

## **MEDIA RELEASE**

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### **Changes to FoFA best interests duty will not impact consumers: New legal advice**

The Financial Services Council has obtained new legal advice which confirms proposed amendments to the best interests duty in the FoFA amendments will continue to require a financial adviser to act in the best interests of their client and will not reduce consumer protection.

FoFA has many layers of consumer protection obligations in place which are collectively titled “best interests obligations” in the law. The government is proposing to remove one step of the seven “safe harbour provisions” and to clarify that scalable advice is permissible.

John Brogden, CEO of the FSC said: “We have received advice from leading commercial counsel Ian Jackman SC and Gregory Drew on the government’s proposed amendments.”

Jackman and Drew state the removal of the “catch-all” phrase in the best interests provision of the Corporations Act would not compromise the protections provided by the best interests obligation. They also advised that scalable advice is allowable and the manner in which it is drafted does not enable an adviser to avoid acting in their clients’ best interest.

“The legal advice is clear. The proposed amendments do not reduce in any way a financial adviser’s legal requirement to act in the best interest of their clients,” Mr Brogden said.

“Consumers will not be impacted by the amendment being proposed to the best interests duty. In fact, removal of the catch all phrase will provide clarity to consumers on what they can expect from their adviser.”

“We also have clarity that scalable advice is permissible under the proposed FoFA amendment.”

“Scalable advice is imperative if the FoFA reforms are to meet their objective to increase the number of Australians who receive advice.”

“Our advice confirms these small technical amendments do not change the substance nor the intent of the FoFA reforms. That is, to improve the quality and quantity of financial advice and to make it accessible for all Australians.”

#### **[ENDS]**

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#### **About the Financial Services Council**

The Financial Services Council represents Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks, trustee companies and Public Trustees. The Council has over 130 members who are responsible for investing more than \$2 trillion on behalf of 11 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. The Financial Services Council promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency.