Economic Reform Roundtable

FSC Submission to Treasury consultation

July 2025

FINANCIAL SERVICES COUNCIL

Contents

1 About the Financial Services Council 3

2 Introduction 4

3 Recommendations 7

4 Reform proposals 10

4.1 Undertake a holistic and strategic review of tax policy settings 10

4.2 Offer a consistent approach to tax and regulation in superannuation 10

4.3 Allow for rationalisation of legacy investment products 11

4.4 Promote Australia as a regional and global financial centre 11

4.5 Remove barriers for global asset managers 14

4.6 Certainty and neutrality in tax rules for infrastructure 14

4.7 Empowering superannuation funds to invest 15

4.8 Attract more successful entrepreneurs to Australia 15

4.9 Increase access to quality, affordable financial advice 16

4.10 Restore reduced input tax credits on advice fees 16

5 Regulatory and streamlining measures 17

5.1 Recalibrate approach to regulation 17

5.2 Reduce uncertainty with Design and Distribution Obligations compliance 17

5.3 Remove duplication in the reporting framework 17

5.4 Promote competition in the superannuation market 18

5.5 Implement a sustainable finance product labelling framework 19

5.6 Resolve technical climate-related financial disclosures issues 19

5.7 Reform education requirements for financial advisers 20

5.8 Streamline advice fee consent arrangements 20

5.9 Simplify the Breach Reporting (Reportable Situations) Framework 21

1 About the Financial Services Council

The FSC is a peak body which sets mandatory standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services.

Our full members represent Australia's retail and wholesale funds management businesses, superannuation funds, investment platforms and financial advice licensees. Our supporting members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses.

The financial services industry is responsible for investing more than $3 trillion on behalf of over 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange, and is one of the largest pool of managed funds in the world.

The FSC's mission is to assist our members achieve the following outcomes for Australians:

- to increase their financial security and wellbeing;
- to protect their livelihoods;
- to provide them with a comfortable retirement;
- to champion integrity, ethics and social responsibility in financial services; and
- to advocate for financial literacy and inclusion.

2 Introduction

The FSC thanks Treasury for the opportunity to provide a submission to the Treasurer's Economic Reform Roundtable process. We support this initiative and its aim of developing consensus around future reforms to improve Australia's productivity and fiscal position for the future.

Prior to the federal election, the FSC recommended a number of priority areas for reform to support economic growth and resilience across the Australian economy. These complementary policy goals are aligned with the objectives of the Roundtable consultation and will have beneficial effects by improving efficiency and competitiveness:

1. Promote investment and economic growth
2. Make Australia's tax system more efficient
3. Reduce and streamline regulation

In support of these reform priorities, the FSC has a range of specific policy proposals that are practical and support the national interest by improving capital allocation and attracting investment to Australia that can be channelled towards national priority areas. While focused on the financial services sector, these reforms will produce substantial improvements beyond any individual sector, supporting and attracting investment to enable private sector funding for key priorities such as housing and the net zero transition.

Tax reform is essential for economic success

The FSC is supportive of the Treasurer's recent call for tax reform to be considered during the Roundtable process, and the Government's recognition of this as a crucial element in promoting productivity and the sustainability of Australia's budget position.[1]

We view holistic and strategic tax reform as an important part of the agenda to promote productivity and economic growth. Tax reform has the capacity to re-invigorate growth in the Australian economy, and getting the settings right now will establish the groundwork for future competitiveness and prosperity. The review should be evidence-based and leave all options on the table, including addressing overreliance on corporate and personal income taxes and exploring the appropriate rate of GST.

We also support consideration of superannuation taxes as part of this comprehensive review of tax policy, to ensure we have the right long-term settings in place for the future equity and sustainability of the system. Current proposals for new superannuation taxes should be put on hold and subject to a broader tax reform review. This includes looking at fairer alternatives to current settings as part of a holistic assessment of how taxation settings work towards achieving key economic and social objectives. Making any necessary changes now will minimise the need for constant tinkering with settings in future, providing greater certainty to superannuation trustees and fund members on their expectations in retirement.

Considering the relative efficiency and distribution of taxes is also essential to ensure that the policy framework incentivises and promotes growth, innovation and increased productivity across the economy. Improving the structural position of the budget for long-term sustainable fiscal outcomes also requires the overall level of government expenditure to be appropriate for achieving policy objectives while minimising the total burden of taxation on economic activity.

Productivity opportunities in financial services

The financial services sector is one of Australia's key comparative advantages, one that could be utilised more effectively to drive economic growth and productivity across the economy. In the current climate of global economic uncertainty and shifting geopolitical conditions, Australia is well placed to

[1] Treasurer, Address to the National Press Club, Canberra, 18 June 2025.

offer a stable and reliable environment for global investment and to provide highly-skilled funds management expertise.

The Treasurer has recognised the important link between productivity and investment, and that achieving productivity gains across the economy while maintaining budget sustainability will require a substantial amount of capital from the private sector, including from overseas investors. An important component to enhancing productivity in our economy is by attracting investment to Australia, for which improving our international competitiveness as a destination for capital by reducing barriers to investment is essential.

