



# **POLICY PRIORITIES**

## **2022**

# WHO AND WHY

This publication outlines Financial Services Council's (FSC) policy priorities for the next Parliament.

The FSC is a peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services.

Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers and financial advisory networks. Our Supporting Members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses.

The financial services industry is responsible for investing \$3 trillion on behalf of more than 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange, and is one of the largest pools of managed funds in the world.

The FSC's mission is to assist our members achieve the following outcomes for Australians:

- to increase their financial security and wellbeing;
- to protect their livelihoods;
- to provide them with a comfortable retirement;
- to champion integrity, ethics and social responsibility in financial services; and
- to advocate for financial literacy and inclusion.

We will do this by continuously engaging in advocacy concerning the development of the social, economic and regulatory framework in which our members operate, thereby helping them to better serve their clients and customers.

Given the size of the financial services industry, the contribution it makes to the Australian economy and its role in managing the nation's savings, the FSC has outlined a set of policy priorities which are critical to the continued growth of the sectors we operate in and health of the wider economy.

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# SUPERANNUATION & RETIREMENT INCOMES



## Principles

The FSC supports policy settings that:

- Enhance the effectiveness, efficiency and adequacy of the superannuation system
- Increase coverage of the Superannuation Guarantee and ensure adequacy of retirement savings
- Maintain and increase consumer confidence in superannuation
- Promote effective regulation and governance across the superannuation system
- Promote competitive neutrality and competition in the industry
- Promote a sustainable tax structure that assists the majority of Australians to achieve self-funded retirement.

## Prioritise stability and certainty for superannuation consumers

All employed Australians are required to contribute to superannuation and should be entitled to certainty that the tax and contribution rules will not be subject to constant tinkering.

The tax settings for superannuation should be evidence-based. Apart from a clear need to pay superannuation contributions on the Government paid parental leave scheme, historical tax distortions in the system have been removed by previous changes.

The FSC is concerned that changes to superannuation taxation settings threaten public confidence in Australia's retirement system and further adverse changes are unwarranted.

The FSC calls on all major political parties to commit to providing stability and certainty in superannuation by:

- Maintaining the current scheduled increase in the rate of Superannuation Guarantee contributions to 12 per cent.
- Maintaining stability in the existing tax rules for superannuation and commit to no further changes to promote adequate retirement outcomes for all Australians.
- Introduce superannuation contributions in the Government paid parental leave scheme.
- Ensure the coverage of the Superannuation Guarantee keeps pace with the changing nature of work.

# SUPERANNUATION & RETIREMENT INCOMES



## Maximise opportunities for superannuation to contribute to national building

Australia has substantial infrastructure investment needs. Governments have an incentive to crowd in private sector investment, and there are substantial funds in collective investments, including superannuation, looking for assets to invest in.

The FSC has been calling for a new structure to be introduced called an Australian Superannuation and Infrastructure Investment Vehicle (or ASIIV) to help bridge this divide.

The strength of ASIIVs is that they will enable governments to more effectively tap into categories of investors seeking the steady income stream that infrastructure can often provide, including the almost \$700 billion SMSF sector and the \$1 trillion invested by 'choice' customers.

The ASIIV will differ from existing infrastructure vehicles by being:

- Tradeable on secondary markets, supporting liquidity and facilitating price discovery;
- Available to retail investors through existing platforms; and
- Unitised and regularly valued by independent consultants.

The FSC recommends the creation of two categories of ASIIVs:

- Single-asset ASIIVs to finance new infrastructure developments, for investors seeking exposure to a specific asset; and
- Multi-asset ASIIVs that 'bundle' existing infrastructure assets, collectively producing a predictable and stable yield, and allowing different levels of Governments to contribute assets into the vehicle.

ASIIVs will encourage asset recycling by creating collective vehicles that governments can participate in, freeing up capital to allow investment in new infrastructure projects. ASIIVs also overcome the current reliance on institutional investors for ownership of infrastructure. Recent experience has shown direct ownership of infrastructure by a narrow field of investors generates perceptions of liquidity risk that undermines public confidence in the superannuation system.

# SUPERANNUATION & RETIREMENT INCOMES



## **Ensuring the Your Future, Your Super performance test is working as expected**

The recent Your Future, Your Super reforms introduced a number of important measures to improve the superannuation system for members. This includes holding superannuation funds to account for underperformance. MySuper and trustee-directed products are subject to an annual performance test and assessed against benchmarks relating to the strategic asset allocation of the investment.

