

10 February 2022

Ms Amanda Fairbairn  
Policy Lawyer  
The Behavioural Research and Policy Unit  
Australian Securities and Investments Commission  
GPO Box 9827  
Brisbane QLD 4001

*via email: remediation@asic.gov.au*

Dear Ms Fairbairn

**Consumer Remediation: Further Consultation**

We welcome the opportunity to comment on the Australian Securities and Investment Commission (ASIC) Consumer Remediation further consultation. Our Office believes that small business owners and consumers should be confident that advice services are high quality and affordable. Remediation is a critical component of rebuilding trust in the financial services industry.

The proposed amendments provide consumers an open-ended warranty against poor advice whilst providing clarity to licensees on when and how to implement client remediation.

As identified in our previous submission to this consultation, regulations should provide small advice businesses with protection from licensees using power imbalances to unfairly transfer remediation costs to advisers that have met the licensee's supervision requirements. This concern has not been addressed, meaning small advice businesses continue to be at risk. As such we recommend that:

1. ASIC adjusts the regulation to provide compliant advisers with the necessary protections against the retrospective application of contemporary practice resulting in unwarranted administrative, and remediation costs.
2. The key terms in the regulation are aligned with the Australian Financial Complaints Authority (AFCA) regulations and the Corporations Act 2001 (the Act). Stakeholders have identified that some elements of the regulations may not fully align with AFCA regulations and the Act which may undermine the functionality of the intended consumer protections.
3. To further assist licensees, consideration should be given to ASIC providing greater clarity and direction via the development of benchmark assumptions, templates, and calculators. These resources should reduce costs and improve the quality of remediations.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Mr David Meakin on 02 6213 7442 or at david.meakin@asbfeo.gov.au.

Yours sincerely



**The Hon. Bruce Billson**  
Australian Small Business and Family Enterprise Ombudsman