.7 below).

Table 3.7: Compensation amounts

Compensation	Prior Total ³² as at 31/12/2015	New	Total as at 30/4/2016
Offered by the Bank	\$2,542,760	\$2,315,214	\$4,857,974
Paid by the Bank	\$2,000,834	\$1,122,717	\$3,123,551

Of the total amount of compensation offered to 30 April 2016, the Bank had paid \$3,123,551 to affected customers (64% of total compensation amounts offered). The difference between the total amount of

³¹ We note that the amount of compensation offered in the four-month period to 31 December 2015 was reported as \$1,942,612 in our Fourth Report. This amount has been adjusted to \$1,592,508 in this Report. The difference of \$350,104 relates to six cases that were subject to review under both the OAR program and the Bank's remediation activities conducted under CFPL and FWL's varied licence conditions. In our previous report, all compensation amounts relating to registered cases in the Program were included in our reporting (including compensation related to advice assessed under licence conditions). The Bank has since determined that any compensation to registered customers in the Program that relate to licence condition remediation activities should not be included in the Program's compensation figures.

³² The prior totals reported in this table differ to those previously disclosed in our Fourth Report due to the same issues noted in the previous footnote.

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compensation offered and the total amount paid as at 30 April 2016 (\$1,734,423) 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-assessment had been made by a customer).

The total amount of \$3,123,551 in compensation paid to 30 April 2016 consisted of payments made to 209 cases in the Program. The 209 cases include:

- 195 cases where the customer had accepted the Bank's assessment outcome or offer of compensation;
- 13 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;³³ 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.

³³ 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-assessment under the Program, or pursue other actions outside of the Program.

4. Program implementation

This section provides an update on the Program's implementation, 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.³⁴ The sections below provide a brief update on key movements and changes in these areas since 31 December 2015.

4.1.1. Team structure and resources

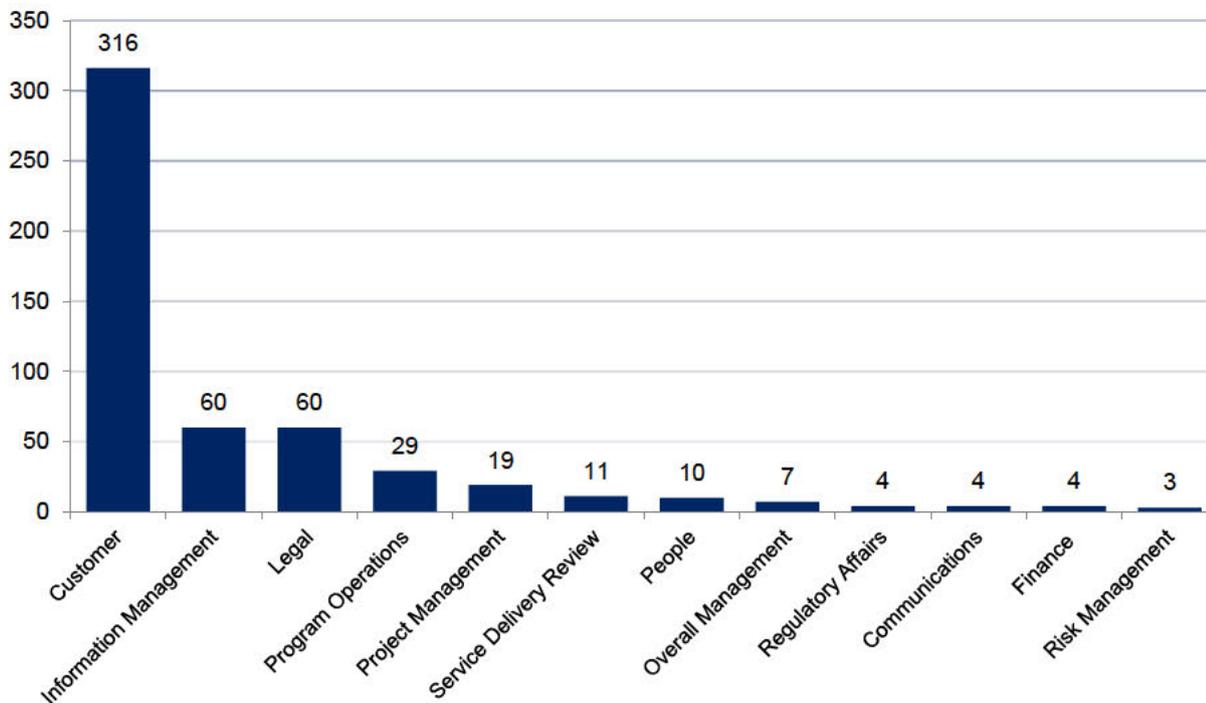
The Program's implementation continues to be undertaken by the ARp team – the specialist team within the Bank's Wealth Management division responsible for managing the Bank's advice remediation activities. As noted in our previous reports, the ARp team is structured into various "streams" that are responsible for dealing with different aspects of the Program's delivery.

These streams, including the number of resources that are dedicated to each, are set out in Figure 4.1 below.

³⁴ Readers interested in understanding further details about the Program's team structure and setup should refer to our Fourth Report.

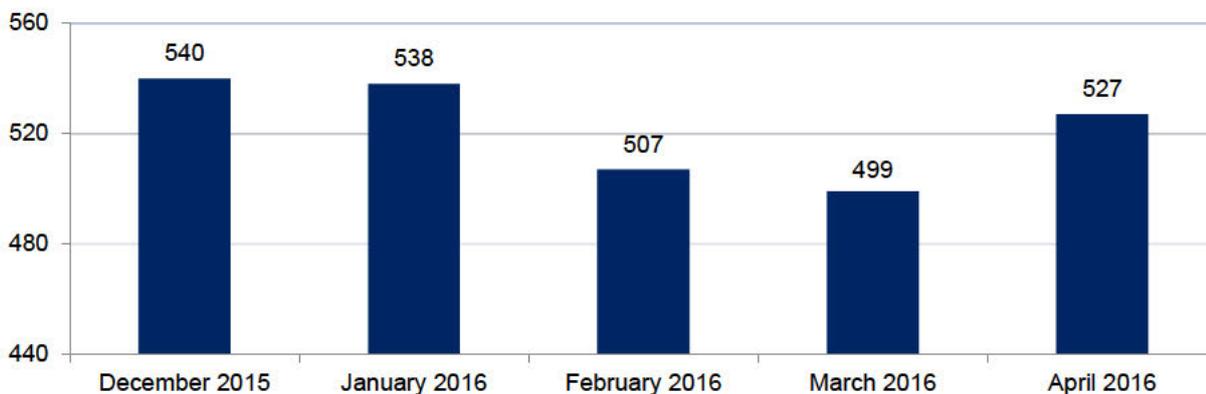
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Figure 4.1: Number of resources in each ARp stream (April 2016)



As at 11 April 2016,³⁵ the total number of resources within the ARp team (across all streams) stood at 527. This figure represents a reduction of 2% from the 540 resources that were in the ARp team as at 14 December 2015 (see Figure 4.2 below). This slight reduction in resources was mainly due to some turnover in staff within the ARp team's Customer and Information Management streams, which the Bank is in the process of addressing through additional hiring/recruitment.