The significant potential for Australia to grow its role as a regional and global financial services centre has been long recognised and has been a bipartisan aspiration, but reform is required to achieve this potential. Despite the opportunity offered by our sophisticated investment sector and globally competitive management fees, we have remained behind our international peers. Australia only exports 6.5% of funds under management, compared to countries such as Singapore, who export 78% of funds under management.[2] This shortfall is an indication that policy and regulatory reform can have substantial benefits, which will flow through to drive improvements in productivity and competitiveness across the Australian economy if realised.

A globally competitive financial services sector will also offer new opportunities to attract and mobilise the capital required to achieve private-sector investment in national policy priorities, such as housing, infrastructure and the net zero transition.

Proposals for reform

The FSC has identified a number of specific policy reform proposals to improve productivity in both the financial services sector and across the broader Australian economy. These are specific and implementable policies to boost productivity with outcomes that are consistent with a sustainable fiscal position.

We have conducted modelling to determine the economic impact of our proposals. Using conservative assumptions, a high-level analysis found that adopting 12 priority reforms directly relating to the financial services sector, which are included among the recommendations outlined in this submission, would lead to:

- a boost in GDP of an additional $19 billion;
- almost $2 billion a year in increased export revenue from financial services; and
- a combined boost in productivity of $800 million annually as a result of reducing costs, lowering fees and increasing returns to consumers.

Benefits would be realised by considering holistic and evidence-based tax reform, implementing a proactive agenda to support Australia's international competitiveness as an investment destination, and reducing the regulatory burden to promote efficiency.

Opportunities to streamline current law and regulation

The FSC has also conducted analysis to identify areas where the current law results in substantial inefficiencies or where regulation produces high compliance costs despite providing minimal benefit to consumers. Some key themes identified by our members include the need for greater clarity on the expectations of regulators, minimising regulatory duplication, removing unnecessary reporting obligations, and ensuring the cost of regulation is not unnecessarily burdensome or produces opportunity costs that disincentivise investment and growth.

[2] KPMG, State of the Funds Management Industry Research Report, p. 6.

FSC FINANCIAL SERVICES COUNCIL

We believe that implementing these proposals to streamline existing legal and regulatory frameworks will lead to greater certainty and clarity for investors, as well as meaningful productivity gains from sensible and practical reductions in the burden from compliance. Reform in these areas will attract investment to Australia and improve the structural position of the budget by promoting growth and generating increased revenue from economic activity.

We look forward to working with Treasury on these proposals and are available to provide additional information or clarification in support of any of the proposals outlined below on request. If you would like to discuss further, please contact James Young (Policy Manager, Funds Management and Taxation) at jyoung@fsc.org.au.

Sincerely,

Chaneg Torres
Executive Director of Policy

3 Recommendations

Reform proposals

Undertake a holistic and strategic review of tax policy settings

Recommendation 1: The Government should conduct a holistic, evidence-based review of the design of the current tax system, to consider the most effective tax policy settings to support economic growth and long-term prosperity, while ensuring a stable and equitable revenue base.

Offer a consistent approach to tax and regulation in superannuation

Recommendation 2: Consider superannuation tax policy in a comprehensive review of the tax system, with a view to stable and consistent policy settings in the long-term.

Allow for rationalisation of legacy investment products

Recommendation 3: Introduce a product modernisation mechanism that provides CGT rollover relief and ensures the continuation of social benefit entitlements. This would enable the closure of legacy products and facilitate the movement of consumers into more modern, higher-performing, and lower-cost products.

Promote Australia as a regional and global financial centre

Recommendation 4: Implement low complexity and revenue-neutral measures to improve competitiveness as a priority, including:

- Modify rules for start-up funds to qualify as a managed investment trust by extending the existing qualification timeframe to five years;
- Improve rules for tax treatment of foreign exchange hedging;
- Introduce a rollover regime for the Corporate Collective Investment Vehicle; and
- Simplify withholding tax arrangements, including applying a single 5 per cent rate for all payments by Asia Region Funds Passport funds.

Remove barriers for global asset managers to invest in Australia

Recommendation 5: At present, regulatory barriers create unnecessary obstacles to global fund managers who set up operations in Australia, and invest on behalf of Australians, which has adverse impacts on the Australian economy.

- The Government should provide a level playing field for Australian domiciled global funds under the FIRB regime by exempting trusted investors who are fiduciaries for Australians' savings.
- The Government should reverse the decision to double fees on FIRB applications for low-risk investors to prevent the further stifling of investment.

Certainty and neutrality in tax rules for infrastructure

Recommendation 6:

- Maintain competitive neutrality for foreign and domestic institutional investors and long-term certainty of tax treatment as key principles in the taxation of infrastructure investment.
- The proposal to expand the taxable base of assets for foreign resident capital gains tax should not be adopted. Instead, greater alignment with OECD Model Tax Convention definitions should be sought, supported by domestic guidance.

Empowering superannuation funds to invest

Recommendation 7: For superannuation funds, unlocking funds for investment on areas of national significance involves ensuring that investments are optional, and returns are optimal to protect balances at retirement. Introducing a CPI+X% benchmark for asset classes that typically have large tracking errors can help with this.

Attract more successful entrepreneurs to Australia

Recommendation 8: Include an investor stream within the new National Innovation Visa to attract proven innovators and investors to Australia.

Increase access to quality, affordable financial advice

Recommendation 9: Finalise implementation of the response to the Quality of Advice Review to grow jobs in the financial advice sector and make it easier for Australians to access affordable financial advice. Reforms should also consider the role of digital advice solutions to enhance efficiency, lower cost, and complement the provision of person-to-person advice.

