



**THE VALUE AND FUTURE  
OF ADVICE LICENSING**

**FSC GREEN PAPER ON  
THE ADVICE LICENSING  
FRAMEWORK**

**2025**

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## Foreword

Since its establishment in 2001, the Australian Financial Services Licence (AFSL) regime has fostered trust and safeguarded the interests of Australians seeking financial advice. Through the several business and supervisory obligations imposed on licensees, the regime aims to ensure that licensees and their authorised representatives uphold high levels of competency, compliance, and ethical conduct in the delivery and implementation of financial advice. However, in light of the industry's evolution, it is timely to assess whether the licensing framework remains fit for purpose.

Over the past two decades, the financial advice industry has undergone significant waves of reform. The Future of Financial Advice Reforms (2012), new education standards (2017) and Hayne Royal Commission (2017–2019) have transformed the financial advice industry into a profession but have also led to increased regulation and compliance costs. Consequently, the industry has seen a sharp decline in adviser numbers, with many struggling to navigate the escalating regulatory burden. Reforms such as the Delivering Better Financial Outcomes (DBFO) package and the review of education standards have the potential to return the regulatory pendulum to the centre, whilst continuing to focus on strengthening the profession and rebuilding trust.

While these reforms aim to support the future of the industry, licensing remains a critical yet overlooked pillar of financial advice regulation. While adviser numbers have declined, more than 450 micro-licensees (AFSL holders with less than 10 advisers) have been approved since 2020. This evolution has occurred at the same time as the industry has matured into a profession, however it has also caused a reallocation of risk in the financial advice industry and there is shifting responsibility for how compliance obligations are executed across the system.

In parallel, changes to the regulatory and risk environment such as the introduction of the Compensation Scheme of Last Resort (CSLR), varied levels of capital and professional indemnity insurance coverage, and industry fragmentation outpacing regulatory resourcing, have exposed systemic vulnerabilities and raised important questions about whether risk is being appropriately allocated.

This Green Paper, supported by research from CoreData, outlines the current shape of the advice sector and the licensing structures that support it. It does not take a view on the desirability of any particular licensee model. Rather, it asks whether the current framework places regulatory responsibility with the parties best equipped to manage risk, and whether it does so in a way that supports system stability, consumer protection, and confidence across all parts of the market.

To that end, this Green Paper sets out a series of proposals and questions to guide a sector-wide consultation on the future of advice licensing. Feedback collected in this process will form the basis of a subsequent White Paper. Consultation on this Green Paper is open until 21 November 2025 and submissions can be sent to [financialadvice@fsc.org.au](mailto:financialadvice@fsc.org.au).

The FSC would also like to thank CoreData for their valuable research on advice licensing, which has informed our work. Their insights and analysis have provided a strong foundation for this paper, helping to shape the discussion on the future of advice regulation.

**BLAKE BRIGGS**

Chief Executive Officer

## Proposals for consideration and discussion questions

### PROPOSAL

#### **A recalibrated licensing regime that responds to firm diversity**

1. Government could introduce a clear, tiered licensing framework that tailors obligations based on the size, risk profile, and service scope of the entity. This could create a level playing field for licensees based on capital invested, complexity of advice being provided, training, oversight, and workplace engagement.
2. Government or industry could establish an accreditation framework for third-party compliance service providers. This framework could require them to meet defined standards of competency, governance, and accountability

### DISCUSSION QUESTIONS

- Is there a need to reform the advice licensing framework including the introduction of a tiered licensing framework? Why or why not?
- If a tiered licensing framework were to be implemented, how might that work in practice?
- Should regulatory relief be provided to licensees that have demonstrated strong governance and compliance processes?
  - If yes, what sort of regulatory relief? (fast-tracked approval for new RMs and financial services, reduced breach reporting frequency, etc.?)
- Are there any other ways the licensing framework could be reformed that were not discussed here?
- Which entity would be best placed to regulate, oversee and monitor the compliance of these compliance service providers?
- How can the security of relying upon third-party compliance service providers be strengthened without imposing excessive administrative burden?

### PROPOSAL

#### **Balanced accountability between licensees and advisers that empowers individual practitioners**

1. Government and industry could embark on consultation around the feasibility of a practicing certificate model. Advisers could be required to obtain a practicing certificate confirming their compliance with registration, continuing professional development (CPD), and ethical standards. By making advisers more accountable for maintaining their professional standing, this would encourage greater ownership of their actions and ensure that advisers are not only fulfilling regulatory requirements but also meeting the ongoing expectations of their profession.

2. ASIC could introduce an adviser skills and performance registry, creating transparency regarding advisers' professional conduct and performance. This registry could allow clients, licensees, and regulators to access a clear record of an adviser's (including responsible managers and persons) qualifications, track record, and any historical issues with performance or conduct. This system could help prevent the phenomenon of "phoenixing," where individuals with compliance failings leave a licensee and go on to re-establish themselves under a self-licensed or smaller licensed entity.

### DISCUSSION QUESTIONS

- To what extent would the introduction of a practicing certificate benefit the financial advice industry?
- What are the potential challenges in rolling out a practicing certificate model?
- Are there any other ways accountability can better be apportioned between licensees and advisers?
- How might the financial adviser register better account for the professional history of responsible managers and persons?
- Are there any other measures that would increase transparency regarding professional conduct and performance?
- Can these potential solutions be implemented without imposing a significant administrative burden on licensees?
- Should the adviser skills and performance registry include internal disciplinary actions by a licensee? (Noting employing licensees can access this because of the Reference Checking Protocol. However, the subject's consent is required before sharing such information with potential employers).
- Should FSCP matters no longer be anonymised to assist with the transparency of professional conduct and performance?

### PROPOSAL

#### Financial resource requirements that adequately protect consumers

1. Government could assess the appropriateness of current cash and capital requirements. However, any adjustments to financial resource requirements must be carefully considered to avoid placing undue burdens on licensees, particularly smaller firms.
2. ASIC could exercise proactive oversight of the level of professional indemnity insurance coverage held by advice licensees.
3. Government could assess the appropriateness of minimum professional indemnity requirements for financial advisers, so that they must be covered individually or by their licensee. This could create a more direct form of accountability and consumer protection, helping to close these gaps and aligning financial advice with the standards upheld in other professions.

### DISCUSSION QUESTIONS

- Should cash and/or capital requirements for AFS licensees be strengthened?
- What other measures could be implemented to enhance the monitoring of AFS licensees' financial health?
- Should capital adequacy requirements be adjusted based on the specific risks associated with each AFS licensee's activities, such as client asset management versus advice-only services? What risk metrics would be most appropriate for determining these capital levels?
- Given the lack of ongoing oversight of PI insurance coverage after AFSL registration, should regulators implement periodic checks to ensure coverage is maintained and adequate? How frequently should this oversight occur?
- Would requiring financial advisers to be covered either individually or by their AFS licensee with PI insurance improve accountability and consumer protection? What challenges or benefits might arise from such a change?
- How significant is the problem of underinsurance and policy exclusions within the financial advice sector? Should stricter guidelines be introduced to limit exclusions and ensure PI policies cover a broader range of claims?

## The current licensing framework

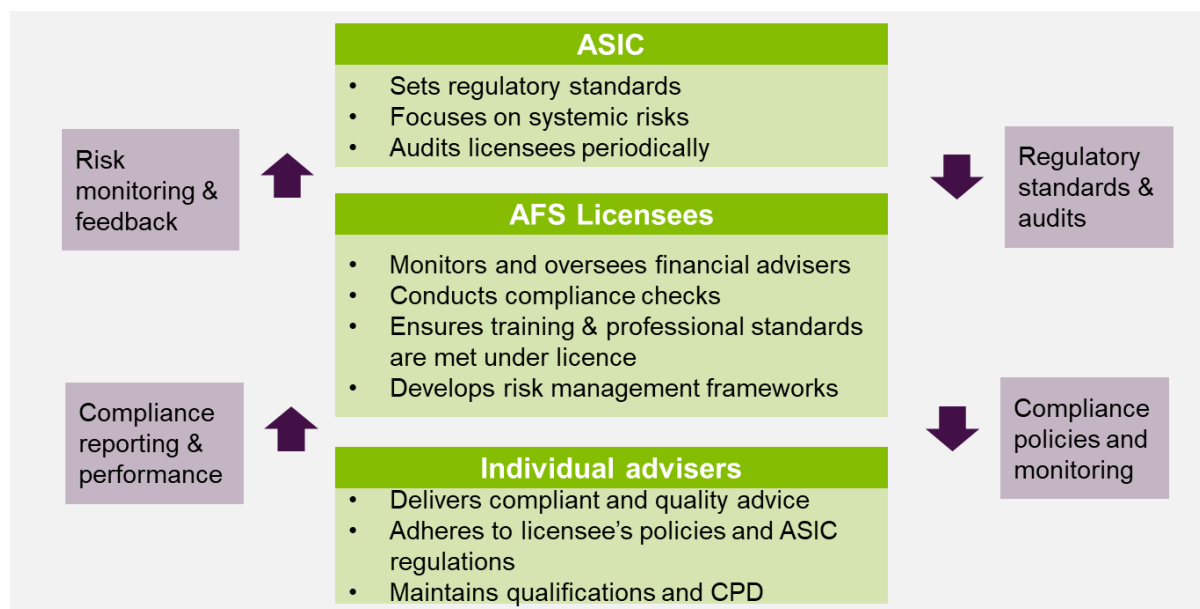
### The purpose of advice licensing

Advice licensing ensures that financial advice is provided by qualified, competent, and compliant professionals who meet regulatory standards. It provides a framework that aims to protect consumers, maintain the integrity of the financial system, and enhance trust in the industry.<sup>1</sup>

ASIC, as Australia’s financial services regulator, faces inherent limitations in its capacity to oversee every individual adviser in the financial sector due to the sheer scale of the industry. With over 15,000 financial advisers operating nationwide, monitoring each adviser directly would require immense resources exceeding ASIC’s capacity.<sup>2</sup> Consequently, the practical outcome is that ASIC effectively outsources much of the supervisory function to licensees, who are responsible for the conduct and compliance of the advisers operating under their AFSL.

Licensees act as an intermediary layer, conducting regular compliance checks, overseeing advice quality, and ensuring advisers meet ongoing professional standards and training requirements. By effectively delegating responsibility to licensees, ASIC leverages their compliance infrastructure, allowing a more feasible method of maintaining standards across the advisory sector without direct involvement with each adviser (see **Figure 1**).