Figure 4.2: Total number of resources in ARp team



³⁵ Statistics in relation to people resources are compiled prior to each month-end (hence the reference to the number of resources as at 11 April 2016).

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As noted in our Fourth Report, the Customer stream includes a number of sub-streams that deal with specific aspects of customer cases.³⁶ The structure of these Customer sub-streams has remained unchanged since our Fourth Report (e.g., the separation of duties between the Program's case assessors, Review Managers and forensic accountants has not changed). As at 11 April 2016, the Advice Assessment sub-stream (the function responsible for undertaking case assessments) employed 165 team members (compared with 191 team members as at 14 December 2015).³⁷

4.1.2. Training

During the Current Period, the Bank continued to offer and conduct a range of training courses for the various streams within the ARp team. Courses offered and conducted for team members during the Current Period included training in relation to:

- changes in tools or processes adopted by the Program (such as upgrades to the Program's Case Assessment Tool (CAT));
- specific case types or issues that are less commonly seen in the Program (such as cases involving annuities, margin lending or defined benefit funds);
- leadership training and staff performance management for the Program's senior managers; and
- "new starter" training for team members that were recently recruited by the Program.

As noted in our previous reports, all case assessors in the ARp team (Assessment Officers and Assessment Managers) are required to comply with the Australian Securities and Investments Commission's Regulatory Guide 146 (RG 146) requirements related to the provision of personal advice. They must also meet minimum continuing professional development requirements once in compliance with RG 146. As at 31 March 2016, all case assessors in the ARp team had completed their RG 146 requirements.

4.1.3. Incentive structures

Our Fourth Report provided an overview of the performance management framework that the Bank applies to manage incentive payments to employees within the ARp team, including key performance indicators (KPIs) applicable to case assessors. During the Current Period, the Bank made no material changes to this framework. It nevertheless made some minor modifications to the way in which certain KPIs were measured. For example, during the Current Period, the KPI in relation to the timeliness of a case assessment was amended from a "cases per day" metric to an "instances of advice per day" metric (more accurately reflecting that cases with multiple instances of advice will require more time to assess than cases with a single instance of advice). The Bank also made some minor changes to its KPI for quality (relating to the definition of "rework required" that is used to assess the quality of an original case assessment).

³⁶ These sub-streams include (*inter alia*) dedicated functions dealing with advice assessment, customer contact/communications, forensic accounting, operations and advice technical support. Our Fourth Report provides a further description of the various Customer sub-streams.

³⁷ The figure of 165 team members as at 11 April 2016 includes 78 Assessment Officers, 64 Assessment Managers and 23 other team members (e.g., senior managers, team leaders and administrative support staff).

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4.2. Governance

4.2.1. Program oversight

The executive committees and boards described in our previous reports that are responsible for providing overall strategic direction and oversight of the Program remain unchanged. 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 three occasions (in February, March and April 2016);
- the CFPL and FWL boards were updated on developments in relation to the Program on one occasion (in March 2016);
- the Executive Steering Group met on four occasions; and
- the Program Steering Group met on three occasions.

The Program also continues to include a range of internal review structures and controls to assist with the quality and consistency of individual case assessments. These review structures, detailed in our Fourth Report, include the requirement to have all cases subject to peer review by different members of the Bank's Advice Assessment team, and forums/committees to review/approve more complex cases. While there have been some refinements to clarify the roles/responsibilities of the various forums and committees during the Current Period, none of these represent significant changes to the review structures discussed in our previous report.

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.

In December 2015, the Bank's internal audit department completed its review of broader aspects of the Program's processes, after having previously completed a specific review of Information Technology (IT) and data loss prevention controls earlier in 2015. The review in December 2015 found that some areas of the Program's internal management reporting could be enhanced, which the Program has subsequently addressed through implementation of a number of actions agreed with the internal audit department. Actions to address the findings of the internal audit department's earlier review into IT supplier and data loss prevention also continued to progress during the Current Period, with the majority of these actions closed as at 30 April 2016.³⁸

³⁸ The remaining audit findings that had yet to be resolved related to a third-party application used to share information between the Bank and independent parties such as Promontory. These findings have required a longer-term solution to be identified given the multiple parties that rely on the application.

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During the Current Period, the Bank's risk management teams also continued to monitor the progress of actions that were identified to address findings from its previous reviews of the Program's controls. Actions in relation to all but one key finding (relating to internal management reporting) had been completed as at 30 April 2016. Since the end of December 2015, the Bank's risk management teams also conducted additional controls testing on the Program's operations. Actions to address risk management's latest findings have been agreed with the Program's senior management and were scheduled to be completed by the end of July 2016.

4.3. Customer file retrieval

In our Fourth Report, we noted that the Program's file retrieval initiatives – which included the extensive cataloguing, collection and scanning of hard-copy advice files of CFPL customers across the Bank's branches, offices and archiving sites around the country – was largely complete. The main area where work was still required to complete the Program's file retrieval initiatives related to the collection of advice files of FWL customers in the Program.

During the Current Period, the Bank was able to complete its retrieval of all available advice files of customers of *current* FWL advisers. The retrieval of advice files for customers in the Program who received advice from *former* FWL advisers, however, remains in progress.

For cases involving customers of *former* FWL advisers in the Program, the Bank has adopted two types of approaches to retrieval (as noted in our Fourth Report).

The first approach, which applies to customers of former FWL advisers who now practice in smaller third-party advice licensees, has involved the Bank contacting the licensees directly to request access to the customer files. As at 30 April 2016, the Bank had managed to make contact with 57% of all former FWL advisers in this category (from a population of 44 former FWL advisers with customers registered in the Program) and was making efforts to contact the remaining 43%. Based on the contacts made to date, the Bank has been able to confirm that files are available for retrieval for some advisers (with the Bank now in the process of making arrangements with these advisers to process the relevant files). Other advisers have informed the Bank that the files requested are no longer available, with the Bank considering what other options are available to retrieve these files.

The second approach, which is applied to customers of former FWL advisers who now practice in larger third-party advice licensees, has involved the Bank making contact with a central contact point at the relevant third-party entities to coordinate the retrieval of relevant customer files. This approach, which affects approximately 25 to 30 cases in the Program, has seen the recovery of one customer file to date (following contact made with five advice licensees). Given the low retrieval rate to date, the Bank is considering other options to retrieve the relevant customer files.

Taking into account the file retrieval efforts completed to 30 April 2016, the Bank had retrieved an advice file (either hard-copy or electronic) for over 8,100 registered cases in the OAR program. In a further 826 registered cases, the Bank has identified that the case has already exited the Program due to, for example, the customer having opted out of the Program or having been removed from the Program for administrative reasons.³⁹ This left the remaining number of cases where a file was not available for assessment at

³⁹ There is also a small number of cases that have exited after having been assessed through the Program's processes for dealing with limited or no advice documentation as set out in Section 4.5.1 below.

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approximately 860 cases as at 30 April 2016 (compared to approximately 1,050 cases as at 31 December 2015).