Restore reduced input tax credits on advice fees

Recommendation 10: The Government should amend legislation to restore reduced input tax credits for superannuation funds and platforms on GST paid for financial advice. This will allow funds to pass on the benefit to consumers, contributing to making advice more affordable and accessible.

Regulatory and streamlining measures

Recalibrate approach to regulation

Recommendation 11: Implement a balanced scorecard for assessing regulator performance, based on broader metrics that shift the focus from enforcement and litigation to collaboration and supervision.

Reduce uncertainty with Design and Distribution Obligations

Recommendation 12: Government should consult with industry on technical changes to the law to address compliance challenges, reduce uncertainty, cut unnecessary red tape and reduce the regulatory burden to ensure greater product choice for consumers is not being inadvertently reduced.

Remove duplication in the reporting framework

Recommendation 13: ASIC should work closely with APRA to identify and eliminate areas of duplicative reporting by superannuation trustees, with a view to enabling trustees to provide relevant data once and have it shared between regulators where permitted.

Promote competition in the superannuation market

Recommendation 14: Government policy should promote consumer choice and competition in the superannuation and retirement income market. As part of the ongoing review of the Your Future, Your Super performance test and the ongoing consultation into retirement phase policy, proposals should recognise the different types of superannuation products and the role of personal financial advice in delivering good outcomes for customers:

- Avoid inappropriate expansion of the Your Future, Your Super performance test.
- Ensure appropriate application of superannuation policy to choice products and superannuation platforms, where consumers make active decisions, often with the help of financial advice, that distinguishes them from default products.
- Ensure the preservation of competition and choice for consumers in retirement products to support the growth of innovative retirement income solutions.

- Recognise that consumers who are more engaged and make tailored decisions about their retirement are likely to have better outcomes in retirement than those that are disengaged or without guidance and advice.

Implement a sustainable finance product labelling framework

Recommendation 15: Legislate a product labelling framework for sustainable and responsible investments that recognises a broad range of legitimate strategies and methodologies and enables investor choice. The approach should account for a spectrum of strategies and objectives, recognise revenue and screening thresholds, and be interoperable with other global frameworks.

Resolve technical climate-related financial disclosures issues

Recommendation 16: Work with industry to resolve outstanding regulatory ambiguities and in the meantime take a pragmatic, facilitative approach to enforcement of the new requirements.

Reform education requirements for financial advisers

Recommendation 17:

- Increase the pool of relevant providers by updating the education standard and introducing core knowledge areas for new entrants and three additional elective knowledge areas. The core areas should represent essential knowledge for financial advisers such as: commercial law, taxation, financial advice regulatory and legal obligations, ethics and professionalism and behavioural finance. This proposal would ultimately support stockbrokers and accountants pursuing a career change to meet the education standards.
- Consider the development of appropriate pathways for the proposed new class of adviser to become relevant providers over time.

Streamline advice fee consent arrangements

Recommendation 18: Treasury should include a legislative change to fee consent arrangements through a technical amendment Bill or as part of the DBFO Tranche 2 changes.

Simplify the Breach Reporting (Reportable Situations) Framework

Recommendation 19: Minor breaches which do not result in financial loss or damage to the consumer should largely be exempted from the breach reporting regime.

4 Reform proposals

4.1 Undertake a holistic and strategic review of tax policy settings

As flagged by the Treasurer, implementing effective tax policy settings to support growth and innovation within the economy is essential to driving improvements in productivity. The Government should work with stakeholders to review the current tax system from a holistic and evidence-based perspective. Current proposals for new superannuation taxes should be put on hold and subject to a broader tax reform review.

The aim of this comprehensive review should be to implement tax policy settings that support enhanced productivity, competitiveness, and long-term prosperity while maintaining a stable and equitable revenue base. Important considerations include the appropriateness of the overall tax burden and levels of government spending, as well as examining the relative efficiency and distribution of taxes.

The review should examine Australia's overreliance on direct taxes, including an internationally uncompetitive company tax rate and increasingly onerous personal income taxes, along with opportunities to remove inefficient state taxes.

The FSC recommends the following key principles as objectives the review:

- Lowering corporate tax rates to make Australia internationally competitive;
- Rebalancing the composition of tax as part of a holistic reform package that includes eliminating inefficient state taxes and considering appropriate consumption tax rates;
- Improving Australia's competitiveness as a global financial centre; and
- Ensuring fairness and certainty in superannuation tax settings.

Recommendation 1: The Government should conduct a holistic, evidence-based review of the design of the current tax system, to consider the most effective tax policy settings to support economic growth and long-term prosperity, while ensuring a stable and equitable revenue base.

4.2 Offer a consistent approach to tax and regulation in superannuation

Given the long-term nature of superannuation as a vehicle to support Australians in retirement, it is essential that superannuation tax settings are addressed as part of any comprehensive review of the tax system. Australians deserve clear, consistent, and stable policy settings that provide certainty about how superannuation contributions and earnings will be treated over time.

As part of this process, the Government should commit to establishing a durable tax framework for superannuation, that supports the core objective of the system: "…to deliver income for a dignified retirement…", Once settings are settled through a rigorous and inclusive review, they should be maintained with stability over the long term.