The FSC is supportive of a review of the benchmarks used for the performance assessment to facilitate accurate measurement of funds, ensure that the reforms are working as intended and to assess whether there have been any unintended consequences.

## **Removing unnecessary regulatory costs from the superannuation system**

Australians want confidence that the regulatory settings in the superannuation system are not unnecessarily eroding their hard earned savings by introducing cost and complexity.

With the introduction of a Your Future, Your Super (YFYS) performance test and additional member communications, the FSC believes there are new opportunities to remove unnecessary disclosure that does not assist consumers, and results in cost.

Given the YFYS reforms will have a single standardised measure across the industry to reduce complexity for end users, and a single comparison website through the Government's YourSuper website there is a strong case to remove MySuper product dashboard and cease plans to extend the dashboard further, cease the APRA heatmaps, and remove the member outcomes assessment.

Each of these disclosures have different regulatory requirements that all conflict, present information to consumers that require different or varied calculations, and result in increased cost for industry with limited consumer benefits in practice. It has been readily acknowledged across the industry and by regulators that these disclosures are difficult to interpret by members, the intended audience, and are typically only used by industry practitioners.

# LIFE INSURANCE



## Principles

The FSC supports policy settings that:

- Ensure life insurance is accessible and affordable now and into the future
- Provide all employed Australians access to simple, great value life insurance through their superannuation
- Promote high standards of customer service with meaningful consumer protections
- Support positive outcomes for vulnerable members in the community.

A sustainable and growing life insurance industry requires stable policy settings across all its components – group, retail and direct life insurance. The FSC calls on the next Parliament to ensure that each part of the life insurance industry is supported, along with the financial advisers and superannuation trustees that work alongside insurers.

## Improving the quality of life insurance in Australia

The Life Insurance Framework (LIF) Reforms, which provide for, amongst other things, maximum commission caps and mandatory clawback within the first two years of a policy, commenced on 1 January 2018 and are currently being reviewed by Treasury as part of the Quality of Financial Advice review.

The FSC believes that these Life Insurance reforms have improved consumer outcomes by reducing the misaligned incentives and inappropriate policy replacement disclosed in 'ASIC Report 413 Review of Retail Life Insurance Advice' and elsewhere.

The FSC also believes that LIF allows upfront and ongoing commissions to be paid to advisers at a level that appropriately reimburses financial advisers for the significant amount of work undertaken at the commencement and throughout the life of the policy. This is especially important considering the current high cost of financial advice being a barrier to accessing quality advice.

# LIFE INSURANCE



## Safeguarding the important role of default insurance in superannuation

Group insurance in superannuation has been a successful policy for Australia which has resulted in better risk protection for employed Australians from all walks of life. It provides a safety net to millions of Australians who would have otherwise not chosen or been unable to take out life and disability insurance individually.

Group insurance in superannuation is fundamentally the right policy setting for millions of Australians because, when provided to members on an opt-out basis, it significantly helps combat the problem of underinsurance in Australia.

However, it can be improved to ensure that all members who are paying for insurance can rely on their cover if they need to claim. To address this, the FSC has implemented an enforceable Standard<sup>1</sup> which will remove occupational exclusions and occupation based restrictive disability definitions in default life insurance cover in superannuation. The enforceable Standard comes into full effect from 1 January 2023, after a one-year transition period.

We intend to build on this initiative to consolidate our efforts in future iterations of industry policy development. Superannuation trustees and group insurers must continue to work together to improve the value of life insurance benefits that is provided to superannuation members.

## The Life Insurance Code of Practice

The Life Insurance Code of Practice (the Code) has been binding on all FSC life insurance members since 30 June 2017. The Code is the industry's commitment to customer service standards and covers many aspects of a customer's relationship with the insurer. It covers the obligations and commitments that insurers have to customers on standards of practice, conduct and disclosure.

It also sets minimum service standards for insurers when dealing with customers, including vulnerable customers, in every aspect of a customer's journey from taking out a policy to making a claim, and everything in between.

The FSC has developed the next iteration of the Code (2.0) in consultation with a broad range of stakeholders – regulators, industry, consumer advocates and community organisations.

The revised Code 2.0 will introduce many new consumer protections in product design, sales practices, claims and providing greater support to people with a mental health condition.

