

Agenda Item 7(b) Summary of other financial planning legislative and industry updates

ASIC guidance on [breach reporting](#) was released on 7 September 2021 to address new breach reporting obligations, which became effective from 1 October 2021 to implement recommendations 1.6, 2.8, 2.9 and 7.2 of the FSRC.

ASIC guidance on the [prohibition of hawking](#) financial products was released on 23 September 2021 on legislation that became effective on 5 October 2021 to implement recommendations 3.4 and 4.1 of the FSRC.

On 14 October 2021, ASIC [extended](#) temporary financial advice relief to end on 15 April 2022. The relief resulting from the Covid-19 pandemic allows financial advisers to provide a record of advice rather than a statement of advice. ASIC also released [guidance and examples](#) of records of advice on 5 November 2021.

ASIC released [guidance and examples](#) on limited advice on 1 December 2021, which includes information for advisers on what they can do under the law, best interests duty and the FASEA Code.

On 28 October 2021, the Treasurer introduced three Bills to establish and fund the [Compensation Scheme of Last Resort](#). There are mixed views on the proposals, with the opposition and consumer groups believing it does not uphold the FSRC recommendation 7.1, whereas industry groups believe the scheme adds unnecessary costs and red tape.

The *Financial Sector Reform Amendment (Hayne Royal Commission Response—Better Advice) Act 2021* received Royal assent on 28 October 2021 (effective 1 January 2022), enacted to implement recommendations 2.10 of the FSRC and recommendation 7.1 of the Tax Practitioners Board Review and to wind up FASEA. The Act:

- expands ASIC's Financial Services Credit Panel (FSCP) to operate as a single disciplinary body for financial advisers;
- creates new penalties and sanctions for financial advisers
- introduces a new registration system for financial advisers to improve accountability and transparency;
- transfers FASEA functions to the Minister for the Corporations Act and ASIC; and
- creates a single registration and disciplinary system for financial advisers who provide tax (financial) advice.¹

Financial Sector Reform Amendment (Hayne Royal Commission Response—Better Advice) Regulations 2021 were made on 16 December 2021, which implement key elements of the operation of the Better Advice Act.

ASIC's [media release](#) on 22 December 2021 covers the operation of ASIC's FSCP, which had the following statutory functions and powers from 1 January 2022:

- direct advisers to undertake training, counselling or supervision and report to ASIC;
- suspend or cancel registrations;

¹ [Financial Sector Reform \(Hayne Royal Commission Response—Better Advice\) Bill 2021 – Parliament of Australia \(aph.gov.au\)](#)

- issue infringement notices;
- recommend ASIC commence civil penalty proceedings; and
- enter enforceable undertakings.

ASIC must convene a FSCP where it reasonably believes an adviser is not a fit and proper person to provide advice or becomes insolvent. ASIC will conduct its usual triaging before issuing warnings, reprimands or referring to the FSCP. ASIC will consult on guidance regarding the FSCP's operations in early 2022.

ASIC released guidance for [tax financial advisers](#) on 23 December 2021 in relation to obligations under the Better Advice Act.

On 18 February 2022, ASIC commenced [consultations](#) on proposals to remake ASIC relief on Product Disclosure Statements, superannuation dashboards and financial services guides.