**Figure 1 | Simplified Advice Licensing Oversight Model**



<sup>1</sup> Spark Financial Group, The Importance of Licensing in Financial Services: What You Need to Know, August 2024, <https://www.sparkfg.com.au/importance-of-licensing-in-financial-services/>

<sup>2</sup> Wealth Data, Financial Adviser Market Insights, 12 December 2024, <https://wealthdata.com.au/blog-1/financial-adviser-market-insights-dec-12-2024#:~:text=Current%20number%20of%20advisers%20at.net%20gains%20of%2022%20advisers>

For clients of financial advice, this structure provides a tangible level of assurance that their adviser operates under robust compliance, governance, and professional indemnity insurance arrangements, reducing the risk of receiving poor-quality advice. For advisers, the framework consolidates regulatory and operational responsibilities, enabling them to share the burden of compliance and risk management rather than bearing it individually. This aggregation allows advisers to focus on client relationships and advice delivery while benefiting from the support and oversight of the licensee. Through the aggregation of risk, the AFSL network is designed to create an efficient and secure environment for delivering financial advice.

The second role of the AFSL environment is to create a legislative and business framework that fosters confidence and encourages the flow of capital into the licensee market. This investment is critical for the growth and development of the financial advice industry. By attracting capital, the AFSL regime enables licensees to invest in modern systems, streamlined processes, robust education programs, staff development initiatives, and client-facing resources.<sup>3</sup> These investments improve operational efficiency and professionalism within the sector, in turn enhancing the quality and accessibility of financial advice

### The statutory obligations of licensees

All licensees are subject to the *Corporations Act 2001* as administered by ASIC. They have general obligations around conduct, competency, compliance, and adequacy of resources outlined in ASIC [RG 104](#). At a high level, their obligations (and corresponding regulatory guides) include:

- financial obligations ([RG 166](#))
- risk management obligations ([RG 259](#))
- dispute resolution obligations ([RG 271](#) and [RG 267](#))
- organisational competence ([RG 105](#))
- monitoring representatives ([RG104](#) and [RG 146](#) for financial advisers)
- compensation and insurance arrangements ([RG 126](#))

These obligations apply to all licensees, regardless of size. However, the statutory obligations imposed on licensees demand a level of systems, process and governance maturity that can be challenging to achieve without sufficient scale or resourcing. As a result, an industry has developed of businesses offering services to cater to the needs of AFSLs in meeting their obligations. These service providers often offer specialised expertise, including assistance with risk management, compliance frameworks, and operational support. However, they take on no legal or financial risks associated with the operations of the licensees.<sup>4</sup> This means that while they help ensure that licensees meet regulatory requirements and operational standards, the responsibility for any non-compliance or financial loss remains solely with the licensees themselves.

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<sup>3</sup> CoreData, Value of Licensing: Recommendations, p.5.

<sup>4</sup> ASIC, Regulatory Guide 104, June 2022, p.22.

## The value of licensees to advice practices

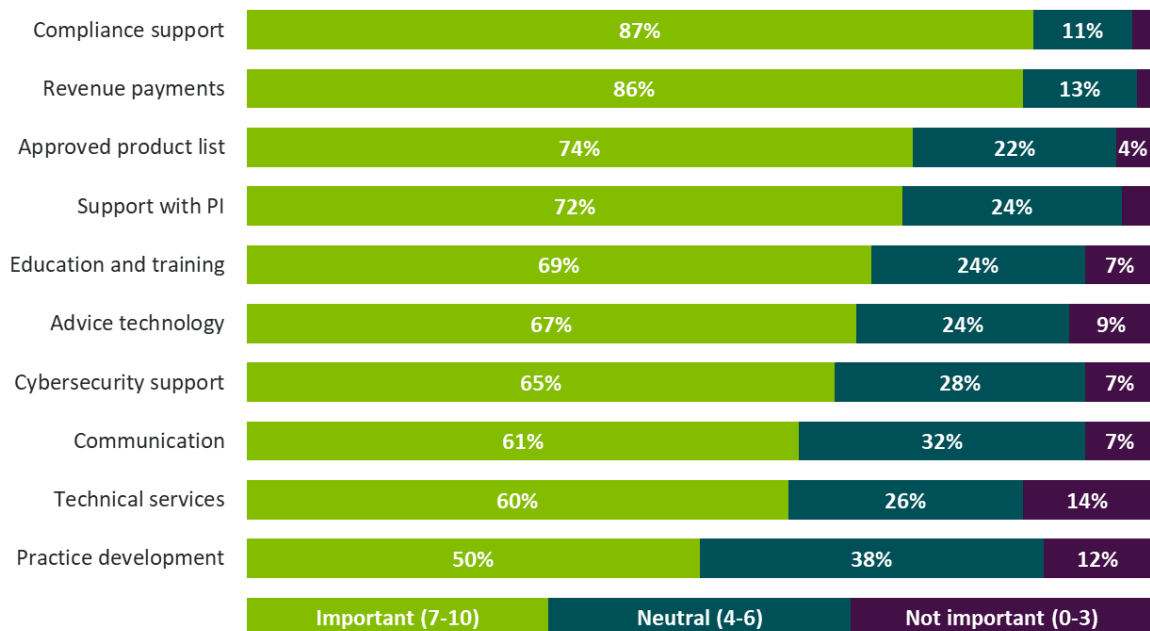
Licensees play an important role in the financial services ecosystem. By providing key services such as compliance support, revenue management, product selection, insurance, and training, licensees help advice practices focus on their clients and business growth.

Advice practice satisfaction with licensees is growing, with a CoreData survey finding that in 2024, 75% of advice practices were satisfied with the services they were receiving from their licensee compared to 64% in 2016 (n=255).<sup>5</sup>

When surveyed about where this support from licensees was most valuable, practices primarily valued licensee support with:

1. **Compliance support:** Assisting practices in navigating complex regulatory requirements and ensuring adherence to industry standards.
2. **Revenue payments:** Streamlining payment processes to provide timely and accurate distribution of adviser revenues.
3. **Approved product lists:** Offering access to curated investment and insurance products that meet quality and compliance standards.
4. **Professional Indemnity Insurance:** Providing coverage solutions to protect practices against potential claims and liabilities.
5. **Education and Training:** Equipping advisers with the knowledge and skills needed to deliver high-quality advice and meet ongoing accreditation requirements.

**Figure 2 | Importance of Licensee Support to Practices (n=174)<sup>6</sup>**

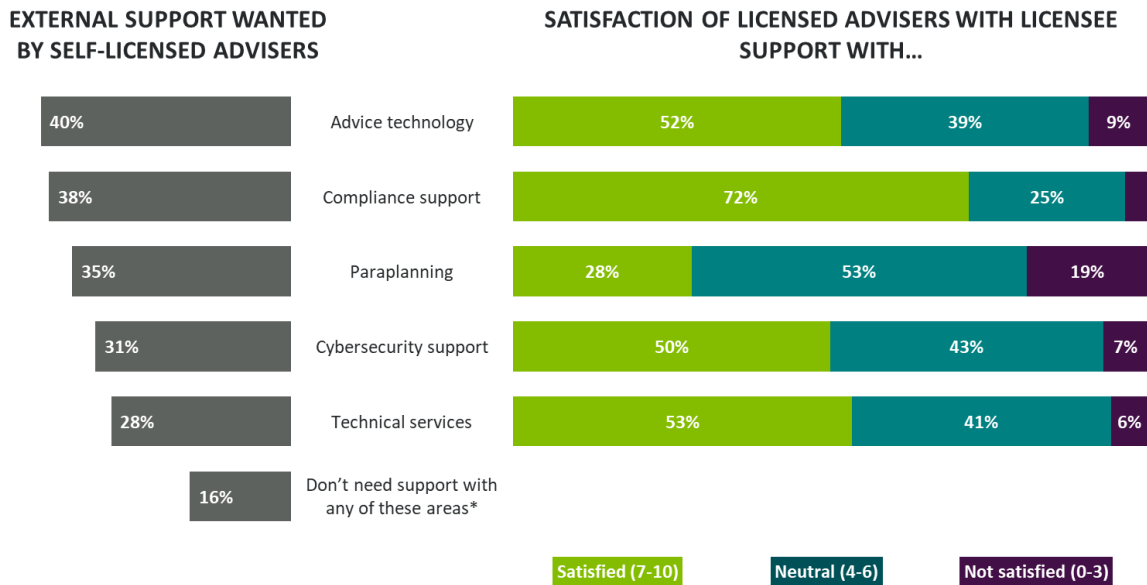


<sup>5</sup> CoreData, The Value of Licensing, November 2024, p.10

<sup>6</sup> CoreData, The Value of Licensing, November 2024, p.19

Interestingly, the survey found that many self-licensed practices are seeking external support in the very areas where licensees have traditionally provided the greatest value (see **Figure 3**). Rather than building these capabilities in-house, many practices are turning to a growing ecosystem of third-party service providers to meet their operational and regulatory needs.

**Figure 3 | Demand for support wanted by self-licensed advisers against satisfaction with licensee support** (self-licensed n=81, licensed practices n=174).



### Cost savings with being licensed

Licensed practices often benefit from significant cost savings due to the economies of scale and centralised support provided by licensees. These savings arise from shared access to compliance frameworks, client relationship management systems, and technology platforms, which would otherwise require substantial investment if managed independently. CoreData modelling has found that licensed practices save an average of \$70.5k annually, primarily through tools and platforms included in licensee fees.<sup>7</sup> These savings scale with practice size, from \$25.7k for smaller practices to \$116k for larger ones. Advisers also gain an estimated seven extra hours weekly through licensees absorbing administration and compliance tasks, allowing them to pivot their focus on client relationships.<sup>8</sup>

<sup>7</sup> CoreData, The Value of Licensing, November 2024, p.4.

