



THE HON JOSH FRYDENBERG MP
Treasurer

MEDIA RELEASE

31 January 2020

TAKING ACTION ON THE BANKING, SUPERANNUATION & FINANCIAL SERVICES ROYAL COMMISSION – CONSULTATION ON EXPOSURE DRAFT LEGISLATION

The Coalition Government has today released for consultation draft legislation to implement 22 recommendations and two additional commitments from the Banking, Superannuation & Financial Services Royal Commission to enhance protections for consumers and small businesses and to strengthen the role of financial regulators.

In the Government's response to Commissioner Hayne's Final report, released on 4 February 2019, we committed to taking action on all 76 Royal Commission recommendations and, in a number of important areas, going further. Of the 76 recommendations for reform, 54 were directed to the Government, 12 to the regulators and 10 to the industry.

In addition to the 54 recommendations directed to the Government, the Government announced a further 18 commitments to address issues raised in the Final Report.

We are on track to meet the accelerated timetable outlined in our implementation roadmap which committed that, excluding the reviews to be conducted in 2022:

- by the end of 2019, more than 20 commitments, around one third, will be implemented or with legislation before the Parliament;
- by mid-2020, more than 50 commitments, close to 90 per cent, will have been implemented or have legislation before the Parliament; and
- by the end of 2020, remaining Royal Commission recommendations requiring legislation will have been introduced.

Through our actions today and over the past 12 months since the Final Report was released, the Government has implemented 16 commitments, has legislation before parliament to implement another 8 and has substantially progressed a further 35 which have been, or are currently being, consulted on ahead of their introduction.

Specifically, the draft legislation released today implements:

- Recommendation 1.15 to strengthen the existing code of conduct framework in the financial services sector to enable certain provisions of financial services industry codes to be made 'enforceable code provisions' which, if breached, may attract civil penalties, and to create a new mandatory code of conduct framework.

Media contact: Leanne Jones — Office of the Hon Josh Frydenberg MP — 02 6277 7340
The Hon Josh Frydenberg MP | Treasurer | MELBOURNE

- Recommendation 2.1 to enhance the existing ongoing fee arrangement provisions.
- Recommendation 2.2 to require entities who are authorised to provide personal advice to a retail client to disclose in writing to the client where they are not independent and why that is so.
- Recommendation 3.1 to prohibit superannuation trustees from having duties other than those arising from or in the course of the performance of their duties as a trustee of a superannuation fund.
- Recommendation 3.2 to remove a superannuation trustee's capacity to charge advice fees from MySuper products.
- Recommendation 3.3 to remove the capacity of a superannuation trustee to charge advice fees to a member unless certain conditions are satisfied, including the new requirements outlined in relation to Recommendation 2.1 for ongoing fee arrangements.
- Recommendation 3.4 to prohibit the hawking of superannuation products.
- Recommendation 4.1 to prohibit the hawking of insurance products.
- Recommendation 4.3 to establish an industry-wide deferred sales model for the sale of add-on insurance products.
- Recommendations 4.4 to provide ASIC with the power to impose a cap on commissions for add-on insurance products and insurance-like products.
- Recommendation 4.5 to implement a duty to take reasonable care not to make a misrepresentation to an insurer for consumer insurance contracts.
- Recommendation 4.6 to add an extra condition for life insurers to show they would not have entered into a contract on any terms if they had known about the unintentional misrepresentation or non-disclosure.
- Additional commitment in response to recommendation 4.2 to restrict use of the term 'Insurer' and 'Insurance' if the product or service is not insurance, in circumstances where it is likely that the product or service could mistakenly be believed to be insurance.

The Government's measures will also strengthen and enhance the regulatory regimes for the Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA) by implementing:

- Recommendation 2.7 to establish a compulsory scheme for checking references for prospective financial advisers.
- Recommendations 2.8 and 7.2 to strengthen breach reporting requirements for Australian financial services licensees.
- Recommendation 2.9 to require Australian financial services licensees to investigate misconduct by financial advisers and appropriately remediate clients affected by the misconduct.

- Recommendation 1.6 will apply the new obligations under recommendations 2.7, 2.8, 2.9 and 7.2 to Australian credit licensees in relation to conduct by mortgage brokers. This will also introduce breach reporting requirements for Australian credit licensees more generally.
- Recommendation 3.8 and 6.3 to adjust APRA and ASIC's roles in relation to superannuation to accord with the principles that APRA is the prudential regulator and ASIC the conduct and disclosure regulator.
- Recommendation 6.4 to give ASIC joint responsibility for enforceable provisions in the *Superannuation Industry (Supervision) Act 1993* which have consumer protection as their touchstone.
- Recommendation 6.5 to ensure that APRA's role is unchanged. APRA remains responsible for prudential and member outcomes regulation in superannuation.
- Recommendation 6.14 to establish the Financial Regulator Assessment Authority to independently review the effectiveness of APRA and ASIC, and report on its findings to the Minister.
- Additional commitment in response to recommendation 7.2 to provide ASIC with powers to give directions to financial services and credit licensees consistent with the recommendations of the ASIC Enforcement Review Taskforce.

The exposure draft materials are available on the Treasury's website.

Ends