Superannuation tax changes must not continue as ad hoc or piecemeal measures, such as the layering of new taxes in recent years. Instead, they should form part of a holistic reform process grounded in three core principles:

- Revenue sustainability – tax settings must contribute fairly and reliably to the broader tax base;
- Equity – concessions should be distributed fairly, without disproportionately benefiting higher-income earners or those with larger balances; and
- Efficiency – tax arrangements should minimise economic distortions, support long-term savings behaviour, and avoid unnecessary administrative complexity or compliance costs.

Superannuation is too important to be treated as an afterthought in the reform process. Including it in the Government's broader economic reform agenda is critical to maintaining trust and delivering better outcomes for all Australians.

Recommendation 2: Consider superannuation tax policy in a comprehensive review of the tax system, with a view to stable and consistent policy settings in the long-term.

4.3 Allow for rationalisation of legacy investment products

Superannuation funds and fund managers face significant barriers when transitioning consumers from legacy investment products to more modern, efficient alternatives. These barriers primarily stem from tax implications, particularly capital gains tax, which is triggered when consumers move out of older products. Additionally, transitioning may affect social benefit entitlements, further discouraging consumers from switching to better-performing products. As a result, consumers remain 'locked ' in higher-cost, lower-performing products.

Consumers would benefit significantly from the introduction of a product modernisation regime that provides rollover relief from capital gains tax and mitigates consequences for social benefits. This would enable the closure of legacy products and facilitate consumers moving into higher-performing and lower-cost modern products.

By 2050, this proposal is projected to deliver an additional $16 billion to consumers' retirement savings, increasing collective retirement incomes by $22 billion.[3] The reform would also result in benefits to budget sustainability, including increased tax revenue to government from higher net investment returns and a reduction in social benefit payments.

Recommendation 3: Introduce a product modernisation mechanism that provides CGT rollover relief and ensures the continuation of social benefit entitlements. This would enable the closure of legacy products and facilitate the movement of consumers into more modern, higher-performing, and lower-cost products.

4.4 Promote Australia as a regional and global financial centre

There are significant opportunities from improving Australia's attractiveness and competitiveness as a global financial centre by removing barriers to exporting our financial services expertise. Priority should be given to implementing these revenue-neutral measures to improve competitiveness, including:

- Extending the period for start-up funds to qualify as a managed investment trust to five years;
- Improving tax rules for foreign exchange hedging;
- Introduce a rollover regime for the Corporate Collective Investment Vehicle; and
- Simplifying withholding tax rules, including for Asia Region Funds Passport funds.

Substantial benefits can be realised by implementing these complementary policy proposals, which are individually beneficial but would also provide cumulative benefits as a package of low-complexity measures that would make the Australian investment environment more attractive to foreign investors. The individual elements of the suite of policies to achieve this are outlined below.

Extend MIT qualification timeframe for start-up funds

The current start-up treatment in subsection 275-10(6) of the *Income Tax Assessment Act 1997* allows a period of up to 24 months for a startup fund to obtain the necessary unitholders to satisfy the widely held and not closely held requirements to qualify as a managed investment trust (MIT). The purpose is

[3] EY, Product Modernisation Research Report, p. 6.

to provide certainty to new funds on the tax treatment of assets, even though they may not yet have the required number of unitholders required to qualify.

In practice, it can take five to six years for a new fund to become established. Failure to qualify is a material risk, making it more difficult to attract early investors and harder for new funds to meet the requirements as a result.

If the fund manager's best efforts to market the fund to new investors are unsuccessful in attracting a sufficiently broad investor base, the fund either reverts to revenue account or is forced to close due to uncertainty in its tax treatment. Both scenarios punish investors, as the fund cannot rely on the deemed capital account election available to MITs.

In order to better target the measure and protect government revenue, access to the program should require stricter safeguards to prevent misuse. More stringent active marketing requirements should have to be met, ensuring the benefits go to funds that genuinely intend to qualify as a MIT in future.

Recommendation 4.1: Modify rules for start-up funds to qualify as a managed investment trust by extending the existing qualification timeframe to five years. To protect revenue integrity, this should be balanced with stricter additional active marketing requirements to ensure that only funds intending to qualify will benefit from tax concessions.

Taxation of Financial Arrangements (TOFA) and Foreign Exchange Hedging

Rules on foreign exchange hedging should improve the tax treatment of transactions, including by ensuring that tax results reflect the balance of gains and losses on the hedge and relevant underlying asset. Reform should allow for portfolio hedging that recognises a broader range of allocation methods and instruments.

Current rules are difficult to access and do not always operate correctly in practice. For example, where gains on the underlying asset are not offset by losses on the hedging instrument, investors may face taxes on non-existent gains. The result is a disincentive to diversify portfolio holdings by investing overseas, or excessive taxes eroding investment returns for fund members.

The legislation could contain the following three recommended alternative methods of recognition, from which a taxpayer must make an irrevocable election:

- Allocation: allocates hedging instruments across lines of securities in the portfolio at the time the hedging instrument is acquired, and progressively recognises the gain or loss as securities are disposed of from the portfolio;
- Turnover: the manager establishes a rate of turnover of the hedged assets, which would be used to recognise the realised hedging gains and losses; and
- Default: the realised hedging gains and losses for a given year are distributed, with 20% recognised in the year of realisation and 20% in each of the following four years on a straight-line basis.

The making of a hedging financial arrangement election should be sufficient to ensure that the hedging gains or losses are of the same character as the underlying assets.