Further data analysis of customer transactions data performed by the Bank in relation to these approximately 860 cases suggests that, in 32% of the cases, any advice provided to the customers was likely to have been provided before July 2006 – more than seven years from the date of the Program’s opening. Consequently, the advice documents in relation to these cases may no longer be available in accordance with document management processes. In a further 13% of the cases with no advice files found to date, data analysis by the Bank suggests that the customers involved may not have received advice from CFPL or FWL during the Review Period (e.g., there were no significant transactions relating to the customer’s account to suggest advice was given). For these cases, it is possible that no advice files exist.

The Bank continues to make efforts to retrieve files in all cases where there is currently insufficient information. Where the Bank is ultimately unable to locate the relevant advice files following its searches, it is likely that the Bank will apply one of its processes for dealing with cases with limited or no documentation (discussed in Section 4.5.1 below) to complete an initial assessment.

4.4. Communications and awareness

The Bank’s main marketing initiatives to raise awareness of the Program ceased with the closure of new expressions of interest into the Program on 3 July 2015.

Over recent months, however, the Bank implemented a small extension to the Program’s direct mail-out initiatives conducted in early 2015.⁴⁰ This initiative was undertaken after the Bank had completed further data verifications on approximately 2,000 CFPL customers who had not been included in the Program’s earlier mail-outs to raise awareness of the Program (due to concerns the Bank held about the accuracy of the data in relation to these customers). During the period between November 2015 and April 2016, the Bank wrote to each of the affected customers to invite them to register for the Program if they had concerns about any advice they may have received during the Review Period. Customers who were included as part of this extended mail-out were given until 3 July 2016 to register for the Program (if they wished to do so).

4.5. Assessment processes

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

4.5.1. Cases with limited or no documentation

In our Fourth Report, we noted that the Program had recently developed new processes for dealing with cases where there were limited or no advice files available to the Bank – specifically, cases without a “critical

⁴⁰ In early 2015, the Program implemented its extended customer contact awareness campaign by mailing out letters about the Program to nearly 350,000 households. The mail-out targeted all customers who held a product issued by Colonial First State, CommInsure or CommSec as at January 2015, and had received advice from CFPL during the Review Period.

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advice document” following Bank searches in its IT systems and physical locations.⁴¹ These processes, detailed in our Fourth Report, included:

- an “Insufficient Information” Assessment approach, where a Review Manager from the Program would contact the customer to obtain additional information in relation to possible instances of advice the Bank has identified through a review of (non-critical advice) documents and customer transactions data available from its systems;⁴²
- a “No Evidence of Advice” Assessment approach, where the Bank would write to a customer where it was unable to find any evidence from the documents and customer transactions data available from its systems that the customer received financial advice from CFPL or FWL during the Review Period; and
- a “Targeted” Assessment approach, where the Bank would use customer transactions data and any documents available from its systems to determine possible instances of advice the customer may have received, and assesses whether these possible instances of advice were likely to be inappropriate based on the application of standard rules and criteria.

During the Current Period, the Bank continued to refine the processes for assessing cases with limited or no documentation, particularly in relation to the No Evidence of Advice and Targeted Assessment approaches. These refinements have included updates to the written correspondence provided to customers who have been assessed under the No Evidence of Advice and Targeted Assessment approaches (focusing on providing greater transparency to customers regarding possible instances of advice the Bank had identified). It also included a broadening in the types of cases that the Bank determined was eligible for assessment under these approaches.⁴³

Each of the approaches for dealing with cases with limited or no advice documents continues to be the subject of ongoing refinement by the Bank. For example, certain cases, such as those involving products less commonly held by CFPL/FWL customers, are being reviewed in further detail to determine whether or not they can be included in the scope of the Targeted Assessment approach. The standard rules and criteria for determining the likely inappropriateness of advice under the Targeted Assessment approach with respect to these products is also the subject of ongoing analysis.

Given the relatively recent execution of the Targeted Assessment and No Evidence of Advice approaches, the Bank has taken an appropriately conservative position to the implementation of these approaches in the Current Period (i.e., by not accelerating the assessment of cases through these processes for cases where further analysis may be required). As at 30 April 2016, the total number of cases that had been issued an assessment outcome letter under the Targeted Assessment approach stood at 50 cases (compared with 12 cases as at 31 December 2015). The total number of cases that had been issued an assessment outcome

⁴¹ 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.

⁴² This approach would typically be implemented in cases where critical advice documents were available for some, but not all, possible instances of advice the customer may have received. If there were no critical advice documents available for each instance of advice, one of the alternative approaches to dealing with cases with limited documentation would usually be used.

⁴³ As noted in our Fourth Report, the initial approach to Targeted Assessment would only apply to cases involving pension, superannuation and investment products held by customers in Colonial First State products during the Review Period. The Bank has recently expanded the set of products that may be assessed under this approach to include insurance policies.

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letter under the No Evidence of Advice Assessment approach was 49 cases as at 30 April 2016 (compared with 28 cases as at 31 December 2015).

4.5.2. Cases where additional documents are found

The extensive work that was conducted by the Program to retrieve customer advice files across the country (as discussed in Section 4.3 above) saw greater volumes of documents being collected by the Bank over time. With the recent completion of much of the Program's file retrieval initiatives, the Bank has found that, in some limited cases, there have been additional documents related to a case which were not assessed because the documents were not available at the time of the original assessment.⁴⁴ These additional documents could involve critical advice documents (such as a SOA or ROA), or duplicates of documents already held by the Bank.

To ensure any additional documents found by the Bank subsequent to a customer's receipt of an assessment outcome letter are appropriately reviewed, the Bank has recently implemented a new process that requires the original case assessor to return to the case in the event that additional documents are found. The case assessor is required to assess the impact of the additional documents on the original assessment conducted, and record these outcomes in the Program's systems. Where the Bank identifies the additional documents to have a material impact on the assessment,⁴⁵ a complete assessment of those additional documents must be undertaken using the Program's usual tools and processes.

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

Our previous reports have provided an overview of the protocols established by the Program to deal with cases involving potential fraud, forgery and other similar improper conduct by advisers within the Program. This includes the involvement of the Program's internal team of forensic specialists to conduct initial investigations of matters involving suspected fraud, forgery or other similar misconduct, as well as the processes for referring matters onto the Program's Independent Forensic Expert (IFE), McGrathNicol Forensic, where required.

As noted in our Fourth Report, SMAT is responsible for investigating cases with potential indicators of fraud, forgery or other similar misconduct that are identified during the Bank's case assessment. The types of indicators that may trigger a referral to SMAT have continued to be the subject of refinement as the Program has evolved. As at 30 April 2016, the following triggers were in place that would instigate a referral of a case to SMAT:

- cases where there were blank documents signed by the customer;
- cases involving evidence of potential document tampering or manipulation;

⁴⁴ The Bank's review of cases during earlier phases of the Program sought to focus on those cases where it believed the advice files related to the case were complete. Such an approach aimed to mitigate (but not guarantee against) the risk of additional documents being found during or after an assessment.

⁴⁵ The assessment of materiality must be based on whether the information contained in the additional documents affects the completeness of the original assessment. Any additional documents evidencing a new instance of advice eligible for assessment under the Program are to be considered to have a potentially material impact upon the original assessment.

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- cases where there were signature mismatches between documents in the customer's advice file and his/her *You and Your Advice* form, and such mismatches could not be resolved by reference to a specimen signature found in another document that was free from adviser involvement;
- cases where there is potential inappropriate use of a Transaction Without Advice;
- cases where the customer has raised concerns about potential fraud, forgery or improper adviser conduct;
- cases involving high risk advisers where there are known issues about adviser misconduct that must be considered in the assessment; and
- any other cases where a case assessor identifies reasons for referring the case to SMAT.

Where a case triggers a referral to SMAT, SMAT conducts an investigation of the issues raised by the case assessor and makes a determination as to whether certain documents should be excluded from the Program's assessment. For example, in instances where a document is suspected of having been subject to tampering or manipulation by the adviser, SMAT may direct the case assessor to exclude the relevant document from the assessment. In instances where SMAT is unable to make this determination, or where there are other factors that must be taken into account before proceeding with a case assessment, SMAT may refer the case to the Program's IFE for further investigation.⁴⁶

In light of these processes and the role played by SMAT, the Program has, as at 30 April 2016, referred relatively few cases to the IFE (six cases in total). As noted in our Fourth Report, the IFE's role includes conducting a sample review of cases that had been referred to SMAT but not subsequently referred to the IFE. This sampling creates additional safeguards for those cases that have raised concerns of fraud, forgery or other similar misconduct that have not been referred to the IFE.

4.6. Measures to address findings from our previous sampling

The sampling we conducted for our Fourth Report identified 10 cases that had progressed through the Program's Assessment stage where the Bank did not fully adhere to the Program's documented processes. During the Current Period, the Bank re-assessed each of these cases and, where appropriate, contacted the customers (or their ICA) to notify them of any changes to their assessment outcomes, including offers of compensation.

In our Fourth Report we also identified a number of areas in the Program's assessment process that we believed could be further strengthened in light of findings from our previous sampling of cases. These areas were:

- the assessment of certain one-off fees that may be paid by a customer to implement advice, where we considered the exclusion of entry fees (and other similar types of fees) from the scope of the Program's assessment could impact the consistency of outcomes; and

⁴⁶ In determining whether a case should be referred to the IFE, SMAT considers a variety of factors including whether the customer has requested his/her matter to be referred to the IFE, the nature of the documents affected by the potential improper adviser conduct, and whether there are any exceptional factors that may apply to the case.

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- the Program's "Insufficient Information" Assessment approach, where we considered there to be an opportunity for the Bank to explore the use of analytics on customer transactions data to identify potential instances of advice under this approach.

This section provides an update on measures that the Bank has taken to address our previous findings. It also includes an update on measures the Bank has undertaken to address two exceptions we identified in our previous sampling relating to the assessment of "hold" advice, where the Bank had indicated it would undertake further analysis to ascertain the scope of these types of exceptions.

4.6.1. Assessment of one-off entry fees

In our Fourth Report we noted that the Program's exclusion of certain one-off entry fees that may have been paid by a customer to implement advice (such as entry, contribution and establishment fees) could lead to inconsistent outcomes in the Program. This was because our previous sampling identified a small number of instances where the one-off fees paid by a customer were disclosed using different terms by an adviser and, where not all terms used by the adviser were assessed under the Program, there was the potential for some of the fees to be excluded from the assessment.

During the Current Period the Bank completed a broad review of all types of one-off fees that may have been disclosed to, and paid by, CFPL/FWL customers during the Review Period. Based on this review, and the findings from our Fourth Report, the Bank has decided to expand the scope of fees it will assess in the Program to include all:

- entry, contribution and establishment fees associated with the implementation of advice; and
- other types of one-off advice fees that may have been disclosed to CFPL or FWL customers during the Review Period.⁴⁷

The Bank is currently in the process of updating the Program's assessment guidelines and documented processes to incorporate the expanded fee assessment. These updated guidelines will require the fees noted above to be assessed in the same manner as other fees in the Program (i.e., the guidelines will require case assessors to review whether the fees paid by the customer were above those disclosed in the advice document, or the maximums set by the licensee). Given these measures, it is our view that our previous concern pertaining to potential inconsistencies in the Program's assessment of one-off fees, which we identified in our Fourth Report, will be addressed.

4.6.2. Insufficient Information approach

In our Fourth Report we noted that the Bank's Insufficient Information Assessment approach (discussed in Section 4.5.1 above) could be further refined by taking on board advancements that had been made in relation to the Program's Targeted Assessment approach. In particular, we believed that the Bank's Insufficient Information Assessment approach, which deals with cases where there are some (but not all)

⁴⁷ The Bank's review found other types of less common, one-off advice fees that may have been disclosed or charged to customers during short periods of time over the Program's Review Period. These fees include Plan Fees, Advice Strategy Fees and Ad-hoc Review Fees.

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critical advice documents available for the Program to assess, could be refined by the use of data analytics on customer transactions data to identify potential instances of advice.

During the Current Period, the Bank established a working group which considered ways in which the Insufficient Information Assessment approach could be adapted to align more with the Targeted Assessment approach. In particular, the working group analysed how the data analytics and standard rules used in the Targeted Assessment approach could be refined to apply to other cases with insufficient information (where there were some, but not all, critical advice documents available), including the methodology to assess potential instances of advice.

At the time of this writing, the methodology had yet to be finalised. Based on the work conducted to date, however, the Bank anticipates that the refinements it will make to its Insufficient Information Assessment approach will be more in line with the processes that are currently adopted for the Targeted Assessment approach.

Given the ongoing developments, Promontory will continue to monitor the work that is being developed by the Bank to deal with different types of cases with insufficient information. The Bank has also indicated it will continue to engage with the Program's Consultant Expert Adviser (Fiona Guthrie) to seek input on possible customer impacts for changes that may be made to these assessment processes.

4.6.3. Assessment of hold advice

In our sampling of cases for the Fourth Report, we identified two cases where the Bank had not assessed hold advice that was documented in a ROA.⁴⁸ These exceptions were due to a misinterpretation by a small number of the Bank's case assessors who had mistakenly understood that hold advice was not assessable.

In response to these exceptions, the Bank indicated it would conduct a further analysis of cases involving hold advice to confirm the extent of the misinterpretations. This review was to focus on earlier versions of the Program's CAT, where the likelihood of a misinterpretation from the Bank's intended process was higher. As noted in our Fourth Report, the Bank had taken steps in later versions of the CAT to reduce the risk of misinterpretations (e.g., through the issuance of new guidance to case assessors).

Over the past few months, the Bank has conducted a detailed analysis of the cases it identified as having been assessed under earlier versions of the CAT and where hold advice may not have been assessed. This analysis involved:

- the bulk extraction of data from cases assessed under earlier versions of the CAT to identify cases where advice may have been provided through a ROA;
- a manual review to identify potential instances of hold advice that may have been given to the customer in a ROA, which were eligible for review under the Program (i.e., advice given during the Review Period); and

⁴⁸ We define hold advice as advice that is recommended to a customer to maintain his/her existing investments in line with an earlier recommendation.

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- a manual review to confirm that all hold advice instances documented in a ROA and eligible for review under the Program had been assessed correctly in the CAT assessment.

The outcomes of the Bank's analysis identified one further case (in addition to the two cases we identified as exceptions in our Fourth Report) where hold advice was not assessed. The Bank has conducted a re-assessment of the hold advice for that case and found the misinterpretation in the original assessment to have no impact on the customer's assessment outcome.