# LIFE INSURANCE



Compliance with the Life Insurance Code of Practice is overseen independently by the Life Code Compliance Committee (LCCC). The Code will be amended to reflect the increased powers of the LCCC to impose sanctions. Some provisions of the revised Code will also be made enforceable under law, where breaches could be subject to civil penalties.

The revised Code will be more accessible and help improve consumer confidence and trust in their life insurer.

## Mental Health

Mental health is an important matter of public interest to the community and life insurers alike. The life insurance industry is one of the largest non-Government financial supporters of people with mental health conditions, paying out a total of \$1,478 million to their customers for mental health conditions in the 12 months to 30 June 2020.<sup>2</sup>

The FSC has developed a Mental Health Standard<sup>3</sup> to ensure life insurers who provide information to consumers receive an appropriate level of education and training in awareness of mental health. An updated version of this standard will take effect from 1 July 2022 which will increase the scope of people covered by the training and increase the depth of the training requirements.

Despite the important role that life insurers can play in supporting people with mental health conditions, life insurers are generally prohibited by existing regulatory frameworks from providing funding for psychological or psychiatric counselling for our customers.

The FSC has long advocated for the legislative constraints be reformed so that life insurers can fund the provision of health services to consumers, and facilitate consumers returning to wellness. For a system where services are already stretched, especially in regional and remote Australia, therefore allowing life insurers to fund mental health treatments may remove one of the barriers to seeking regular treatment.

The Productivity Commission in its Final Inquiry report on Mental Health recommended that the Australian Government review the regulations that prevent private health insurers from funding community-based mental healthcare activities, and permit life insurers to fund mental health treatments for their insurance clients on a discretionary basis. The FSC supports the Government acting on the Productivity Commission's recommendation on this important issue.<sup>4</sup>

<sup>2</sup> FSC/PMG life insurance data project

<sup>3</sup> FSC Standard 21: Mental Health Education Program & Training

<sup>4</sup> Actions 22.9 and 23.10



## Principles

The FSC supports policy settings that:

- Simplify financial advice regulation
- Facilitate a consumer driven advice process
- Ensure appropriate protections for consumers of financial advice and services
- Promote principles-based regulation and guidance
- Further a sustainable advice profession.

## Abolish the safe harbour steps for complying with the Best Interests Duty

Removal of the safe harbour steps should be the first priority of the Government to enable a principles-based advice model under the existing regulatory framework.

The steps impose specific obligations on the provision of personal advice that must be followed to meet the best interests of the consumer.

In practice the safe harbour steps have resulted in a system where meeting the Best Interests requirement has become a 'tick-box' exercise.

Compliance with these steps, introduced as a requirement for meeting the Best Interests Duty in 2013, is a key driver of cost and prohibitive to enabling limited advice to be provided to consumers.

## Simplify documentation for all personal financial advice

Onerous preparation and presentation of consumer-facing documentation, namely the statement of advice, is a key regulatory requirement driving up the cost of providing financial advice and diminishing its value.

The Statement of Advice should be abolished replaced with a Letter of Advice with scalable obligations to enable less paperwork for consumers and less time taken to prepare it while ensuring advice is better understood and more specific to consumer needs.

Reducing the complexity and detail of advice documents to reduce the cost of advice is supported by consumers. Consumer testing by Pollinate confirmed that 64 per cent of consumers support simplifying financial advice and reducing its cost, while 62 per cent supported a reduction in documentation to encourage Australians to seek advice.

# ADVICE



## Increase and index the asset test for wholesale clients

The FSC supports amending the definition of retail and wholesale clients to ensure a greater proportion of financial advice consumers are considered 'retail' clients, and hence fall within the consumer protection framework.

The Corporations Act 2001 presumes all consumers are retail clients unless they can satisfy a test to be classified a wholesale investor. However, the thresholds for meeting the requirements of a wholesale client are based on 1991 figures.

The wholesale client asset test threshold should be increased to \$5 million and indexed to protect 275,000 more consumers and keep pace with changes in the level of wealth of consumers.

## The FSC's White Paper on Financial Advice

The FSC's White Paper on Financial Advice maps out a simplified and less costly regulatory framework suitable for the industry.