A commitment to rectify issues with foreign exchange hedging has been deferred over many years by successive governments, most recently in the October 2022 Budget. Implementing these changes should be prioritised by the Government.

Recommendation 4.2: Prioritise the implementation of the long-overdue reforms to the tax rules relating to foreign exchange hedging. This will provide easier access to existing hedging rules, better

timing matching of hedges with underlying investments, and ensuring gains and losses are of the same tax type or character.

CCIV rollover relief

Since the introduction of the Corporate Collective Investment Vehicle (CCIV) regime, there has been very limited adoption of the new structure. This is the result of implementation issues, including the lack of a transition regime to convert existing funds into CCIVs.

Without rollover relief, fund managers are unable able to transition existing AMITs into the CCIV due to the tax liabilities triggered on transfer. As a result, only new products can be considered for the structure, which may not be justifiable in practice due to duplication, compliance and administration costs.

In addition, the Government should conduct an implementation review into the CCIV framework to identify other improvements to make the framework more attractive and provide similar or better tax outcomes to existing funds. These include:

- Allowing a CCIV sub-fund to use the attribution taxation rules instead of being deemed a trust;
- Ensure tax characteristics and reporting requirements are consistent if a CCIV sub-fund fails the widely held test by continuing to apply the AMIT regime. Deemed capital gains tax status should not be available if the widely held criteria are not met.
- Consistent with rules for similar structures in other jurisdictions, the main tax eligibility tests should not be applicable to CCIV sub-funds that invest predominantly in non-Australian assets (above a de minimis amount).

Recommendation 4.3:

- Rules should be introduced that facilitate the transition of existing investment structures to the CCIV structure. These should permit entities other than AMITs to convert into CCIVs, allow multiple funds to be rolled over into a single CCIV, and provide relief from relevant state taxes.
- An implementation review should be conducted to identify improvements to encourage uptake of the CCIV framework.

Simplify withholding taxes

The complexity of Australia's withholding tax settings is a key barrier to the export of Australia's funds management expertise, including through the Asia Region Funds Passport (ARFP) initiative. Australia's current tax system is not competitive in the ARFP, particularly due to complex non-resident withholding taxes that disincentivise participation.

Although tax outcomes are similar in Australia compared with other participating jurisdictions, complex rules applying exemptions and special rates mean the tax consequences for foreign investors cannot be explained in a simple and easily understood way. The rules also increase administrative costs and create the impression that investors could be subject to higher rates of tax, although they are unlikely to do so in practice.

A single 5 per cent rate of withholding tax for ARFP funds would overcome these issues with minimal impact on revenue, as they are only permitted to hold simple financial products such as equities and bonds.

In addition, profits from bonds are currently subject to a higher interest withholding tax rate than interest, despite their economic equivalence in reflecting market interest rates. Consistent with many other jurisdictions, posted collateral should be exempt from interest withholding tax, removing a competitive disadvantage in the Australian market.

Recommendation 4.4:

- The current complex non-resident withholding tax settings should be simplified to make the Asia Region Funds Passport more competitive, such as by applying a flat rate of 5 per cent to these funds.
- For interest withholding taxes, profits from bonds should be treated similar to interest due to their economic equivalence and posted collateral should be exempt.

4.5 Remove barriers for global asset managers

To make Australia a more attractive investment destination, it is essential to streamline foreign investment review processes. Obstacles preventing passive investment by trusted global investors should be removed, such as the need for clearance by the Foreign Investment Review Board (FIRB) and the high fees associated with processing applications.

FIRB clearance currently needs to be obtained for most routine, passive investment activities by global funds, with several minor exceptions. These barriers create an unlevel playing field that deters investment in Australia by foreign-owned funds, and are not appropriate where applicants are low-risk or the investments are clearly in the public interest.

The Government's recent reform exempting interfunding arrangements (transactions within a fund or its related entities) from the FIRB clearance process was a welcome improvement. While this initiative is a positive first step, more comprehensive measures are required to resolve barriers to routine passive investing transactions – many of which involve investments being made for Australian investors. Broader reform to exempt trusted investors would encourage greater competition in financial products, giving Australian consumers access to a broader range of investment options.

Recommendation 5: At present, regulatory barriers create unnecessary obstacles to global fund managers who set up operations in Australia, and invest on behalf of Australians, which has adverse impacts on the Australian economy.

- The Government should provide a level playing field for Australian-domiciled global funds under the FIRB regime by exempting trusted investors who are fiduciaries for Australians' savings.
- The Government should reverse the decision to double fees on FIRB applications for low-risk investors to prevent the further stifling of investment.

4.6 Certainty and neutrality in tax rules for infrastructure

Tax policy settings that enable investment are essential to attracting global capital into infrastructure investments to support the net zero transition. Through its Future Made in Australia (FMIA) initiative, the Government aims to create incentives for private capital investment to support the development of new climate infrastructure assets.

A key principle to achieving this outcome is to level the playing field and ensure competitive neutrality by aligning the tax treatment of similar assets by foreign and domestic investors, while providing certainty and stability in the tax and regulatory impacts on the projects in which investments are made.

However, there is potential for the proposal to broaden the application of foreign resident capital gains tax (CGT) definitions to include a greater range of assets to significantly disincentivise future investment, as well as undermine confidence in tax and regulatory certainty through its retrospective application to existing projects.