<sup>8</sup> CoreData, The Value of Licensing, November 2024, p.25

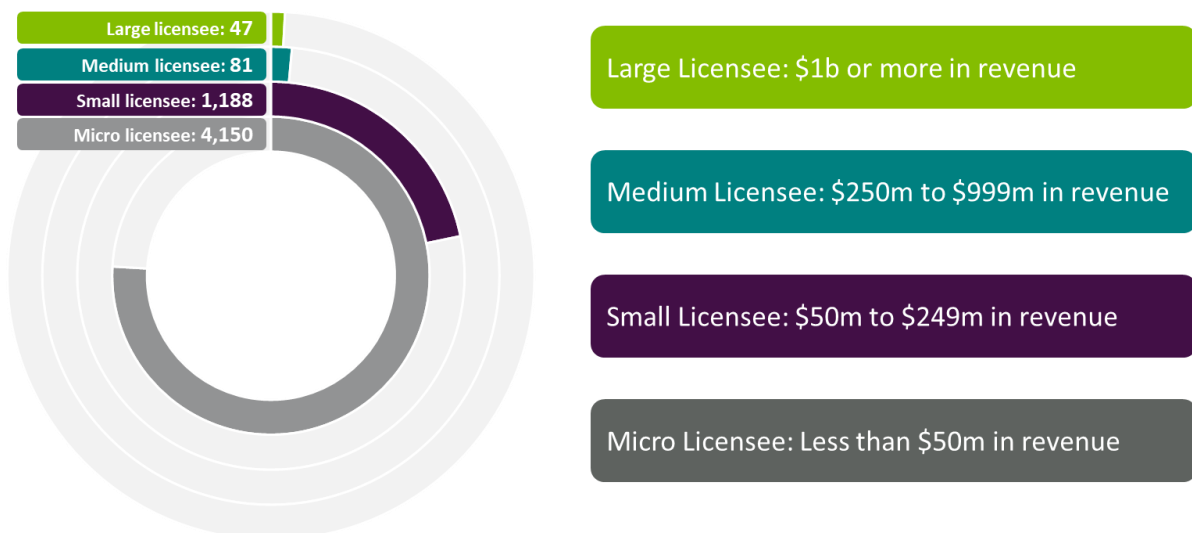
## Challenges with the current advice licensing regime

### The changing composition of AFSLs

At the time the AFSL regime was created, the market was characterised by a small number of large, vertically-integrated institutions. The licensing framework was designed to address the scale and structures of these entities. Today, however, the industry has undergone several changes, including substantial fragmentation with the rise of self-licensing, layered regulation, and the integration of technology into advice delivery. This evolution raises questions about whether the AFSL regime can adequately accommodate the diversity of players now present in the advice market. What this leaves us with is one-speed regulation in a four-speed world.

For the purposes of this green paper, we have defined four types of licensees by revenue size (see **Figure 4**).

**Figure 4 | Number of licensees by revenue size as at June 2024** <sup>9,10,11</sup>



This is a simplistic way to assess what is a complex and nuanced marketplace (the alternative being simply segmenting the licenses by number of authorised representatives). For the sake of clarity, we have used revenue as a method of classifying the businesses. Unlike more mature laws like road regulations or company laws, the laws around advice licensing offer little nuance for the size or revenue of licensees; one size simply fits all.

<sup>9</sup> ASIC, Insights from the reportable situations regime: July 2023 to June 2024, Report 800, October 2024; CoreData, Value of Licensing, 2024, p.11.

<sup>10</sup> Note: The chart focuses on the more active segment of the market. It excludes the long tail of less active licensees, which follow a typical bell curve distribution.

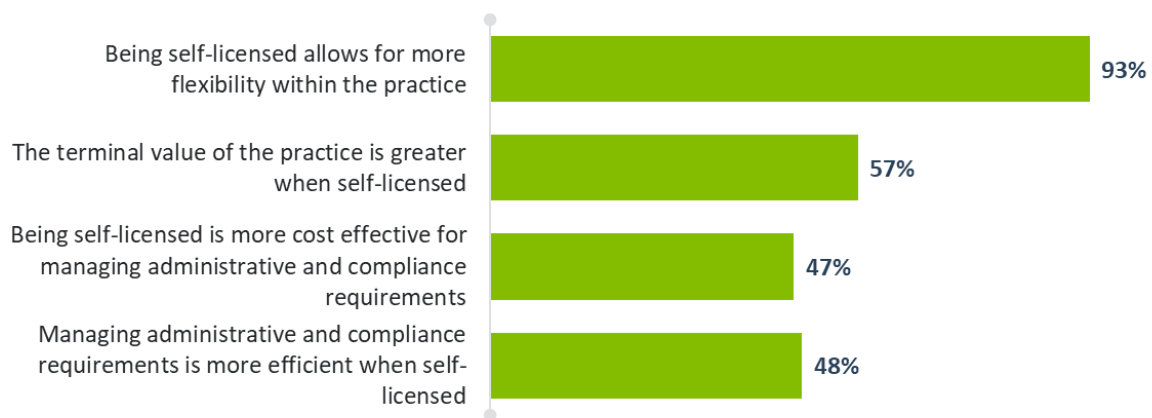
<sup>11</sup> This reflects the total number of AFSLs across all categories, not just those directly associated with retail personal advice.

Since 2020 the fastest-growing segment of the industry have been micro licensees (AFSL holders with less than 10 advisers), with 450 joining the register.<sup>12</sup> Many of these would constitute ‘self-licensed practices’.

The trend toward self-licensing is driven by a combination of regulatory, economic, and operational factors. Increasing compliance costs and regulatory scrutiny, particularly following the Hayne Banking Royal Commission, have driven many advisers to seek greater control over their practices.<sup>13,14</sup> According to a survey by CoreData, 93% of self-licensees agree that being self-licensed allows for more flexibility within the practice (see **Figure 5**). By obtaining their own AFSL, advisers can tailor compliance processes to their business models, rather than conforming to the frameworks of larger licensees.

This shift towards self-licensing may also reflect frustrations with licensee fees, perceived inflexibility, and the uneven distribution of reputational risks associated with larger licensees. Additionally, technological advancements have made it easier for advisers to manage compliance and administrative tasks independently. However, the opinion of self-licensees remains split on whether self-licensing makes these processes more efficient and cost-effective.

**Figure 5 | Proportion of self-licensees that agree with the following statements (n=81)<sup>15</sup>**



The changing composition of AFS licensees, while allowing for greater flexibility and innovation, also presents several risks and challenges for the regulator, client and industry as a whole.

### Compliance Risks

While there are benefits to self-licensed practices in terms of independence and flexibility, ASIC’s data suggests that smaller licensees may come with compliance capability risks. For

<sup>12</sup> CoreData research

<sup>13</sup> Netwealth, Why more advisers are turning to self-licensing, 10 January 2019,

<https://www.netwealth.com.au/web/resources/insights/why-more-advisers-are-turning-to-self-licensing/>

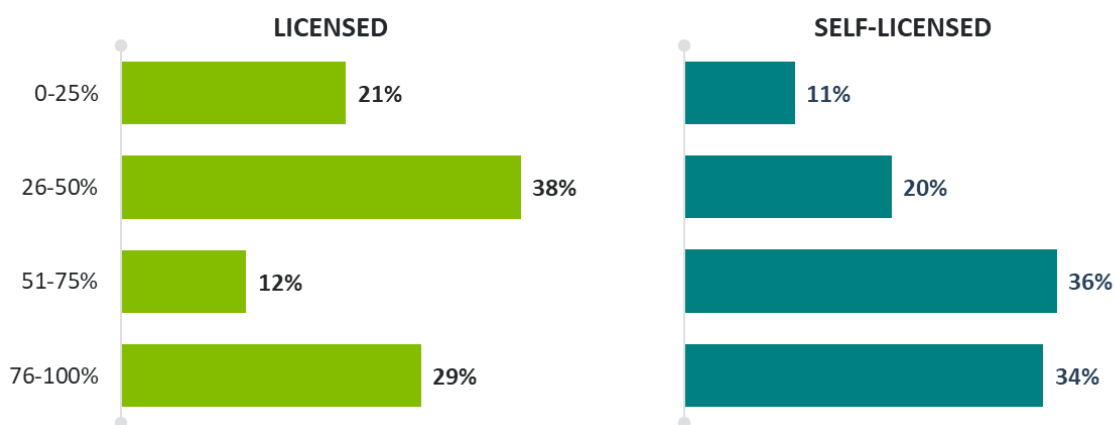
<sup>14</sup> The IFA show, The rise of the self-licensed adviser, 6 December 2023, <https://www.ifa.com.au/podcast/33641-the-rise-of-the-self-licensed-adviser>

<sup>15</sup> CoreData, The Value of Licensing, November 2024, p.43.

example, ASIC reported that in FY2024, 81% of licensees with \$1,000 million or more in revenue lodged breach reports in that year compared to 10% of licensees with \$50 million or less in revenue.<sup>16</sup> Whilst this may be due to smaller licensees not having breaches, ASIC noted that the percentage of licensees reporting breaches remains significantly lower than expected and indicates that some licensees may not have in place the systems and processes required to detect and report breaches.<sup>17,18</sup> This disparity reflects broader structural differences in how licensees manage compliance obligations.

Typically, larger licensees provide more extensive support to their practices for meeting compliance obligations, while self-licensed practices manage a greater portion of these responsibilities internally. CoreData research highlights that self-licensed practices manage most administrative and compliance tasks in-house, whereas licensed practices benefit from shared compliance resources provided by their licensee (see **Figure 6**).

**Figure 6 | Proportion of admin and compliance requirements managed by internal staff (licensed n=42, self-licensed n=76)<sup>19</sup>**



### Client Remediation Risks

It is not uncommon for licensees to have scenarios where client remediation is required, usually caused by administrative, implementation or fee errors. However, according to CoreData research, self-licensed firms are twice as likely to have undergone client remediation multiple times compared to licensed firms (see **Figure 7** overleaf).

<sup>16</sup> Australian Securities and Investment Commission, Insights from the reportable situations regime: July 2023 to June 2024, Report 800, October 2024, p.9

<sup>17</sup> ASIC, Reportable situations: Findings of ASIC's review and how licensees can improve compliance with the regime, 4 December 2024, <https://asic.gov.au/about-asic/news-centre/news-items/reportable-situations-findings-of-asic-s-review-and-how-licensees-can-improve-compliance-with-the-regime/>

<sup>18</sup> ASIC, ASIC releases second publication on insights from the reportable situations regime, 31 October 2023, <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-288mr-asic-releases-second-publication-on-insights-from-the-reportable-situations-regime/>

<sup>19</sup> CoreData, The Value of Licensing, November 2024, p.42.