KPMG determined that the advice process costs \$5,334.64. Their analysis shows that should the FSC's core recommendations (abolition of the safe harbour steps, introduction of a Letter of Advice, and relabelling of advice definitions) be fully implemented that:

- The cost of providing financial advice will be reduced by almost \$2000 or by 35-37 per cent.
- Save financial advisers up to 32 per cent of their time when providing advice to clients.
- Allow advisers to provide advice to an additional 44 new clients each year.
- Time required to complete the advice process would reduce from 23.9 hours to under 16.8 hours per consumer, allowing advisers to focus on what they do best – support consumers.



## Principles

The FSC supports policy settings that:

- Promote sound corporate governance practices in the funds management industry
- Maintain and increase consumer confidence in the funds management industry
- Support a competitive and efficient funds management sector.

## Supporting Australia's response to climate change through stewardship of investments

The FSC believes that the investment management industry will need to play an important role in helping the Australian response to climate change.

In order to properly fulfill this stewardship role, Australian investment managers will need to have consistent methods of assessing and reporting climate risk to their portfolios and operations, and reliable labelling of features in their investment products that claim to address climate risk.

While the FSC believes that the reporting of climate risk is arguably already mandatory under the current risk reporting legal framework, the FSC would welcome a legislated mandatory climate risk reporting regime. Such a regime should be principle based, to allow companies and specific sectors to innovate and improve with experience their methods for assessing and reporting climate risk.

The FSC is working on an FSC Climate Risk Disclosure Guidance Note that will provide guidance specifically to the investment management industry.

The FSC's guidance note is expected to cover:

- Reporting on climate risk in line with the Task Force on Climate Related Disclosures
- Reporting and assessing net zero in investment portfolios
- Labelling of funds that claim to have features that address climate risk.

# INVESTMENTS, GLOBAL MARKETS AND TAX



## Promote Australia as a financial centre by getting tax settings right

The introduction of the Corporate Collective Investment Vehicle (CCIV), which will provide the opportunity to accelerate growth in Australia's funds management industry by establishing an investment vehicle with a legal structure more familiar to investors in our region.

To maximise the adoption and growth benefits of CCIVs, the Parliament should ensure the taxation settings for the CCIV are internationally competitive. The Parliament should implement a regime to facilitate the transition of existing funds into the CCIV regime, and fix the complex tax rules that apply to CCIV sub-funds that fail the 'widely held' test.

There are also a number of announced, but not implemented, funds management tax reforms that should be prioritised to ensure accelerated growth of the sector, including:

- Reforms to fix issues with the Taxation of Financial Arrangements, particularly foreign exchange hedging.
- Reforms to fix issues with the Investment Manager Regime (IMR).
- Expand the functional currency election to certain trusts and partnerships.

Tax reforms should also include a suite of additional measures that would make the fund management industry more competitive, including:

- Reform the existing Managed Investment Trust (MIT) start-up concession to replicate the existing start-up concession available for the IMR, and help increase competition in the funds management industry.
- Simplify the withholding tax system for managed investments by replacing numerous different rates, with multiple exemptions, with a simpler lower rate of withholding tax for all non-exempt payments.
- Reform existing tax treaties so they deal appropriately with managed funds and superannuation funds – allowing these funds to claim tax treaty benefits on behalf of underlying investors.
- Cancel proposals to remove the CGT discount for managed funds, which would overtax them compared to other trusts and individuals.
- Allow AMITs to access CGT rollover relief that is available to other trusts.
- Ensure the correct Australian taxation of foreign capital gains after the Burton v Commissioner decision.

Getting tax settings right will ensure the CCIV will increase our international competitiveness.

# INVESTMENTS, GLOBAL MARKETS AND TAX



## **Tax Reform to Promote Economic Growth**

After the substantial shock to the economy from COVID-19, it is even more important for reforms to boost economic growth. Key reforms advocated by the FSC are:

- Ongoing tax reform to reduce the most inefficient taxes, particularly company tax and stamp duty on insurance.
- Concerted and ongoing work towards sustainability of Government budgets.
- Minimising unnecessary barriers to foreign investment, with the fees for foreign investment assessment set no higher than cost.

# FINANCIAL SECTOR REGULATORY ARCHITECTURE



## Principles

The FSC supports policy settings that:

- Promote best practice regulation
- Ensure regulation does not create undue burden and meaningfully improves consumer outcomes.

## A Compensation Scheme of Last Resort (CSLR) that is truly last resort

The FSC supports the establishment of a targeted CSLR which covers personal financial advice, which has historically been the largest source of unpaid determinations.