These changes to the scope of the CGT regime would have a significant impact on the expected tax liabilities and prospective long-term viability of infrastructure for foreign funds considering investing in Australia. Measures related to Taxable Australian Real Property should be consistent with established

definitions in the OECD Model Tax Convention. Consistent with these guidelines, chattels that are not fixed to the land, such as solar panels and batteries, should not be included within the CGT asset base.

Given the importance of making Australia a global leader in renewable energy and attracting investment in major infrastructure projects that support net zero objectives as objectives of FMIA, along with the necessity of attracting foreign capital to finance these developments, there is strong justification for ensuring that these assets remain excluded from the taxable base.

The burden on foreign investment funds should not be increased by creating further differential tax treatment compared to domestic investors. This would create a competitive disadvantage that makes investment less attractive for institutional investors, with the effect of restricting investment in renewable infrastructure.

Recommendation 6:

- Maintain competitive neutrality for foreign and domestic institutional investors and long-term certainty of tax treatment as key principles in the taxation of infrastructure investment.
- The proposal to expand the taxable base of assets for foreign resident CGT should not be adopted. Instead, greater alignment with OECD Model Tax Convention definitions should be sought, supported by domestic guidance.

4.7 Empowering superannuation funds to invest

Superannuation funds should be able to invest in emerging asset classes, which is currently inhibited by the performance test due to tracking error to the prescribed benchmarks. Attracting capital to the priorities could be enhanced through introducing a CPI+X% test for asset classes that typically have large tracking errors. This would allow trustees more flexibility to invest in emerging assets, including in areas of national priority identified under the Future Made in Australia reforms such as the energy transition.

Superannuation funds are open to investment in areas of national significance such as affordable housing and the net zero transition but are necessarily bound by the duty to act in the best financial interests of their customers. Providing opportunities to invest in new areas should always be optional and Government should work with industry to ensure that investments make returns that are optimal for superannuation returns.

Recommendation 7: For superannuation funds, unlocking funds for investment on areas of national significance involves ensuring that investments are optional, and returns are optimal to protect balances at retirement. Introducing a CPI+X% benchmark for asset classes that typically have large tracking errors can help with this.

4.8 Attract more successful entrepreneurs to Australia

The Australian migration program would benefit from a stream to attract people with the skills and capital to successfully invest and innovate in Australia. The Government should consider modifying the National Innovation Visa (NIV) to target successful entrepreneurs and investors with a proven track record of creating and growing wealth would promote start-ups and venture capital markets.

This proposal has the potential to deliver significant benefits for Australia, including nation-building investments in venture capital and start-ups, renewable energy, sustainable finance, healthcare infrastructure, and advanced manufacturing. Analysis suggests the inclusion of an investment stream in the NIV could provide billions in future investments over the next decade, supporting key government priorities while encouraging investment and innovation.

This would be available to a very small number of highly valued applicants, supported by selection criteria focusing on attracting individuals with proven success in investment, innovation and job creation.

Recommendation 8: Include an investor stream within the new National Innovation Visa to attract proven innovators and investors to Australia.

4.9 Increase access to quality, affordable financial advice

Financial advice in Australia remains unaffordable for most Australians, in many cases exceeding $5,000. This is the result of regulatory red tape and costs that do not enhance the customer experience.

Following the Quality of Advice Review, reforms are being progressed which remove unnecessary costs from the advice process, permit new models of advice and make it easier for customers to access simple advice at an appropriate cost.

Recommendation 9: Finalise implementation of the response to the Quality of Advice Review to grow jobs in the financial advice sector and make it easier for Australians to access affordable financial advice. Reforms should also consider the role of digital advice solutions to enhance efficiency, lower cost, and complement the provision of person-to-person advice.

4.10 Restore reduced input tax credits on advice fees

Following guidance released in December 2023, the ATO's current interpretation of the law is that funds and platforms are not eligible to claim reduced input tax credits as they are viewed as not being recipients of the supply of advice for GST purposes. This position is contrary to previous indications, including in private rulings.

The change means funds and platforms cannot continue the long-standing practice of passing the benefit on to consumers, leaving them up to 7.5 per cent worse off.

A legislative amendment should be introduced to clarify that superannuation funds and platforms are considered to be recipients of advice for GST purposes and reaffirm the availability of tax credits for GST on fees paid on behalf of consumers. This could be achieved as part the financial advice reform package or as part of a separate Bill.

Recommendation 10: The Government should amend legislation to restore reduced input tax credits for superannuation funds and platforms on GST paid for financial advice. This will allow funds to pass on the benefit to consumers, contributing to making advice more affordable and accessible.

5 Regulatory and streamlining measures

5.1 Recalibrate approach to regulation

Regulators have often relied on high-profile enforcement action instead of a more collaborative use of supervisory powers. The performance of regulatory agencies should be assessed on a balanced scorecard, using a broader range of metrics than enforcement action. These key metrics should focus on protecting consumers from harm, facilitating industry growth, minimising uncertainty in interpretation and application of the law, and reducing unnecessary regulatory cost.

A lack of regulatory certainty combined with material consequences for entities subjected to enforcement action defers foreign investment by creating an impression of regulatory risk, resulting in substantial foregone value.

Consultation and collaboration should be central to the process for developing and implementing new regulatory strategies, to minimise unintended consequences and manage expectations among the regulated population. Due to its expense and the availability of other regulatory tools, regulatory agencies should use litigation as a last resort after alternative means have been unsuccessful, or only in clear instances of bad faith conduct.