**Figure 7 | Practices that have undergone client remediation in past three years<sup>20</sup>**



In cases requiring client remediation, self-licensed practices are more likely to settle claims privately compared to licensed practices. Conversely, licensed practices are more likely to make professional indemnity insurance claims compared to self-licensed practices.<sup>21</sup>

### Other factors

It would be overly simplistic to discern an AFS licensee’s risk purely on the basis of their revenue level. There are a number of other characteristics that can create additional risk in the system that the current advice licensing framework does not accommodate. These include:

- The types of products on a licensee’s approved product lists, particularly if they include high-risk or complex investments.
- The qualifications, experience, and specialisations of their personnel, which directly impact the quality of advice provided.
- Situations where a licensee operates as a “licensee for hire,” providing licensing to third-party advisers with potentially limited oversight or accountability.

A more nuanced approach is needed; one that accounts for these factors to ensure that the regulatory framework better reflects the diversity of strengths and risks across the advice industry.

### Limited resources for monitoring and enforcement

Due to ASIC’s limitations in scaling its surveillance to respond to every licensee in the system, their focus tends to be disproportionately concentrated on large licensees due to the potential scale of the impact of any compliance failures or misconduct. This imbalance can result in regulatory arbitrage, where some advisers may be incentivised to deliberately opt for smaller licensees to avoid the more stringent compliance oversight imposed on larger

<sup>20</sup> CoreData research

<sup>21</sup> CoreData research

firms. Over time, this uneven regulatory approach may erode trust in the financial advice sector, exposing consumers to greater risks and creating an uneven playing field for licensees that invest in robust governance and compliance frameworks.

### **Distribution of liability between licensees and advisers**

One of the criticisms levelled at the AFSL regime is that it does not resemble other professions. In professions like accounting and law, practitioners are licensed and authorised individually through an association or another body. In this model, there is more accountability on the individual practitioner, who are required to hold their own professional indemnity insurance. It is also accompanied by strong self-regulation through professional associations.

Conversely, the AFSL model is very top-heavy. While individual practitioners must comply with the best interests duty and Code of Ethics, their AFSL is responsible for supervision, training, and remediation. One of the ways this distorts the market is that AFSLs are often held accountable for the conduct of their advisers, even in cases where an adviser may be entirely at fault. This misalignment of accountability creates undue financial and operational risks for licensees, making it costlier and less attractive to hold an AFSL. Conversely, advisers, while subject to individual accountability standards, are not fully empowered to take ownership of their professional responsibilities. This can dilute their sense of personal accountability and weaken the professionalisation of the advice sector.

A potential middle ground could involve further reforms to shift liability and responsibility closer to individual practitioners while maintaining necessary consumer protections. This could include a greater role for professional associations in accreditation and discipline, alongside targeted regulatory adjustments to ensure AFS licensees are not unduly burdened by adviser misconduct.

### **Undercapitalisation and underinsurance**

Recent insolvencies of licensees and the challenges exposed by the Compensation Scheme of Last Resort (CSLR) have underscored the significant risks posed by firms lacking sufficient liquidity and capital.<sup>22</sup> Licensees with inadequate financial resources are more likely to fail during periods of financial strain, leaving clients exposed to unaddressed compensation claims. This not only undermines consumer protection but also erodes trust and confidence in the financial advice sector. The CSLR has revealed gaps in the ability of some AFS licensees to meet their compensation obligations, forcing other industry participants to shoulder the financial burden of these failures through levies, further straining the already high costs of providing advice.

Compounding the issue is ASIC's limited capacity to effectively monitor and enforce compliance across all licensees. With around 6,349 total approved AFSLs of varying size and complexity, the regulator's resources are stretched thin, creating the potential for high-

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<sup>22</sup> Keith Ford, "Too many unanswered questions: Why a Dixon public inquiry is vital", *Independent Financial Adviser*, 20 August 2024, <https://www.ifa.com.au/news/34656-too-many-unanswered-questions-why-a-dixon-public-inquiry-is-vital>.

risk firms to operate without adequate oversight.<sup>23</sup> This regulatory gap exacerbates the risks associated with undercapitalised licensees, as firms with weak financial resilience may continue to operate unchecked until a crisis occurs.

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<sup>23</sup>Australian Securities and Investment Commission, Licensing and professional registration activities: 2024 update, Report 797, October 2024, p.18.

## The future of advice licensing

### A recalibrated licensing regime that responds to firm diversity

A recalibrated AFSL regime could adopt a simpler and more flexible framework that tailors regulatory obligations to the size, complexity, and risk exposure of each licensee. This approach would ensure that the regulatory burden is commensurate with the licensee's operational scale, the sophistication of its services, and the potential risks to clients and the financial system. It should also consider a degree of regulatory relief where there is evidence of established governance structures and robust compliance systems. By refining the AFSL regime in this way, regulators could create a more responsive and efficient system that accounts for the diverse business models operating within the financial advice sector.

#### Current framework

The current regime has aspects that are responsive to the nature of the licensee, including:

- **Financial Requirements:** Under Section 912A of the *Corporations Act 2001* and *RG 166*, surplus liquidity requirements are imposed on firms managing more than \$100,000 in client funds. Other requirements depend on whether the firm transacts as principal or agent.<sup>24</sup>
- **Training and Development:** ASIC requires ongoing training through *RG 146* for the provision of general advice or personal advice on basic banking products, general insurance and/or insurance credit insurance; and financial product advice in relation to a time-sharing scheme. Ongoing training and development requirements for all other types of personal advice to retail clients are detailed in the *Corporations (Relevant Providers Continuing Professional Development Standard) Determination 2018*.<sup>25</sup>

However, the regime does not consider other factors that inform the potential risk of a licensee. These include:

- The types of products on their approved product lists, particularly if they include high-risk or complex investments.
- The qualifications, experience, and specialisations of their personnel, which directly impact the quality of advice provided.
- Situations where a licensee operates as a "licensee for hire," providing licensing to third-party advisers with potentially limited oversight or accountability.
- Smaller-scale AFS licensees, which often rely more heavily on third-party service providers and carry a higher client remediation risk.

Furthermore, any recalibrated regime should also consider the growing role of third-party service providers in the financial advice sector. These providers, such as compliance consultants, audit firms, and technology providers, are becoming integral to the operations of many financial firms, particularly those with fewer resources. A well-structured regime could

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<sup>24</sup> ASIC, Dealing and providing custodial or depository service as secondary service, November 2024.

<sup>25</sup> ASIC, Regulatory Guide 146 Licensing: Training of financial product advisers, July 2012.

introduce a government-led or industry-endorsed accreditation framework for third-party compliance service providers. This framework would require these providers to meet defined standards of competency, education and qualifications, governance, and accountability, ensuring that they can offer high-quality support to AFS licensees. Internationally, greater focus has been exercised on the role of third-party providers in financial institutions. Some examples are showcased in **Figure 8**.<sup>26,27</sup>

**Figure 8 | Case Studies**



### Potential Solutions

1. **Government could introduce a clear, tiered licensing framework that tailors obligations based on the size, risk profile, and service scope of the entity.** This could create a level playing field for licensees based on capital invested, complexity of advice being provided, training, oversight, and workplace engagement.
2. **Government or industry could establish an accreditation framework for third-party compliance service providers.** This framework could require them to meet defined standards of competency, governance, and accountability.

*See discussion questions overleaf.*

<sup>26</sup> Monetary Authority of Singapore, *Guidelines on Outsourcing (Financial Institutions other than Banks)*, December 2023.

<sup>27</sup> Bird&Bird, *The European Banking Authority's Guidelines on Outsourcing*, June 2021.

### Discussion Questions

- Is there a need to reform the advice licensing framework including introducing a tiered licensing framework? Why or why not?
- If a tiered licensing framework were to be implemented, how might that work in practice?
- Should regulatory relief be provided to licensees that have demonstrated strong governance and compliance processes?
  - If yes, what sort of regulatory relief? (fast-tracked approval for new RMs and financial services, reduced breach reporting frequency, etc.?)
- Are there any other ways the licensing framework could be reformed that were not discussed here?
- Which entity would be best placed to regulate, oversee and monitor the compliance of these compliance service providers?
- How can the security of relying upon third-party compliance service providers be strengthened without imposing excessive administrative burden?

### Balanced accountability between licensees and advisers that empowers individual practitioners

As the advice industry has professionalised, government could explore reforms to shift liability and responsibility closer to individual practitioners in line with other professions. This could include a greater role for professional associations in accreditation, alongside an enhanced adviser registry.

### Current Framework

The existing financial advice framework operates under a corporate structure in which AFS licensees absorb much of the regulatory risk. Under this model, financial advisers must comply with obligations under the *Corporations Act 2001*, including the Best Interests Duty and the Code of Ethics, while licensees are responsible for supervision, training, and remediation. This structure creates an interdependent relationship between licensees and advisers, where compliance and liability are shared but not always proportionate.

One of the key challenges of this framework is that licensees bear significant liability for the actions of advisers, even in cases of adviser misconduct.<sup>28</sup> This increases the financial and operational risks associated with holding an AFSL, driving up compliance costs and discouraging new entrants. As a result, licensees can face disproportionate exposure to financial and reputational harm due to the actions of individual advisers. This dynamic can dilute personal accountability and create misaligned incentives, where advisers may rely on

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<sup>28</sup> Australian Securities and Investment Commission, Court finds RI Advice liable for failing to supervise financial adviser following ASIC investigation, August 2021, <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-196mr-court-finds-ri-advice-liable-for-failing-to-supervise-financial-adviser-following-asic-investigation/#:~:text=ASIC%20Deputy%20Chair%20Sarah%20Court,clients%20interests%20over%20their%20own>.

their licensee's oversight rather than proactively managing their own professional obligations.

A key consequence of this lack of individual accountability is reduced transparency, particularly when it comes to tracking advisers' professional histories. Unlike other professions that maintain publicly accessible registers of individual practitioners, financial advisers are not as easily identifiable outside of their AFSL affiliation. While the Financial Advisers Register provides some level of visibility, it is tied to the licensee rather than the individual's long-term record.<sup>29</sup> This can create challenges in tracking an adviser's history, especially if they move frequently between licensees.