We also note that we have not found any similar exceptions regarding the assessment of hold advice in our most recent sampling of cases. Based on the actions taken by the Bank and the further case reviews we have conducted this period, there is no evidence to suggest that the issues found in our previous sampling raise broader issues for the Program.

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 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

Similar to the sampling we conducted for the Fourth Report, our sampling of cases in the Current Period included:

- **Cases with an assessment outcome issued that had progressed through the Program's Assessment stage:** We reviewed 206 cases in the Current Period that had progressed through the Program's Assessment stage, including five cases that were assessed under the Program's Targeted Assessment approach. We previously sampled 258 cases from this population, bringing the total number of Assessment stage cases we have sampled from the Program's commencement to 30 April 2016 to 464 cases. This represents a sample size of 16% of the relevant population.⁴⁹
- **Cases where the customer had opted out of the Program prior to having received an assessment outcome from the Bank (customer withdrawals):** We reviewed 30 customer withdrawal cases in the Current Period. We previously sampled 498 cases from this population,⁵⁰ bringing the total number of customer withdrawal cases we have sampled from the Program's commencement to 30 April 2016 to 528 cases. This represents a sample size of 34% of the relevant population.
- **Cases removed from the Program on administrative grounds (administrative exits):** We reviewed 20 administrative exit cases in the Current Period. We previously sampled 245 cases from this population, bringing the total number of administrative exit cases we have sampled from the

⁴⁹ These figures exclude the 60 Pilot cases we reviewed earlier in the Program. With the inclusion of the 60 Pilot cases, we have sampled a total of 524 cases progressed through the Assessment stage since the Program's commencement, which represents 17% of the relevant population.

⁵⁰ We had reviewed 507 customer withdrawal cases in prior periods, however, nine of these cases have since been reclassified into other categories by the Bank (e.g., into the Program's Assessment stage where a customer requested to be re-instated into the Program). We have adjusted the prior period figures sampled in this category (from 507 to 498) to account for this change.

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Program's commencement to 30 April 2016 to 265 cases. This represents a sample size of 3% of the relevant population.⁵¹

During the Current Period, we also commenced our sample review of cases that had exited the Program after having progressed through the Program's Consideration of Assessment Outcome stage (i.e., cases that had received assessment outcomes from the Bank and subsequently exited the Program). Our initial sampling of cases progressed through the Consideration of Assessment Outcome stage involved a review 159 cases (9% of the total population of 1,786 cases as at 30 April 2016), and focused on confirming whether the Bank had adhered to its documented processes when closing these cases from the Program.⁵²

Table 5.1 below provides a summary of the case categories we sampled during this period, including the case population and sample sizes 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 30/4/2016	Overall population as at 30/4/2016	Percentage sampled as at 30/4/2016
Cases progressed through the Assessment stage ⁵³	258	206	464	2,978	16%
Cases progressed through the Consideration of Assessment Outcome stage	0	159	159	1,786	9%
Customer withdrawals	498	30	528	1,541	34%
Administrative exits	245	20	265	10,468	3%

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 will fall into each category and the number of exceptions we find in our sample review of cases.

⁵¹ The smaller sampling percentage for this category of cases reflects the significant increase in expressions of interest that were removed from the Program during the Current Period (as discussed in Section 3.3.2). The vast majority of these expressions of interest were removed from the Program in April 2016.

⁵² For clarity, our review of these 159 cases focused on processes in the Consideration of Assessment Outcome stage. Our review did not involve consideration of the Bank's assessment of the case, as we are already conducting separate sampling of the Bank's implementation of assessment processes (i.e., our sampling of cases progressed through the Program's Assessment stage).

⁵³ Figures exclude the 60 Pilot cases we reviewed.

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 Fourth Report when reviewing cases progressed through the Program's Assessment stage. In particular, our sampling for this period continued to focus on those cases that we classified as being potentially "higher risk". As set out in our Fourth Report, these cases include those with one or more of the following attributes:

- cases where the customer was advised by an adviser identified as potentially "high-risk" by the Bank;
- cases that were accelerated by the Program due to a customer's special circumstances, such as cases involving a "vulnerable" customer (e.g., customers with an intellectual impairment, mental disorder or language difficulty that potentially made it difficult for them to understand the risks involved); and
- cases that involved a customer beyond a certain age (i.e., 65 years or older at the time they first received advice during the Program's Review Period) and where the advice provided indicated the customer had a "growth" or "aggressive" risk profile.

Our sample for this period included 98 higher-risk cases. This adds to the 96 higher-risk cases we sampled in prior periods,⁵⁴ bringing the total number of higher-risk cases we have sampled to date to 194. The figure of 194 cases represents approximately 71% of all higher-risk cases that we have identified from the relevant population to 30 April 2016.⁵⁵

For each of the cases progressed through the Assessment stage that we reviewed in the Current Period, we have 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.

Our findings in relation to our sample review of these cases are set out in Section 5.3.1 below.

5.2.2. Cases progressed through the Consideration of Assessment Outcome stage

Our initial sampling of cases that have progressed through the Consideration of Assessment Outcome stage focused on confirming whether the Bank had adhered to its documented processes when closing these cases from the Program. This involved confirming that each of the cases had received an assessment outcome from

⁵⁴ Our Fourth Report noted that we had sampled 92 higher-risk cases. During the Current Period, we identified an additional four cases that we had previously sampled that are now classified as higher-risk.

⁵⁵ As at 30 April 2016, there were 2,615 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 2,615 cases where attributes were available, we identified 275 cases that we classified as higher-risk.

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the Bank,⁵⁶ and verifying that the Bank had written to the customer to confirm their exit from the Program prior to closing the case (whenever practicable and reasonable).

Within the population of cases progressed through the Consideration of Assessment Outcome stage, there are a number of sub-categories of cases. These sub-categories include:

- 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 indeed accepted the Bank's outcome 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).
- 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 letters) to review their outcomes before the Bank closed their case from the Program.

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

There were also cases where the customer (or his/her ICA) had made a counter-assessment to the Bank prior to exiting the Program.⁵⁷ 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-assessment 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.

5.2.3. Customer withdrawals

For the 30 customer withdrawal cases (with no assessment outcomes issued) that we reviewed in our sampling for the Current Period, we followed the same approach we have applied previously. Namely, our review of these 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 (whenever practicable and reasonable).

⁵⁶ We undertook this verification by seeking to confirm that the letters sent to the customer were addressed to the mailing address or email previously provided by the customer (e.g., in his/her registration form).

⁵⁷ These cases could come under either of the first two sub-categories referred to above.

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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

The Current Period saw a large increase in the number of cases that were removed by the Bank due to administrative reasons. As noted in Section 3.3.2, the most significant driver behind this large increase was the removal of over 8,900 cases involving customers who had not returned a completed *You and Your Advice* form to the Bank to register for the Program.

The vast majority of the 8,900 cases that were removed in the Current Period were exited in April 2016. Given the limited time between when these cases were removed from the Program and the preparation of this Report, we have yet to undertake any sample case reviews of the recently removed exits. Our sampling for this period has instead focused on 20 administrative exit cases that were removed between January and March 2016. We will conduct further sampling of the administrative exit cases that were removed in April 2016 for our next report.

