



MEDIA RELEASE

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FSC PUBLISHES SUBMISSION ON THE FINANCIAL ACCOUNTABILITY REGIME

The Financial Services Council (FSC) has published its submission on the Financial Accountability Regime (FAR) and endorsed the need for financial entities to demonstrate that accountability measures were being met with improvements to risk culture and governance.

CEO Sally Loane said that while the FSC broadly supported the accountability principles of the consultation paper; there was considerable concern that this legislation, added on top of other major legislative changes and existing laws, will create bureaucratic complexity and considerable compliance cost.

- Complexity: the interaction of FAR with general law and statutory rules is not clear;
- FAR entities: the extent to which the regime potentially applies to foreign entities and executives is unclear;
- Overreach: many more persons in an entity will be characterised as accountable persons (APs) than is the case under the metamorphosing Bank Executive Accountability Regime (BEAR). The cost and benefit of such an extensive reach is questionable;
- Unintended consequences: the FSC is concerned that the individual civil penalty regime, which includes penalties in the order of a million dollars, may operate as a disincentive to recruitment and adversely impact on talent retention strategies in the financial services sector; and
- “Reserve Powers”: the FSC understands from Treasury that the exercise of the individual civil penalty regime and the non-objections power fall in a “last resort” category and could be addressed in an Explanatory Memorandum. The FSC believes this to be unsatisfactory as this is an extremely important issue and should be expressed in the legislation itself.

Ms Loane said this measure as proposed will be in addition to the five current pieces of legislation governing advice and the raft of Royal Commission legislation, including enforceable codes and very significant potential for criminal and civil penalties.

“We urge the Government to investigate fully the potential consequences of this new regime and how it will align with existing and long-standing laws such as directors and officers duties under the Corporations Act and the Superannuation Industry (Supervision) Act which governs most superannuation trustees.

“We want to be certain that all these pieces of legislation and regulation align and work together to provide better consumer outcomes, and do not operate as a disincentive for business,” Ms Loane said.

The FSC submission is in response to Recommendations 3.9, 4.12, 6.6, 6.7 and 6.8 of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

Read the submission in full here: <https://fsc.org.au/resources/1938-fsc-submission-implementing-royal-commission-rec-3-9-4-12-6-6-6-7-and-6-8-financial-accountability-regime-far/file>

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About the Financial Services Council

The Financial Services Council (FSC) has over 100 members representing Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks and licensed trustee companies. The industry is responsible for investing almost \$3 trillion on behalf of more than 14.8 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the fourth largest pool of managed funds in the world.