Recommendation 11: Implement a balanced scorecard for assessing regulator performance, based on broader metrics that shift the focus from enforcement and litigation to collaboration and supervision.

5.2 Reduce uncertainty with Design and Distribution Obligations compliance

The DDO has been in operation for over 3 years now, however it presents practical challenges for financial services businesses, due to its broad scope. Some examples include:

- Uncertainties regarding the “reasonable steps” obligations are causing fund managers to withdraw from the retail market, leading to lower choice for unadvised and retail consumers.
- DDO “distribution conditions” are mandatory in ASIC’s view, but this has resulted in practical difficulties for financial services businesses drafting distribution conditions for vanilla products such as exchange traded products (ETFs).
- DDO applies to all forms of “retail product distribution conduct”, when arguably some of these types of conduct (such as merely providing Product Disclosure Statements (PDSs) to retail clients) should not have been captured.
- While DDO does not apply to “excluded conduct”, the definition of excluded conduct is arguably too narrow and acts as an unnecessary cost to the financial advice process.

Recommendation 12: Government should consult with industry on technical changes to the law to address compliance challenges, reduce uncertainty, cut unnecessary red tape and reduce the regulatory burden to ensure greater product choice for consumers is not being inadvertently reduced.

5.3 Remove duplication in the reporting framework

ASIC and APRA have distinct but complementary roles in regulating Australia’s superannuation system. APRA is primarily responsible for prudential regulation, while ASIC oversees conduct and disclosure. While both regulators rely on accurate and timely data from superannuation trustees to fulfil their responsibilities, in practice there are a number of areas where trustees are required to report the same or substantially similar data to both regulators in slightly different formats or through different channels.

FINANCIAL SERVICES COUNCIL

A prominent example is the duplication of financial reporting obligations. Trustees must lodge financial statements with ASIC, while also reporting similar financial information to APRA through *Superannuation Reporting Standard SRS 340.0 RSE Licensee Financial Statements*. This overlap creates inefficiencies, increases compliance costs, and requires additional resourcing within compliance and finance teams to manage divergent reporting expectations, despite there being limited, if any, benefit to consumers or regulators from this duplication.

There is also a risk that future ASIC data collection initiatives may further exacerbate these issues. For example, in ASIC's recent consultation on private markets, some of the proposed new data requirements may significantly overlap with data already collected by APRA under existing reporting standards. Without clear coordination between the agencies, there is a risk of layering new obligations on trustees without due regard to the existing reporting framework.

While transparency and high-quality data are important to support regulatory objectives, these benefits must be balanced against the administrative and compliance costs imposed on industry. ASIC and APRA already have powers under section 55A of the *Australian Prudential Regulation Authority Act 1998* to share information, which should be more actively used to avoid unnecessary duplication.

The FSC also considers that ASIC should, as a matter of practice, consult with APRA prior to implementing any new data collection exercises affecting superannuation trustees, to assess the extent to which the relevant data may already be available through APRA channels.

Recommendation 13: ASIC should work closely with APRA to identify and eliminate areas of duplicative reporting by superannuation trustees, with a view to enabling trustees to provide relevant data once and have it shared between regulators where permitted.

ASIC should also ensure that any proposed new data collections in the superannuation sector are preceded by an internal review of existing APRA reporting obligations and should engage with APRA during the development of such proposals to avoid duplication.

5.4 Promote competition in the superannuation market

As the superannuation system has evolved, regulation has become default centric. While default products play an important role in the system for people who are completely disengaged, regulation has failed to recognise different levels of customer engagement, particularly those who exercise various degrees of choice of superannuation products. Default-centric regulation does not work in contexts with legitimate consumer choice, particularly where a consumer is working with a financial adviser. It can also lead to Australians being discouraged from being engaged with their retirement.

This trend can be seen:

- from proposals to extend the performance test for default products to choice products, default products are distinct in their design to choice products and the existing annual performance test does not adequately represent how choice products work; and
- in the implementation of the Retirement Income Covenant, where regulators have suggested the Trustee should be providing advice to customers about their retirement, which may be inappropriate in circumstances where that customer already has professional personal advice.

The superannuation system should be built on the principle of encouraging consumers to be engaged with their superannuation and make active choices that suit their individual needs. Consumers should be provided with tools, guidance, and where required, access to affordable advice to help them make individual decisions for their specific circumstances.

Recommendation 14: Government policy should promote consumer choice and competition in the superannuation and retirement income market. As part of the ongoing review of the Your Future, Your Super performance test and the ongoing consultation into retirement phase policy, proposals

should recognise the different types of superannuation products and the role of personal financial advice in delivering good outcomes for customers:

- Avoid inappropriate expansion of the Your Future, Your Super performance test.
- Ensure appropriate application of superannuation policy to choice products and superannuation platforms, where consumers make active decisions, often with the help of financial advice, that distinguishes them from default products.
- Ensure the preservation of competition and choice for consumers in retirement products to support the growth of innovative retirement income solutions.
- Recognise that consumers who are more engaged and make tailored decisions about their retirement are likely to have better outcomes in retirement than those that are disengaged or without guidance and advice.