Our approach to the 20 cases that we reviewed this period involved seeking confirmation that the process in which the customer was removed from the Program adhered to the Program's documented processes. Our findings in relation to our sample review of these cases are set out in Section 5.3.4 below.

5.3. Sample findings

The following sections present our findings in relation to our sampling of cases in each category set out in Section 5.1 above. Our observations in relation to a number of aspects of the Program's assessment processes which we believe could be refined to assist with the ongoing consistency of case assessments are also set out below in Section 5.3.5.

As the sections below set out in further detail, our sample review of cases in this period identified a number of cases where the Bank's assessment did not fully adhere to the Program's documented processes (exceptions). In particular, during the Current Period, our sampling found nine exceptions in relation to the 206 cases we reviewed from the Program's Assessment stage. The majority of these exceptions (six out of the nine) related to instances where the Bank's assessment of incorrect advice implementation or fee over-charging did not fully adhere to the Program's documented processes. These exceptions were not connected to the Bank's assessment of whether poor advice was provided. We found no exceptions in relation to the 209 cases we reviewed from other stages of the Program.⁵⁸

As with the previous exceptions we have identified, the exceptions we found during the Current Period often involved specific (and sometimes technical) aspects of the assessment process not being fully adhered to by the Bank's assessment team. The exceptions we have identified do not, in our view, constitute systemic failings by the Bank to properly assess poor advice. In some cases, we note that the exceptions we identify have no impact on the customer's assessment outcome or offer of compensation.

⁵⁸ The 209 cases consist of cases progressed through the Consideration of Assessment Outcome stage, customer withdrawals and administrative exits.

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Importantly, in cases where we have identified exceptions (both during this period and in prior periods), the Bank has taken active and appropriate steps to address the issues we have found. This includes, where necessary, contacting the customers involved to update them on any changes in assessment outcomes and offers of compensation (where the changes resulted in an assessment that the customer suffered financial loss).⁵⁹ For the exceptions we identified during this period, the Bank has re-assessed eight out of the nine cases where we identified exceptions,⁶⁰ and was in the process of completing its re-assessment of the remaining case.

Given the nature of the exceptions we have identified, and the proactive steps the Bank has taken to resolve the exceptions we have identified, 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. We believe that it is important, nevertheless, for the Bank to continue to enhance the controls, review structures and procedures that comprise the Program's assessment process in order to minimise the number of procedural exceptions. The Bank has acknowledged this opportunity for improvement and has committed to a range of initiatives to address our most recent findings.

5.3.1. Cases progressed through the Assessment stage

Our sample review of cases progressed through the Assessment stage of the Program identified nine exceptions from the 206 cases that we reviewed during this period.⁶¹ The nine cases where we found exceptions for the Current Period included:

- four cases where the Bank did not identify, in its assessment, advice that was incorrectly implemented ("implementation exceptions");
- two cases where the Bank did not identify, in its assessment, a fee that was charged in excess of the amount disclosed to the customer at the time advice was given ("fee exceptions"); and
- three cases where the Bank did not adhere to its processes for assessing the appropriateness of advice provided to customers ("advice exceptions").

The four cases where we identified implementation exceptions for this period were similar in nature to the (seven) implementation exceptions we found in our sampling in previous periods. In particular, for each of these cases, we found that 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. In response to the latest set of identified implementation exceptions, the Bank has re-assessed each of the cases for the implementation error and calculated whether compensation is payable. The Bank has found that three of the four cases

⁵⁹ This includes increased offers of compensation where the Bank had already offered compensation to the customer, but as a result of the changes in the assessment outcome, the Bank's assessment of the customer's financial loss had increased.

⁶⁰ Three out of the eight cases the Bank has re-assessed for this period resulted in no change to the customer's offer of compensation.

⁶¹ We also identified 13 cases where there was insufficient evidence that steps in the assessment process had been performed, but we were satisfied that the steps not evidenced were not material to the cases concerned (i.e., the performance of the steps missed would not have changed either the assessment outcomes or the amount of any relevant compensation due).

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require compensation, and has indicated that it will contact the customers (or their ICAs) to notify them of this change in outcome and offer of compensation.⁶²

The two cases where we found fee exceptions involved cases where the Bank's assessment did not identify discrepancies between the fees disclosed to the customer in the SOA, and the fees paid by the customer following implementation of the recommended advice. In both these cases, the Bank has recognised that the customer may have been over-charged certain advice fees and has conducted a re-assessment of the cases. The Bank has indicated that it will communicate with these customers' ICAs the re-assessment it has conducted, including offers of compensation.

The three cases where we identified an advice exception involved:

- one case where the asset allocation analysis undertaken by the Bank's assessment did not adhere to the Program's documented processes;
- one case where the Bank's assessment did not identify significant changes in the customer's risk profile between instances of advice provided to the customer, as required under the Program's documented processes; and
- one case where we identified indicators of advice from the customer's case file that were not assessed by the Bank under its Insufficient Information Assessment approach (discussed in Section 4.5.1), as required under the Program's documented processes.

In response to the first two advice exceptions noted above, the Bank has conducted a further assessment of the cases and found that, in each case, the exceptions had no impact on the customer's assessment outcome. In response to the third case, the Bank has indicated it will conduct a further assessment of the case to ensure the exception we identified is appropriately addressed. Where the assessment outcome is impacted as a result of the exception we identified, the Bank will communicate this impact to the customer and offer any compensation due.

As noted earlier, our sample review of the 206 cases in this category also included a review of five cases that were assessed under the Bank's Targeted Assessment approach (10% of all cases that had been assessed under this approach as at 30 April 2016). This was the first period in which we have sampled these cases.

Our review of the cases assessed under the Targeted Assessment approach did not identify any exceptions in relation to the Bank's implementation of the Program's documented processes. In each of the Targeted Assessment 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 on the potential instances of advice it identified, and invited customers to provide further information or documents for assessment that they may have available.

⁶² The implementation error in the other case was found not to have resulted in the customer suffering financial loss.

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5.3.2. Cases progressed through the Consideration of Assessment Outcome stage

Our sample review of 159 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.

Our sample of 159 cases consisted of:

- 114 cases where the customer had accepted the Bank's assessment outcome or offer of compensation.⁶³ 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.⁶⁴
- 42 cases where the customers 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).
- Three 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 outcomes prior to closing their case from the Program.⁶⁵

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 (whenever practicable and reasonable).

Furthermore, within the 159 cases we sampled, there were five cases where the customers (not represented by an ICA) had made a counter-assessment to the Bank prior to exiting the Program. In each of these five cases, our review found evidence indicating that the Bank had considered the counter-assessment made by the customer before making a final determination.

5.3.3. Customer withdrawals

Of the 30 cases that we reviewed in our sample for the Current Period, we found no material exceptions in relation to the Bank's treatment 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 or expressed interest 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.

⁶³ This figure includes two cases where the Bank had applied the "No Evidence of Advice" assessment approach.

⁶⁴ 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.

⁶⁵ In these three 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.

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5.3.4. Administrative exits

From our review of the 20 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.

