



MEDIA RELEASE

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FSC RELEASES SUBMISSION ON DISCLOSURE AND AVOIDANCE

The Financial Services Council (FSC) has released its submission to the Exposure Draft (ED) on the duty to take reasonable care not to make a misrepresentation and limit avoidance of life insurance products.

FSC CEO Sally Loane said the FSC supports the recommendations and believes that the changes will result in better overall consumer protections. However, the FSC has used the opportunity to submit a few minor changes to strengthen the proposed regime and avoid any unintended consequences.

- The FSC supports recommendation 4.5 that the duty of disclosure should be replaced with a duty to take reasonable care not to make a misrepresentation in the Insurance Contracts Act 1984.
- The proposed legislation draws heavily upon the UK framework but does not fully replicate it. As a result, the proposed legislation is unnecessarily complex and confusing. Ultimately, the duty falls on the consumer to take reasonable care not to make a misrepresentation and as such the duty should be as simple and easy to understand as possible.
- The FSC supports recommendation 4.6 which amends section 29(3) of the Insurance Contracts Act 1984 so that an insurer may only avoid a contract of life insurance on the basis of non-disclosure or misrepresentation if it can show that it would not have entered into a contract on any terms. However, we recommend that additional clarity is provided.

Ms Loane said the FSC believes the minor changes outlined in the submission will ensure that the needs of consumers and insurers are balanced and that the intention of Commissioner Hayne is fully implemented.

The FSC submission is in response to Recommendations 4.5 and 4.6 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/1953-fsc-submission-royal-commission-recommendation-4-5-4-6-duty-to-take-reasonable-care-not-to-make-a-misrepresentation-and-limiting-avoidance-of-life-insurance-contracts/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.