



MEDIA RELEASE

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FSC SUBMISSION RELEASED ON ENFORCEABLE CODE PROVISIONS

The Financial Services Council (FSC) released its submission on Enforceable Code Provisions today, supporting in principle the recommendation which provides ASIC with the authority to approve industry codes of conducts, but has concerns that the proposed legislation goes beyond the Royal Commission recommendation.

FSC CEO Sally Loane said the FSC believes industry codes are sound consumer protections and can help set positive industry behaviours.

“The Royal Commission highlighted the value of industry codes, with Commissioner Hayne noting the improvements the Life Insurance Code of Practice has already had on the industry,” Ms Loane said.

Commissioner Hayne, in reference to improvements made by the Life Code, indicated that *“the two clearest examples related to reducing the use of surveillance of claimants and reducing the use of outdated medical definitions. I consider it important that industry continue to identify opportunities for improvement.”*

Ms Loane said that the FSC believes the current drafting of the proposed legislation goes beyond what Commissioner Hayne recommended in its scope, and the FSC has highlighted amendments that would enhance the enforceable codes regime.

- Commissioner Hayne said the enforceable code provisions should be those “which govern the terms of the contract” between the consumer and the financial services provider. However the proposed legislation uses language which could capture a far broader range of provisions. The FSC recommends that amendments should be made so that it is clearer which provisions are considered enforceable;
- The FSC believes that there should be further clarity provided on what "significant detriment" is, as it is very broad, noting breaches of enforceable code provisions will now attract significant civil penalties;
- The FSC also recommends several other points be clarified including details on what would not constitute an enforceable code provision.

Ms Loane said it was critical that ASIC engages with industry in a transparent process as early as possible when approving or varying an enforceable code.

The FSC submission is in response to Recommendation 1.15 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/1952-fsc-submission-royal-commission-recommendation-1-15-enforceable-code-provisions/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.