5.3.5. Other findings

Our ongoing sample review of cases has allowed us to identify certain aspects of the Program's assessment processes that can continue to be refined in order to assist with the ongoing consistency of outcomes in the Program. During the Current Period we identified two such areas. These two areas, which affect only a small proportion of the cases we have sampled, relate to:

- the Program's assessment of possible errors in relation to advice implementation, where case assessors currently have a level of discretion that may, over time, pose a risk of inconsistent outcomes for customers; and
- the assessment of fees in instances where the customer elects to reduce the amount he/she had originally intended to invest, and the fees were disclosed to the customer in both percentage and fixed dollar terms.

In relation to the first area, our sample review of cases in this period found that individual case assessors had resolved possible implementation errors (where the products implemented differed to the products recommended in the SOA) by referencing documents that may indicate a customer's understanding and agreement to proceed with the different implementation. This included, for example, a product application form signed by the customer that set out products different to those that had been recommended in the SOA.⁶⁶

Consistent with the Bank's approach, we are of the view that there are circumstances where differences between the products implemented and products recommended may be appropriately resolved by reference to other documents in a customer's advice file (e.g., when there are specific notes recorded in a customer-signed document that records a variation to advice recorded in the SOA). However, it is our view that the Program's current guidelines could be enhanced to include further details and examples of the circumstances in which it would be appropriate (or not appropriate) for a case assessor to rely on these documents. We believe this would reduce the chance of different judgements being applied to cases with similar circumstances. The Bank has acknowledged this view and is considering ways to address our observations.

⁶⁶ This process is within the guidelines and was in place in prior periods. However, the application of this process to individual cases became more prevalent in our sampling this period.

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In relation to the second area concerning fee assessments, we found that the Program's assessment guidelines currently include limited guidance to deal with cases where: i) the investment amount implemented was less than the investment amount recommended; 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 this scenario we have found instances where the Bank's assessment of the fees paid by the customer has relied on the percentage figure disclosed, and other instances where the disclosed fixed dollar fee amount was relied upon. While there may be appropriate reasons to rely on one type of fee disclosure over the other, based on the circumstances of an individual case, it is our view that further guidance would assist assessors in determining the correct measure to use when comparing the fees disclosed to what was paid by the customer. The Bank has acknowledged this finding and is in the process of updating its guidelines to address our observations.

As noted earlier, we highlight that both areas of the assessment process noted above apply to only a small proportion of cases we have sampled. That is, there are only limited cases involving a customer investing a lower amount from that originally recommended, and a limited number of cases involving potential implementation errors. Thus, the potential refinements we note should be regarded as continuous improvements that can be made to the Program that would assist with the ongoing consistency of case assessments.

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 presented 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, 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.



Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



Commonwealth Bank

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Sixth Report

Prepared by Promontory

30 September 2016

Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com



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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

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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).

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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).

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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.

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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.

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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.

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- 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.

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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.

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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.

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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, when 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.

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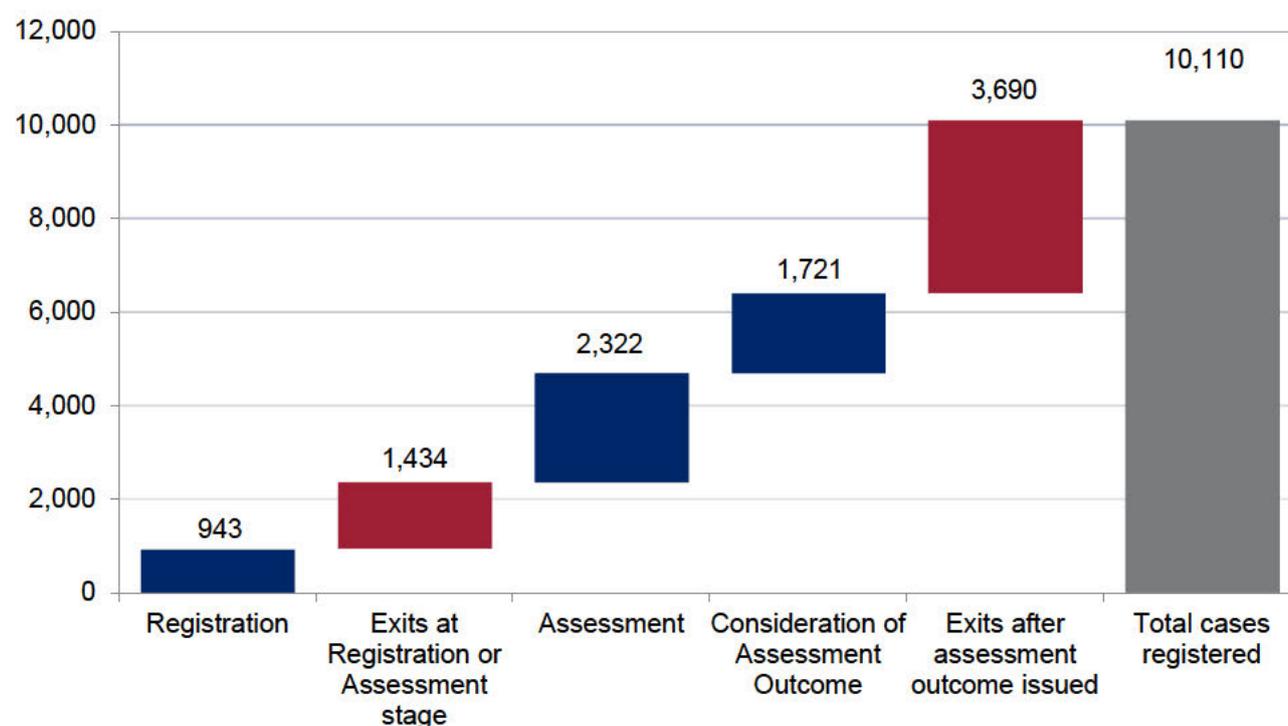
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Table 3.3 also illustrates the marked increase in the number of cases that exited the Program after having been issued an assessment outcome from the Bank during the Current Period (1,904 cases). This increase (more than double the 837 cases that had 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.

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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.

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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)