One of the risks associated with this lack of transparency is phoenixing; a practice where advisers with poor compliance records close or leave a firm facing legal or financial consequences, only to re-emerge under a new licensee with minimal scrutiny. While the mandated ASIC Reference Checking regime has been a positive factor in minimising this risk, it does not fully prevent advisers with poor compliance histories from re-entering the industry, particularly when they move to less regulated or newly established licensees. This issue is not limited to individual advisers; Responsible Managers (RMs) and Responsible Persons (RPs) within an AFSL can also move between firms without sufficient regulatory oversight. When an AFSL is handed back or cancelled by ASIC, the directors, RMs, and RPs often migrate together to a new licence, continuing to operate in the industry despite prior compliance failings. In the absence of a centralised and comprehensive register that tracks the individuals' professional history, it becomes difficult for consumers, licensees, and regulators to identify repeat offenders. This can undermine trust in the financial advice profession and place unnecessary risks on both clients and licensees who may unknowingly engage with advisers who have a history of misconduct. While the Financial Adviser Register features "disciplinary actions", it does not include a complete record of an adviser's broader compliance history, including instances where advisers were subject to internal investigations or left a licensee under a cloud of compliance concerns but without formal disciplinary action being taken.

This situation stands in stark contrast to professions like accounting and law, which traditionally operate under a partnership model. In these fields, partners share responsibility for the firm's conduct, and individual practitioners often hold personal liability for any negligence or malpractice. This direct link between professional conduct and personal accountability fosters a strong culture of ethical responsibility, risk management, and peer oversight. Introducing a more robust, publicly accessible register that records an adviser's full professional history could enhance transparency and accountability. A well-maintained system would help licensees conduct thorough due diligence when hiring advisers, allow consumers to make informed decisions, and provide regulators with better oversight to prevent repeat misconduct.

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<sup>29</sup> Moneysmart, Financial advisers register, <https://moneysmart.gov.au/financial-advice/financial-advisers-register>

### Potential Solutions

1. **Government and industry could embark on consultation around the feasibility of a practicing certificate model.** Advisers could be required to obtain a practicing certificate confirming their compliance with registration, continuing professional development (CPD), and ethical standards. By making advisers more accountable for maintaining their professional standing, this could encourage greater ownership of their actions and ensure that advisers are not only fulfilling regulatory requirements but also meeting the ongoing expectations of their profession
2. **ASIC could introduce an adviser skills and performance registry, creating transparency regarding advisers' professional conduct and performance.** This registry could allow clients, licensees, and regulators to access a clear record of an adviser's (including RMs and RPs) qualifications, track record, and any historical issues with performance or conduct. This system could help prevent the phenomenon of "phoenixing," where individuals with compliance failings leave a licensee and go on to re-establish themselves under a self-licensed or smaller licensed entity.

### Discussion Questions

- To what extent would the introduction of a practicing certificate benefit the financial advice industry?
- What are the potential challenges in rolling out a practicing certificate model?
- Are there any other ways accountability can better be apportioned between licensees and advisers?
- How might the financial adviser register better account for the professional history of responsible managers and persons?
- Are there any other measures that would increase transparency regarding professional conduct and performance?
- Can these potential solutions be implemented without imposing a significant administrative burden on licensees?
- Should the adviser skills and performance registry include internal disciplinary actions by a licensee? (Noting employing licensees can access this because of the Reference Checking Protocol. However, the subject's consent is required before sharing such information with potential employers).
- Should Financial Services and Credit Panel (FSCP) matters no longer be anonymised to assist with the transparency of professional conduct and performance?

## Financial resource requirements that adequately protect consumers

In light of the challenges revealed by the CSLR and other recent insolvencies of licensees, there is a compelling case to reconsider the financial resource requirements for AFS licensees. The CSLR highlighted certain gaps in the ability of some AFS licensees to meet compensation claims, raising concerns about client protection and industry confidence.

ASIC asserts the following in its regulatory guidance on financial requirements:

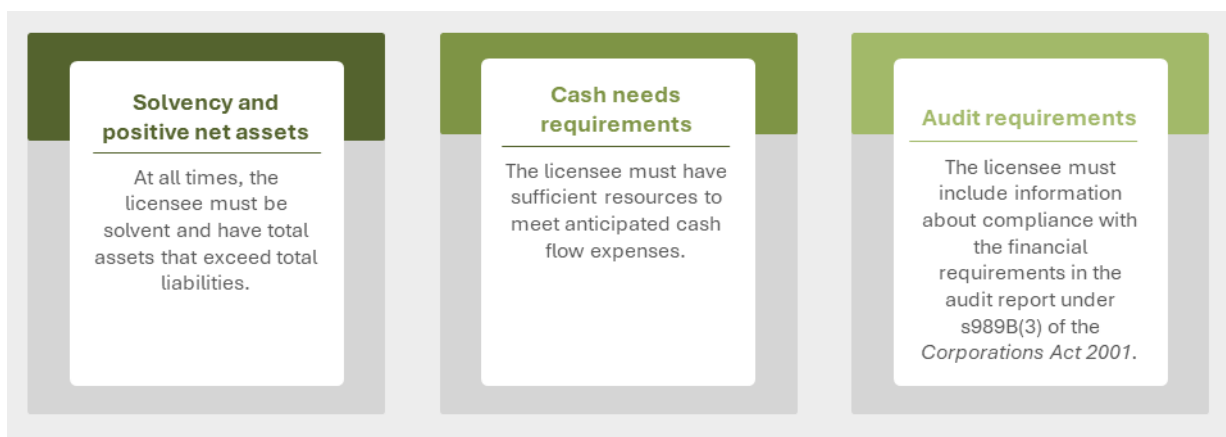
*“We do not seek to prevent failures of licensees, as we are not a prudential regulator. We seek to reduce the risk that failure will occur in circumstances that put at risk your compliance with the licensee obligations.”<sup>30</sup>*

While this may be true, the existence of a CSLR places the entire industry under strain in situations of insolvency, as seen with the collapse of Dixon Advisory and United Global Capital.<sup>31</sup> These developments suggest a need to assess whether current capital and liquidity requirements are sufficient to provide resilience during periods of financial strain while safeguarding consumers.

### Current Framework

Financial requirements for AFS licensees vary in their application depending on the nature, scale and complexity of the financial services business. However, there are three base level financial requirements applicable to all AFS licensees (with the exception of bodies regulated by APRA or those listed in *RG 166.13*, see **Figure 9**).

**Figure 9 | Base Financial Requirements (RG 166)**

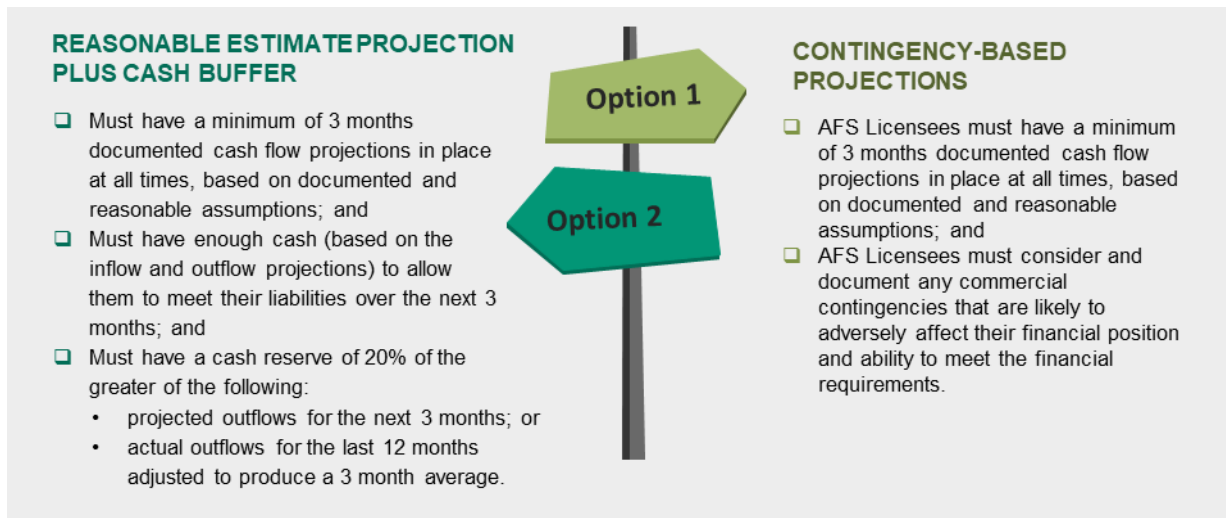


ASIC sets out the five options in Section B of *RG 166* that AFS licensees may choose in respect to satisfying the cash needs requirement. The two most common are summarised in **Figure 10** overleaf.

<sup>30</sup> ASIC, Regulatory Guide 166 AFS Licensing: Financial Requirements, September 2023, p.33

<sup>31</sup> Mike Taylor, 'Dixon collapse will influence CSLR for years,' *Financial Newswire*, 24 October 2024.

**Figure 10 | Fulfilling cash needs requirements (RG 166)**



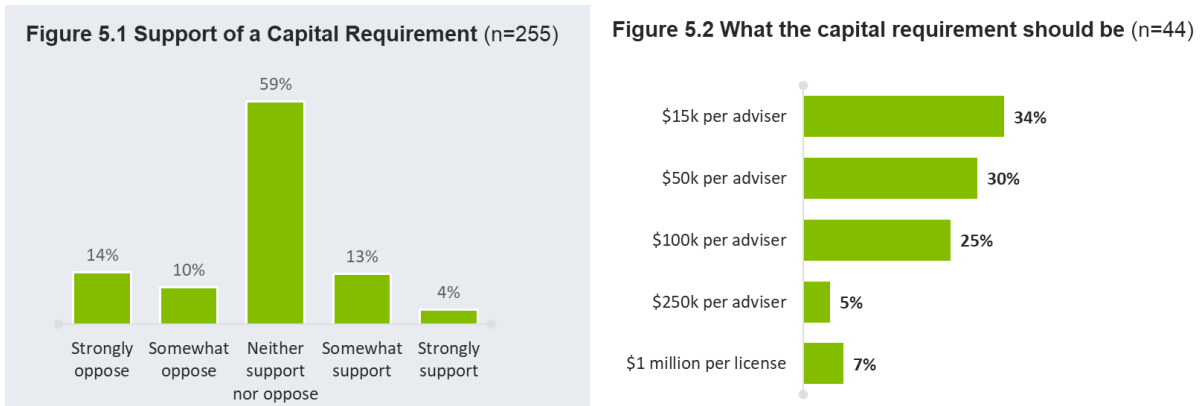
An AFS licensee can fulfil the current cash needs requirements under option 2 without an explicit cash reserve. This flexibility appeals to smaller licensees or firms with leaner cash flows, but it could lead to insufficient reserves when unforeseen financial strains arise. Furthermore, since the contingencies considered are based on the licensee’s judgment, firms might prepare for minor setbacks but overlook more impactful, prolonged disruptions that require a greater financial cushion to maintain solvency.