5.5 Implement a sustainable finance product labelling framework

Clear rules are needed to give financial product issuers confidence in developing and offering investment options with ESG objectives, which would ultimately give consumers greater choice when making investments in line with their preferences. Key to the measure would be effective disclosure of objective and strategy, recognition of revenue and screening thresholds, and interoperability with other global frameworks.

The approach should not be prescriptive and restrict the development of products, but should be about informing investors to make their own choices. Product issuers should be allowed to offer a wide range of products that cater to the goals and preferences of investors. It should also account for revenue and screening thresholds, with a focus on the overall impression on a reasonable investor. Interoperability with existing international frameworks will also be valuable to provide greater choice for Australian investors.

Recommendation 15: Legislate a product labelling framework for sustainable and responsible investments that is applicable to a range of products and enables investor choice. The framework should allow for a wide spectrum of strategies and objectives, recognise revenue and screening thresholds and be interoperable with other global frameworks.

5.6 Resolve technical climate-related financial disclosures issues

The Government recently introduced landmark climate-related financial disclosure reforms to financial reporting, which the FSC strongly supports. It will take time to build expertise and capability across the industry for accounting, audit and assurance in climate-reporting, and it is important for regulators to take a pragmatic, facilitative approach to enforcement.

With ASIC and the Australian Accounting Standards Board having recently finalised their regulatory guidance and accounting standards, and planning to develop more guidance in future, there remain significant uncertainties for fund managers, including:

- How complex corporate groups should approach consolidated climate reporting;
- The breadth of scope 3 (indirect) emission reporting requirements; and
- Whether certain disclosures should be made at the entity or fund level.

Recommendation 16: Work with industry to resolve outstanding regulatory ambiguities and in the meantime take a pragmatic, facilitative approach to enforcement of the new requirements.

5.7 Reform education requirements for financial advisers

The Government and Treasury have proposed substantive changes to the education framework following the passage of the Delivering Better Financial Outcomes legislation. This is a welcome response to the wider push from advice and accountancy bodies to revise the core knowledge areas and elective requirements on relevant providers to provide more flexible pathways into the advice profession and ultimately expand the pool of financial advisers in the market.

The current education requirements for financial advisers are unduly prohibitive to new entrants, exacerbating the shortage of financial advisers. Most young people at university study a generalist degree such as commerce, business, or economics, but have competency in some topic areas that are relevant to financial advice. The pathway to becoming a financial adviser should not be limited to people who have completed a financial planning degree and instead should be flexible enough to accommodate new entrants and career changers by having elements of their pre-existing degree courses recognised, while maintaining appropriate qualification levels to ensure consumer protection.

Appropriate pathways should also be developed for the proposed new class of adviser, under the second Tranche of reforms in response to the Quality of Advice Review, to become relevant providers over time.

Recommendation 17:

- Increase the pool of relevant providers by updating the education standard and introducing core knowledge areas for new entrants and three additional elective knowledge areas. The core areas should represent essential knowledge for financial advisers such as: commercial law, taxation, financial advice regulatory and legal obligations, ethics and professionalism and behavioural finance. This proposal would ultimately support stockbrokers and accountants pursuing a career change to meet the education standards.
- Consider the development of appropriate pathways for the proposed new class of adviser to become relevant providers over time.

5.8 Streamline advice fee consent arrangements

Schedule 1 of the *Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Act 2024* sought to reduce ongoing compliance costs in the provision of financial advice by streamlining, clarifying and adding flexibility to existing requirements.[4] These included amendments to ongoing fee renewal and consent requirements, establishing a streamlined consent process for ongoing advice fee arrangements and authorisation for ongoing advice fees to be deducted from a financial product.

However, the newly drafted Section 962T(c) of the *Corporations Act 2001* requires the fee consent to specify the "account number" of the product from which advice fees are to be deducted. This new requirement is not representative of the long-standing industry practice to combine the initial advice fee consent form with the application form to open a product account. The change introduces a new, inefficient and costly step in this process which will require costly and complex system changes to implement.

Product providers have employed several strategies to address these unintended consequences. However, ASIC has signalled their view that these approaches do not meet the requirement. While having no modification or exemption powers in this area, ASIC has now issued a limited no-action position in certain circumstances.

[4] Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024, Revised Explanatory Memorandum, p.2.

However, this does not resolve the issues for product/platform providers to modify systems, processes and communications to comply where they had taken an alternate approach to implementation, and where they do not have the existing technology to 'pre-fill' an account number on a fee consent form. Legislative amendment is urgently required to address the underlying policy issue and permit a sensible and practical response.

Recommendation 18: Treasury should include a legislative change to fee consent arrangements through a technical amendment Bill or as part of the DBFO Tranche 2 changes.

5.9 Simplify the Breach Reporting (Reportable Situations) Framework

Despite recent relief introduced by ASIC, the breach reporting (reportable situations) regime still requires numerous minor or technical breaches to be reported, even where they do not cause any customer loss or damage, placing increasing strain on ASIC and industry resources without commensurate investigatory intelligence for the regulator. Current relief is unduly narrow. In addition, the ASIC Portal for submitting breaches requires material improvement and redesign.

The FSC estimates that simplification of the breach reporting regime will save businesses $183 million in net compliance costs over 10 years, and 34,000 hours a year that could instead be deployed into resolving more consequential breaches faster.

Recommendation 19: Minor breaches which do not result in financial loss or damage to the consumer should largely be exempted from the breach reporting regime. The Government should also work with ASIC to improve the ASIC Portal.