The Financial Services Royal Commission recommended that a CSLR be established implementing the three principal recommendations within the Ramsay Review. This included establishing a CSLR that is “limited and carefully targeted at the areas of the financial sector with the greatest evidence of need” and a scheme which is initially restricted to financial advice failures.

To ensure the CSLR is truly last resort, the FSC would also like to see improvements to strengthen capital and professional indemnity insurance requirements for financial advice licensees and better place those responsible for the misconduct in a position that they can compensate consumers when required to do so.

The FSC considers that the recently introduced Design and Distribution Obligations, as well as the Product Intervention Powers will strengthen consumer protections to facilitate appropriate distribution of products to consumers, as well as enabling ASIC to intervene, including banning products, where there is a risk of significant consumer harm. These recently introduced powers should be given time to work prior to extending the CSLR to cover managed investment schemes.

## Supporting technologically neutral regulation

The FSC believes that as the Australian economy continues to become more modern, digital and hi-tech the law should keep pace. We want to see the law evolve so that people are not burdened by outdated and old fashioned practices.

# FINANCIAL SECTOR REGULATORY ARCHITECTURE



The FSC is supportive of moves to modernise laws that govern how businesses communicate and interact with customers, regulators and each other.

Modernising our legislative framework to achieve technological neutrality should:

- Facilitate documents to be signed and sent electronically rather than relying on “wet ink” and “hard copy” paper delivery in a letter
- Allow legal notices published in newspapers to be published online without insisting on publishing in paper journals which are increasingly outmoded and unread
- Broaden the circumstances where electronic payments can be made and received
- Give people and businesses more options when it comes to changing customer details and when sending documents.

## **Design and Distribution Obligations (DDO)**

The FSC has worked with members to support the introduction of the DDO regime – this important reform should improve customer outcomes in financial services and reduce the risk of the misselling of products.

The implementation of the DDO has raised some areas where the regime does not work as intended, having impacts that may be detrimental to consumers, or has imposes unnecessary red tape on businesses. The FSC recommends the following DDO amendments:

- Reform DDO provisions that can act to the detriment of consumers:
  - Allow retail distribution to occur during Target Market Determination (TMD) reviews unless there is significant risk of consumer harm;
  - Ensure distributors can tailor product offerings to customer needs under DDO without this being classified as personal advice;
  - Remove all DDO obligations from the provision of disclosure documents (including PDSs), as this is an unnecessary compliance burden that could restrict consumer disclosure; and
  - Ensure that TMDs cannot restrict the provision of general advice or personal advice on a product, as these restrictions could significantly hamper disclosure and competition.

# FINANCIAL SECTOR REGULATORY ARCHITECTURE



- Remove any regulations restricting the ability for businesses to comply voluntarily with DDO, as this will enable the customer protections in the DDO to apply to more transactions and customers.
- Remove unnecessary and duplicative DDO obligations, including removing DDO from superannuation fund mergers and product modernisation where there are existing consumer protections; and removing DDO complaint reports that duplicate existing reports under Internal Dispute Resolution (IDR).
- Reduce the DDO burden on financial advisers by ensuring the DDO personal advice exemption correctly applies to dealings in a financial product, and simplifying DDO obligations for the implementation of personal advice given by unrelated party.

## Product Modernisation of Investment and Life Insurance Products

The modernisation of legacy investment and life insurance products has been a long-standing issue for industry and consumers. Millions of Australians have billions of dollars trapped in out-of-date financial products.<sup>5</sup> These legacy products generally have higher fees and inferior product features as compared to more modern products. Current legal and tax settings make it difficult to transfer consumers into modern products.

The FSC strongly supports the recommitment in the 2021–22 Budget to developing and consulting on a product modernisation regime for life insurance and managed funds, which originally stemmed from a FSC proposal made in 2005.

The introduction of a product modernisation scheme should result in improved customer outcomes, reduced fees, improved returns, improved product features, increased competition, increased productivity, increased innovation, reduced product proliferation, increased tax revenue (in the longer term) and lower Age Pension spending.

The FSC will continue to work on implementing this measure to make sure the policy settings have been carefully calibrated in a way that will deliver benefits for consumers and industry.

5 FSC estimates that 1.6 million Australians held an outdated life insurance product in 2021.



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