In addition to the base financial requirements, some licensees must also adhere to specific liquidity and capital requirements to buffer against unexpected financial shocks. These requirements vary depending on the nature of the licensee’s business and the risks involved but generally aim to ensure that firms have enough capital to cover operational risks and client protection. However, advice practices that solely provide financial advice without managing or holding assets fall into a regulatory gap. These advice-only AFSL holders are subject to fewer stringent requirements, which may mean they lack the capital buffer needed to adequately address compensation claims arising from advice failures.

This gap could potentially leave clients exposed if an advice-only licensee faces financial hardship due to poor advice practices or adverse legal judgments. Without robust capital reserves, these firms may be unable to fulfill compensation obligations, leaving clients uncompensated.

However, the proposal of an expanded capital requirement is not broadly supported among financial advisers. According to a CoreData survey of financial advisers (n=255), the majority (59%) were neutral on the need for a further capital requirement. For respondents who supported the introduction of additional capital requirements, preferences were on the modest end from \$15-50K per adviser (see **Figure 11** overleaf).

**Figure 11 | Support of a capital requirement**

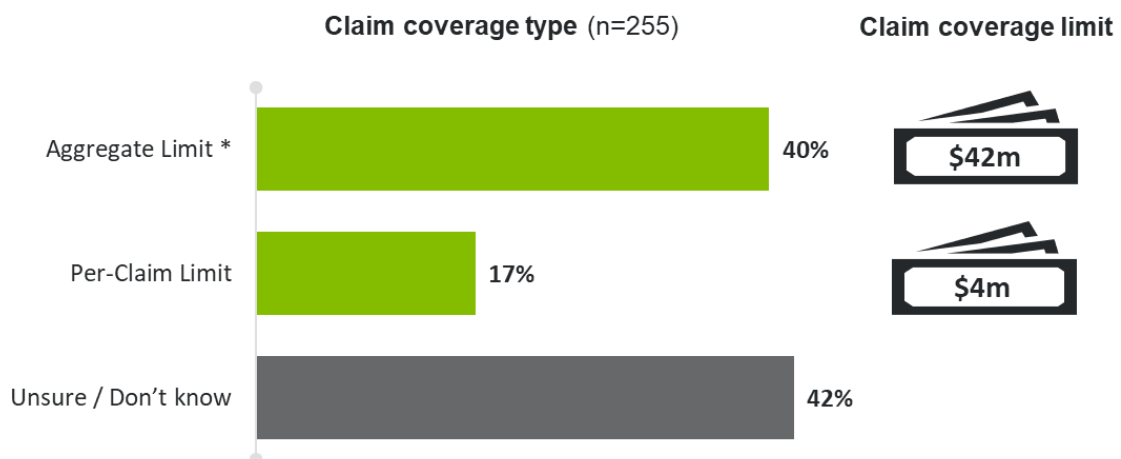


The financial resource requirements for licensees, while critical for consumer protection and maintaining the stability of the financial advice sector, can present significant challenges for smaller licensees. The costs of maintaining solvency, adequate cash flow, and capital reserves, in addition to securing PI insurance, can be burdensome, particularly for licensees operating in a highly competitive and regulated environment. Some smaller firms have raised concerns that these financial barriers could limit new entrants into the market and reduce the availability of independent financial advice.

**Professional Indemnity (PI) Insurance**

The current model in place is that AFSL holders who provide financial advice must maintain adequate professional indemnity (PI) insurance coverage. PI insurance provides a safety net for both licensees and clients, covering legal costs and claims made against advisers in cases of professional negligence, misleading advice, or misconduct. This model is broadly consistent with other professional sectors such as law and accounting, where practitioners must either have or be covered by PI insurance. According to the CoreData survey, almost half of practitioners don't know what type of PI claim coverage they are under (see **Figure 12**). This deficit of understanding could be indicative that advice practices are under-covered.

**Figure 12 | Claim coverage type of licensed advice practices**



Aside from the process of becoming a registered AFSL, there are no checks and balances in place to ensure that licensees hold adequate coverage throughout their operation. This lack of ongoing oversight means that clients may be vulnerable if a licensee's coverage lapses or is insufficient.

### Potential Solutions

1. **Government could assess the appropriateness of current cash and capital requirements.** However, any adjustments to financial resource requirements must be carefully considered to avoid placing undue burdens on licensees, particularly smaller firms
2. **ASIC could exercise proactive oversight of the level of professional indemnity insurance coverage held by Advice Licensees.**
3. **Government could assess the appropriateness of minimum professional indemnity requirements for financial advisers, so that they must be covered individually or by their licensee.** This could create a more direct form of accountability and consumer protection, helping to close these gaps and aligning financial advice with the standards upheld in other professions.

### Discussion Questions

- Should cash and/or capital requirements for AFS licensees be strengthened?
- What other measures could be implemented to enhance the monitoring of AFS licensees' financial health?
- Should capital adequacy requirements be adjusted based on the specific risks associated with each AFS licensee's activities, such as client asset management versus advice-only services? What risk metrics would be most appropriate for determining these capital levels?
- Given the lack of ongoing oversight of PI insurance coverage after AFSL registration, should regulators implement periodic checks to ensure coverage is maintained and adequate? How frequently should this oversight occur?
- Would requiring financial advisers to be covered either individually or by their AFS licensee with PI insurance improve accountability and consumer protection? What challenges or benefits might arise from such a change?
- How significant is the problem of underinsurance and policy exclusions within the financial advice sector? Should stricter guidelines be introduced to limit exclusions and ensure PI policies cover a broader range of claims?

## Appendix A - Financial Advice in Australia

Professional financial advice helps individuals navigate complex financial decisions such as retirement planning, tax strategies, and investment management. These decisions often have long-term implications for financial security and require expertise that many Australians lack. According to the *Econosights Report*, 36% of Australians have low levels of financial literacy.<sup>32</sup> Professional advice can help to bridge this gap.

As of 2024, approximately 2 million Australians are paying for financial advice and an additional 6.5 million Australians are considering seeking it.<sup>33</sup> Demand for advice is growing, particularly among retirees navigating complex superannuation decisions, young families planning for their future, and individuals looking to build financial security. However, the rising cost of financial advice has made it increasingly out of reach for many, turning what should be a valuable tool for financial well-being into a luxury item. At a time when good financial advice could help Australians manage economic uncertainty, achieve their long-term goals, and make informed decisions, affordability and accessibility remain key challenges.

### Benefits of financial advice

Research consistently shows that Australians who receive financial advice are better positioned financially than those who do not. A study by *Russell Investments* found that advised investors are at least 5.7 per cent better off than non-advised investors.<sup>34</sup>

Financial advice also offers significant intangible advantages, with financial advice linked to better mental health and family life.<sup>35</sup> Advised Australians also report feeling more confident in achieving their financial goals (71%) compared to their unadvised counterparts (55%).<sup>36</sup>

### Increased advice needs in Australia

Over the next ~25 years, the number of Australians with more complex advice needs is projected to grow by 70 per cent, from 4.3 million people today to over 7.2 million in 2050 (see **Figure 13** overleaf).<sup>37</sup>

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<sup>32</sup> Diana Mousina, Econosights, AMP, July 2023, <https://www.amp.com.au/content/dam/amp-au/documents/insights/econosights-the-financial-literacy-gender-gap.pdf>

<sup>33</sup> Adviser Ratings, 2024 Adviser Ratings, 2024, p.12

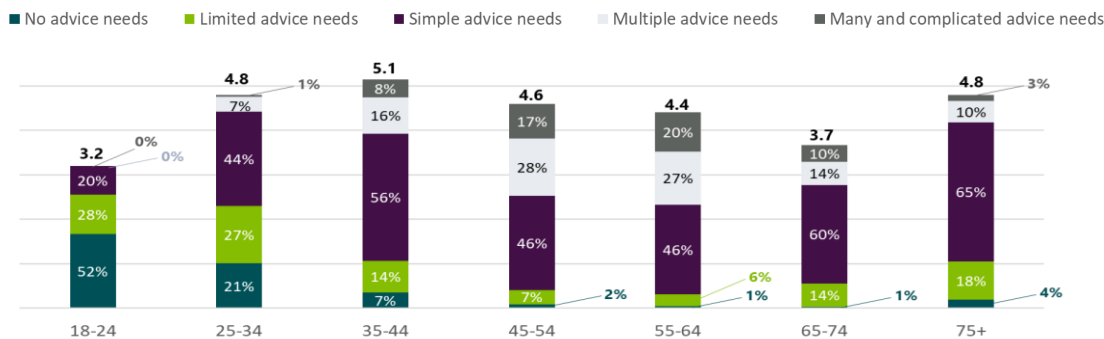
<sup>34</sup> Russell Investments, 2024 Value of an Adviser Study, 7<sup>th</sup> edition, 2024, p.2.

<sup>35</sup> Netwealth, Understanding Australian advice clients better, 2024, p.11

<sup>36</sup> Netwealth, Understanding Australian advice clients better, 2024, p.10

<sup>37</sup> NMG, A new framework for regulating Choice products, July 2024, p.4

**Figure 13 | Australia’s projected population by advice needs by 2050 (m)<sup>38</sup>**



(x axis age group, y axis population (\$m))

The evolving demographic landscape of the Australian population is set to be a key factor driving the growing demand for financial advice, including:

1. An ageing population: Approximately 2.5 million Australians are expected to retire in the next ten years.<sup>39</sup> Additionally, Australians’ average age is projected to rise from 39.5 years in 2024 to 40.8 years by 2034.<sup>40</sup> This will coincide with a rise in demand for advice on wealth preservation, estate planning, and income generation strategies.<sup>41</sup>
2. Growth in sole traders and small business owners: As the number of sole traders and small business owners continues to rise, the added complexity of their financial circumstances is likely to heighten the demand for tailored financial advice.<sup>42</sup>

### Barriers to receiving financial advice

Despite the increased demand, there are barriers to Australians seeking access to financial advice. The main barrier is the cost of advice which remains prohibitive to many Australians. According to research by *Adviser Ratings*, consumers are willing to pay an average of \$911 for financial advice. The problem is that only 6% of advisers have fees for new clients under \$1500.<sup>43</sup> CoreData’s 2025 Cost of Advice research shows that it costs an advice practice an average of \$11,000 to onboard a new client (including first year of management, and 70% of that cost being to comply with regulation).<sup>44</sup> This is not the average cost charged to

<sup>38</sup> NMG, A new framework for regulating Choice products, July 2024, p.4

<sup>39</sup> The Hon Stephen Jones, Assistant Treasurer and Minister for Financial Services, Consultation on the retirement phase of superannuation, Ministers: Treasury Portfolio, 4 December 2023, <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/consultation-retirement-phase-superannuation>.