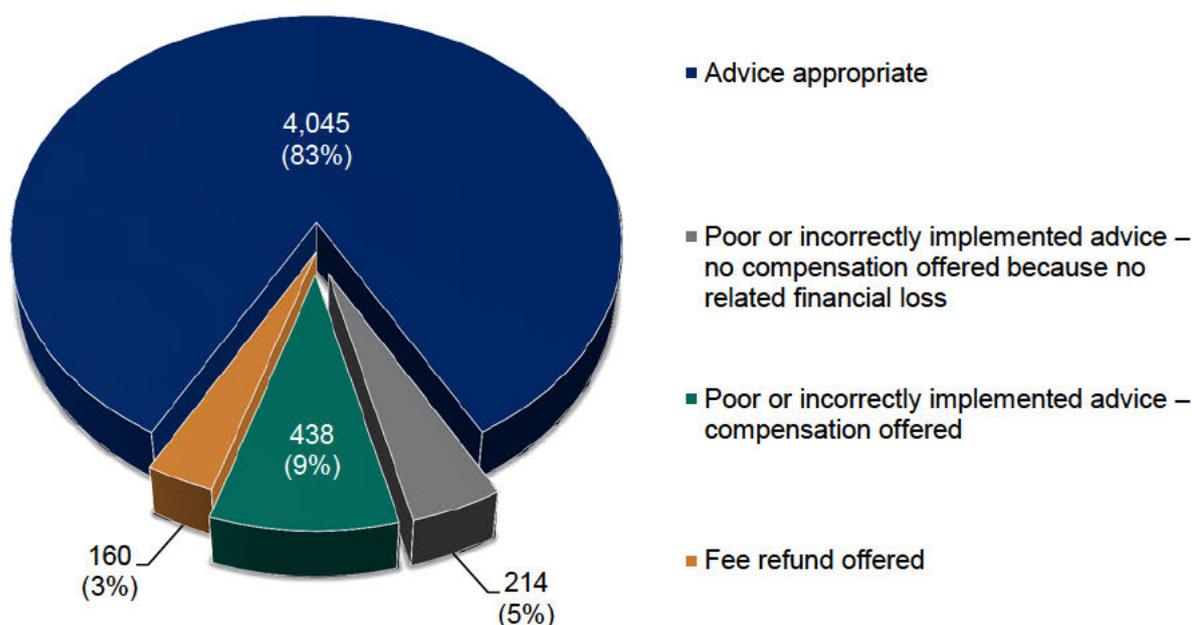


Figure 3.2 shows that, from the Program's commencement to 31 August 2016, the Program had:

- 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.

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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.

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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.

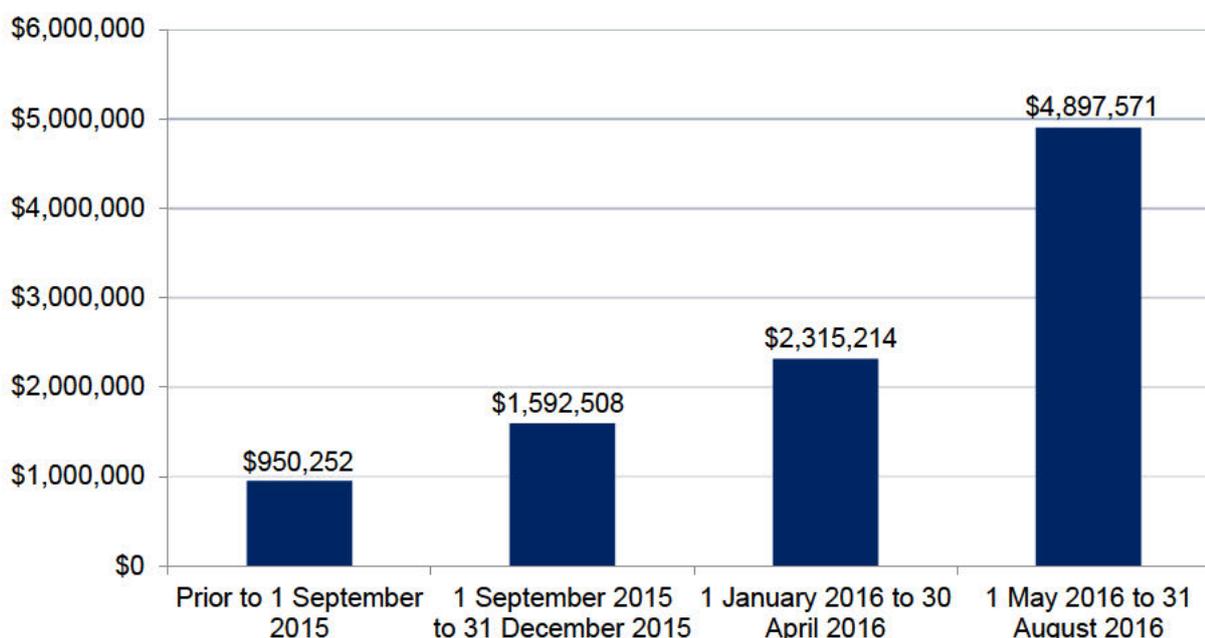
In particular, during the Current Period, the Bank offered compensation totalling \$4,897,571 – more than double the \$2,315,214 that had been offered in the prior four-month period to 30 April 2016. Figure 3.3 provides an overview of the increases in compensation offers made by the Program over time.

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.

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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.

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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.

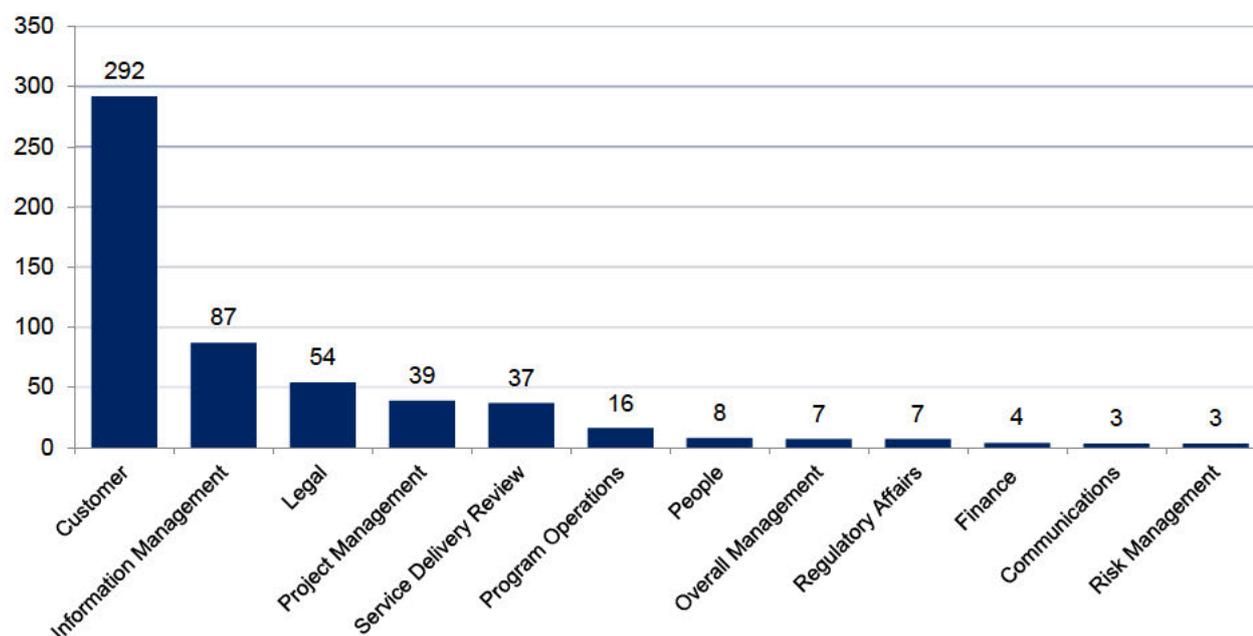
³⁷ Statistics in relation to people resources are compiled prior to each month-end (hence the reference to the number of resources as at 29 August 2016).

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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).

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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).

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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

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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.

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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).

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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.

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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.

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- 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

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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.

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- 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.

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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.

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- 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.

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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.

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- **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.

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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.

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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).

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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.

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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.

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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.

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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.

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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.



Promontory Financial Group Australasia
Level 32, 1 Market St | Sydney, NSW, 2000
+61 2 9275 8833 | promontory.com