

MEDIA RELEASE

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Changes ensure ban on commissions and clearer best interest duty in FoFA

The changes to the Future of Financial Advice (FoFA) legislation outlined today by the government ensure a clear ban on commissions and keep in place a best interest duty that provides massive protection to consumers, the Financial Services Council said.

John Brogden, CEO of the FSC said: "This response removes all doubt that commissions will be introduced in the provision of general advice. The government will define and ban commissions in black letter law."

"The changes outlined by the government also maintain a detailed and comprehensive best interest duty requiring a financial adviser to act in the best interests of their client."

"There are six separate duties in the Corporations Act which require a financial adviser to act in the best interests of their client. In addition, there are six specific steps that must be met by an adviser when providing advice that codifies the best interest duty," Mr Brogden said.

"The government has made one minor change to the best interest duty by removing an unnecessary 'catch all' provision. This change will actually clarify the best interest duty and remove any ambiguity for a financial adviser to always act in a client's best interests."

"The FSC has legal advice from leading commercial counsels Ian Jackman SC and Gregory Drew which confirms that the removal of the ambiguous 'catch-all' phrase will not dilute the obligation of an adviser to act in the best interest of their client," he said.

Jackman and Drew state that 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.

Mr Brogden said: "The FSC also supports the government's move to clarify in the law the ability of a client and their adviser to agree on the advice the client seeks. By clarifying that scaled advice is possible, rather than amending the best interest duty, consumers can now be certain they will be able to access the advice that they want, which is in their best interests and is more affordable."

"It is time for the misinformation and scaremongering on the best interest duty to stop. Industry funds and other groups have been misleading consumers and scaring them unnecessarily."

"The government has also confirmed today that it has limited the general advice exemption to ensure employees who have nothing to do with advice, but who work in the financial services industry, are not caught by the legislation," Mr Brogden said. "This was never intended by the policy of the former or current governments."

"Consumers now have the government's assurance that licensed financial planners cannot be paid commissions for general advice."

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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 125 members who are responsible for investing more than \$2.3 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 third 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.