<sup>40</sup> Australian Bureau of Statistics, Population clock and pyramid, 2025, <https://www.abs.gov.au/statistics/people/population/population-clock-pyramid>

<sup>41</sup> NMG, A new framework for regulating Choice products, July 2024, p.4

<sup>42</sup> Australian Bureau of Statistics, Counts of Australian Businesses, including Entries and Exits, August 2024, <https://www.abs.gov.au/statistics/economy/business-indicators/counts-australian-businesses-including-entries-and-exits/latest-release>

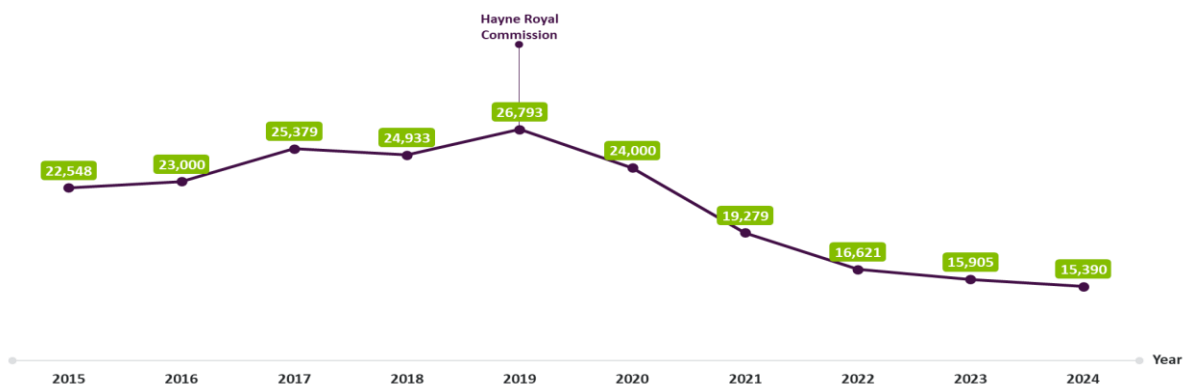
<sup>43</sup> Adviser Ratings, Australian Financial Advice Landscape, 2024, p.15.

<sup>44</sup> CoreData, Value of Licensing: Recommendations, p.5.

customers, which sits around \$3000-5000. Losses are typically made back in the ongoing service of clients.<sup>45</sup>

There are several factors contributing to the high cost of financial advice. The primary factor is the diminishing supply of advisers since the 2019 Hayne Banking Royal Commission (see **Figure 14**). This has led to advisers prioritising high net-worth clients, meaning less financial advice for ‘mum and dad investors’. It also means there are not enough financial advisers available to meet the demand for advice.

**Figure 14 | Number of Financial Advisers**<sup>46</sup>



The cost to serve is also driven by the high administrative burden on financial advisers to meet their disclosure obligations. For example, for each client, a financial adviser must prepare a Statement of Advice detailing their recommendations which takes an average of 23.9 hours for a financial adviser to complete and is a median size of 72 pages.<sup>47</sup> While the *Delivering Better Financial Outcomes Package* is likely to reduce this disclosure burden on advisers, there are still other factors that will continue to inflate the cost of advice such as the ASIC and CSLR levy.

## Digital advice

Digital advice has the potential to play a transformative role in addressing the advice gap by making financial guidance more accessible, affordable, and scalable. Unlike traditional face-to-face financial advice, which can be costly and time-intensive, digital advice uses technology to deliver tailored recommendations efficiently and at a lower cost. Digital advice models employ algorithms to assess a client’s financial situation, goals, and risk tolerance, offering personalised advice on budgeting, saving, investing, and debt management. By automating much of the advice process, digital advice providers can serve a broader audience, including those who may not have the resources to afford traditional advice services.

<sup>45</sup> KPMG, Cost profile of Australia’s financial advice industry, 31 August 2021, pp.25, 47.

<sup>46</sup> Note: No definite data for 2016 and 2020, ASIC only provided an approximation; Source: Australian Securities & Investments Commission Annual Reports (asic.gov.au); CoreData

<sup>47</sup> Ben Neilson, Investigating the impact financial content structure has on consumer appreciation: An empirical study of Australian statement of advice documents Cost Profile of Australia’s Financial Advice Industry, *The Journal of Finance and Data Science*, vol.9, 2023, p.2.

The uptake of digital advice is already observable, with a trend of superannuation funds and financial institutions offering access to digital advice tools to their members (usually for a subscription fee).<sup>48</sup> By offering these tools to people at scale, superannuation funds are helping bridge the advice gap, especially for younger Australians or those with lower financial complexity who may not have previously considered seeking professional advice.

Moreover, digital advice solutions are evolving to incorporate hybrid models that combine technology with human interaction, ensuring more personalised and nuanced guidance when necessary.<sup>49</sup> This hybrid approach allows clients to engage with advisers for more complex issues while benefiting from the efficiency and accessibility of digital solutions for day-to-day financial decisions. As technology continues to improve and regulatory frameworks adapt, the potential for digital advice to fill the advice gap will only grow, providing more Australians with the tools and guidance they need to achieve their financial goals.

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<sup>48</sup> Investor Daily Team, Super funds ramp up investment in digital as demand for guidance grows, Investor Daily, 6 January 2025, <https://www.investordaily.com.au/superannuation/56349-super-funds-ramp-up-investment-in-digital-as-demand-for-guidance-grows>.

<sup>49</sup> Simon Kucher, How to successfully build and launch a winning investment hybrid advice proposition, 19 September 2024, <https://www.simon-kucher.com/en/insights/how-successfully-build-and-launch-winning-investment-hybrid-advice-proposition#:~:text=The%20hybrid%20advice%20model%20is,financial%20advice%20to%20their%20customers>.

## Appendix B - History of the regulation of financial advice

The Australian financial advice industry has evolved significantly over the past decade, driven by an iterative cycle of reforms aimed at addressing consumer protection, professional standards, and accessibility of advice. While each reform sought to rectify specific shortcomings, the cumulative impact has increased regulatory complexity and costs, contributing to adviser attrition and unmet demand for advice. However, recent developments, such as the government-commissioned Quality of Advice Review (2022) and the resulting DBFO Package (2023-present), signal a shift towards simplifying the regulatory landscape and improving Australians' access to financial advice.

### The Wallis Inquiry and the Financial Services Reform Act (1997-2002)

The 1997 Inquiry into the Financial System, commonly known as the Wallis Inquiry, laid the foundation for the *Financial Services Reform Act 2001* (FSR).<sup>50</sup> This legislation introduced the Australian Financial Services Licence (AFSL), establishing a single licensing regime for all financial services businesses. This regime covers activities such as providing advice, dealing in products, and operating managed investment schemes.<sup>51</sup> Prior to this reform, financial system regulation was piecemeal and varied, and was determined by the specific industry or the product being provided. Industry perceived this approach as inefficient, creating opportunities for regulatory arbitrage, and in some cases resulting in regulatory overlap and confusion.<sup>52</sup>

The AFSL regime came into effect in March 2002 and transitional provisions were in place until March 2004.<sup>53</sup> For financial advice businesses, this meant:

- Any person providing or dealing in financial advice must hold an AFSL; or
- If they do not hold an AFSL, they must be authorised to act as a representative of an AFSL holder.

### Responses to Financial Crises and Scandals (2008-2017)

#### The Future of Financial Advice Reforms (2012)

The 2008 Global Financial Crisis (GFC) and the 2009 *Ripoll Inquiry* underscored the need for sweeping changes in the financial advice sector. In response, the Future of Financial Advice (FOFA) reforms were introduced in 2012, aiming to protect consumers and restore trust in the industry.<sup>54</sup> Key measures included:

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<sup>50</sup> Parliament of the Commonwealth of Australia, *Report on the Regulations and ASIC Policy Statements made under the Financial Services Reform Act*, 'Chapter 2: Overview of the Act, regulations and ASIC policy statements', October 2002, pp.3-10.

<sup>51</sup> Cindy Davies, Samuel Walpole and Gail Pearson, 'Australia's Licensing Regimes for Financial Services, Credit and Superannuation: Three Tracks toward the Twin Peaks,' *Company and Securities Law Journal*, June 2021, vol.38, no.5, p.340.

<sup>52</sup> The Parliament of the Commonwealth of Australia, *Financial Services Reform Bill 2001: Explanatory Memorandum*, 2002, p.1.

<sup>53</sup> Treasury, 2. Universal Licensing Regime, October 2002, <https://treasury.gov.au/publication/options-for-improving-the-safety-of-superannuation-report-of-the-superannuation-working-group/2-universal-licensing-regime>

<sup>54</sup> ASIC, Future of Financial Advice (FOFA) reforms, 2024, <https://asic.gov.au/regulatory-resources/financial-services/regulatory-reforms/future-of-financial-advice-fofa-reforms/>

- Bans on conflicted remuneration structures, such as commissions.
- The introduction of a best interests duty for personal advice.
- Enhanced disclosure requirements, including providing clients with Product Disclosure Statements (PDS), Financial Services Guides (FSG), and Statements of Advice (SOA).<sup>55</sup>

### **Future of Financial Advice Reform Amendments (2014)**

The 2014 amendments to the FOFA reforms sought to adjust the original 2012 FOFA provisions to address industry concerns about compliance costs and regulatory burdens. Key changes included the removal of the mandatory opt-in requirement, which previously required financial advisers to renew client agreements every two years, and a reduction in the scope of the best interests duty to clarify that advisers were not required to consider all possible financial strategies. Additionally, the amendments reinstated commissions for certain general advice under limited circumstances, though these were later repealed.<sup>56</sup>

### **ASIC Reports and Life Insurance Reforms (2014-2017)**

In 2014 when FOFA had been operating for two years, *ASIC Report 413* revealed poor practices in retail life insurance advice, including high-pressure sales and inappropriate product recommendations.<sup>57</sup> *ASIC Report 499* (2016) further highlighted issues of advisers charging fees for no service.<sup>58</sup>

These findings were the impetus for the *2017 Life Insurance Remuneration Reforms*, where legislation and regulation aimed to address conflicts of interest by capping upfront commissions and introducing a two-year clawback period to deter poor advice practices.<sup>59</sup>

### **Establishment of the ASIC Financial Adviser Register (2015)**

The ASIC Financial Adviser Register was created in 2015 to address concerns about transparency and accountability in the financial advice sector.<sup>60</sup> It enabled consumers to verify the credentials and track records of financial advisers, ensuring they were properly licensed and qualified.

### **Professional Standards Reforms (2017)**

The professional standards reforms were introduced in 2017 and fully implemented by 2019 to uplift standards in the industry. These reforms included:

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<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> ASIC, Report 413: Review of retail life insurance advice, October 2014, p.40

<sup>58</sup> ASIC, REP 499 Financial advice: Fees for no service, 27 October 2016, <https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-499-financial-advice-fees-for-no-service/>

<sup>59</sup> ASIC, ASIC releases instrument setting the commission caps and clawback amounts as part of the life insurance advice reforms, 5 June 2017, [https://asic.gov.au/about-asic/news-centre/find-a-media-release/2017-releases/17-168mr-asic-releases-instrument-setting-the-commission-caps-and-clawback-amounts-as-part-of-the-life-insurance-advice-reforms/#:~:text=The%20Corporations%20Amendment%20\(Life%20Insurance%20Remuneration%20Arrangements\)%20Act%202017%20\(.relation%20to%20certain%20life%20insurance](https://asic.gov.au/about-asic/news-centre/find-a-media-release/2017-releases/17-168mr-asic-releases-instrument-setting-the-commission-caps-and-clawback-amounts-as-part-of-the-life-insurance-advice-reforms/#:~:text=The%20Corporations%20Amendment%20(Life%20Insurance%20Remuneration%20Arrangements)%20Act%202017%20(.relation%20to%20certain%20life%20insurance)

<sup>60</sup> Jim Stackpool, The new, old financial planner register, *The Australian Financial Review*, 27 May 2015.

- Lifting qualification standards for advisers, including the requirement to pass a professional exam
- Introduction of a professional year
- Mandating continued professional development (CPD).
- Holding AFS licensees responsible to ensure their advisers met these standards.<sup>61</sup>

These measures accelerated the professionalisation of industry but also contributed to adviser attrition due to the compliance burden.

### **Oversight by the Financial Services and Credit Panel (FSCP) (2022)**

In 2022, regulatory oversight was strengthened with the establishment of the Financial Services and Credit Panel (FSCP). Operating alongside ASIC, the FSCP is convened to address suspected misconduct by financial advisers. Its powers include:

- Directing advisers to undertake additional training.
- Suspending or prohibiting adviser registration.
- Issuing infringement notices.
- Commencing civil penalty proceedings.
- Accepting enforceable undertakings.<sup>62</sup>

### **Major Reviews and Legislative Developments (2017-2024)**

#### **Ramsay Review (2017)**

The Ramsay Review examined the financial system's external dispute resolution and complaints frameworks. The central recommendations of the review, which were later implemented by legislation, included:

- The establishment of a single external dispute resolution (EDR) body for financial services and superannuation complaints, to be known as the Australian Financial Complaints Authority (AFCA).
- Reforms to improve the transparency and accountability of financial services firms' responses to consumer complaints and their approach to internal dispute resolution (IDR).<sup>63</sup>

The Ramsay Review also made a recommendation around the need for a limited and carefully targeted compensation scheme of last resort, which was legislated in 2023 and came into effect in 2024.<sup>64</sup>

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<sup>61</sup> ASIC, Professional standards for financial advisers: Timeline for the reforms, November 2024, <https://asic.gov.au/regulatory-resources/financial-services/financial-advice/professional-standards-for-financial-advisers/timeline-for-the-reforms/>

<sup>62</sup> Australian Securities and Investment Commission, Financial Services and Credit Panel (FSCP), November 2023, <https://asic.gov.au/regulatory-resources/financial-services/financial-advice/financial-services-and-credit-panel-fscp/>

<sup>63</sup> Australian Securities and Investment Commission, Corporate regulation in Australia: The legacy of Ian Ramsay, March 2022, [https://asic.gov.au/about-asic/news-centre/speeches/corporate-regulation-in-australia-the-legacy-of-ian-ramsay/#:~:text=The%20central%20recommendations%20of%20what,Complaints%20Authority%20\(AFCA\)%2C%20and](https://asic.gov.au/about-asic/news-centre/speeches/corporate-regulation-in-australia-the-legacy-of-ian-ramsay/#:~:text=The%20central%20recommendations%20of%20what,Complaints%20Authority%20(AFCA)%2C%20and)

<sup>64</sup> Compensation Scheme of Last Resort, How we're funded, 2025, <https://cslr.org.au/for-industry/how-were-funded>

## **Royal Commission into Misconduct in the Banking, Superannuation, and Financial Services Industry (2019)**

The Royal Commission uncovered misconduct across the financial services sector, revealing systemic failures in compliance with existing laws, conflicts of interest that harmed consumers, and the ineffectiveness of dispute resolution mechanisms. These issues highlighted the need for reform to restore trust in the industry.

Legislative outcomes implemented between 2019 and 2023 included:

- Expansion of the ASIC breach reporting regime.
- The introduction of unfair contract terms for insurance.
- Deferred sales model for add-on insurance.
- A more stringent anti-hawking regime.
- Prohibition against superannuation trustees having fiduciary duties to other persons.
- New roles for ASIC to regulate the superannuation sector from a conduct perspective and insurance claims handling.<sup>65</sup>

## **Quality of Advice Review (2022)**

Following regulatory updates from FOFA and the Royal Commission, the cost to comply increased and the supply of financial advisers diminished, rendering financial advice unaffordable and inaccessible for many Australians. In response, the Quality of Advice Review (QAR), led by Michelle Levy, aimed to enhance the accessibility and affordability of financial advice for retail clients. Key recommendations included:

- Simplifying disclosure requirements to focus on consumer outcomes rather than compliance.
- Introducing a “good advice” standard to replace the best interests duty.
- Allowing non-relevant providers, such as product issuers, to provide personal advice under certain conditions.
- Reducing regulatory burdens to lower the cost of advice delivery.<sup>66</sup>

The government adopted several of the recommendations from QAR in their Delivering Better Financial Outcomes Package.

## **Delivering Better Financial Outcomes Package (2023-present)**

The DBFO package is the Government’s response to recommendations of the QAR. Tranche 1 of the legislation implemented the following reforms:

- Clarification around paying financial advice fees from a superannuation account
- Simplification of ongoing fee consent documentation.
- Flexibility around the provision of financial services guides

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<sup>65</sup> Commonwealth of Australia, Final Report: Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Volume 1, 2019.

<sup>66</sup> Australian Government, Quality of Advice Review: Final Report, December 2022, pp.5-12.

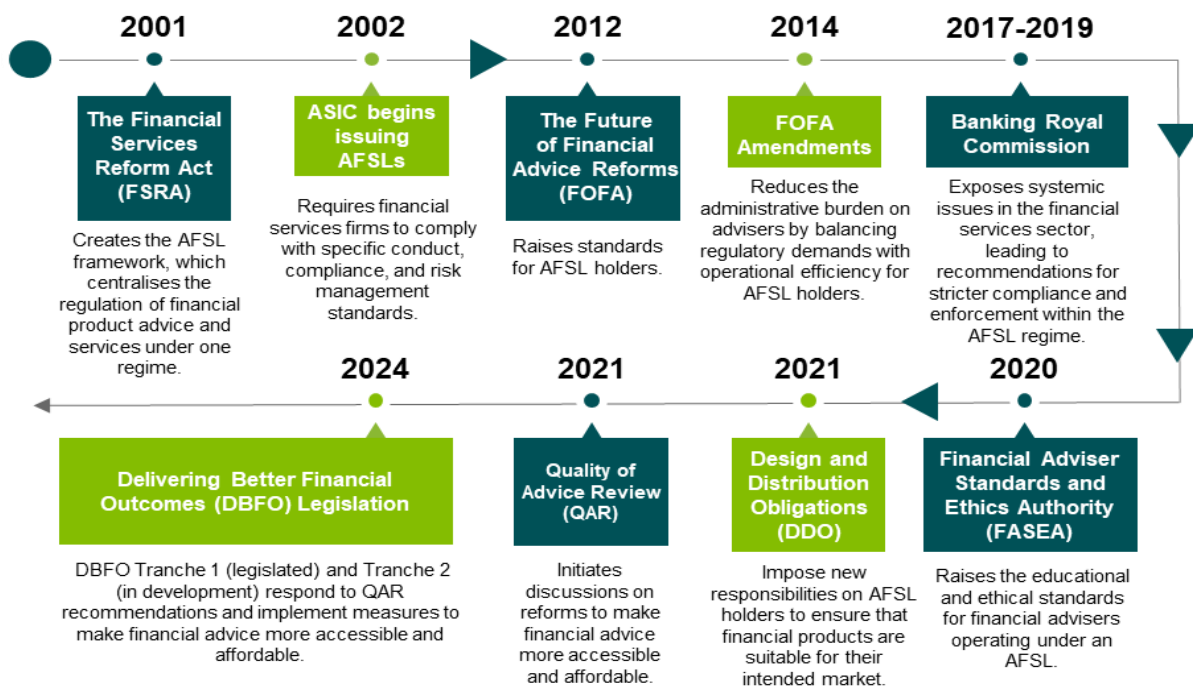
- Introduction of written consent requirements for insurance commissions.<sup>67</sup>

Planned reforms in Tranche 2 (expected in 2025) include:

- A new class of adviser to provide safe and simple advice to more Australians.
- A modernised best interests duty.
- The removal of the safe harbour steps associated with the best interests duty.
- Replacement of Statements of Advice with an Client Advice Record.
- Clarification of the rules on what advice topics can be paid for through superannuation, including through collectively charged arrangements.
- Allowing superannuation funds to provide helpful targeted prompts to drive greater member engagement at key life stages.<sup>68</sup>

A brief visual summary of the effects of some of the key milestones in financial advice regulation can be found in **Figure 15**.

**Figure 15 | Key milestones in financial advice regulation**



<sup>67</sup> The Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, Cutting Red Tape from financial advice, 14 November 2023, <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/cutting-red-tape-financial-advice>.

<sup>68</sup> The Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services, Ensuring Australians can access safe, quality and affordable financial advice, 4 December 2024, <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/ensuring-australians-can-access-safe-quality-and>