# POLICY BULLETIN

# ROYAL COMMISSION INTO MISCONDUCT IN THE BANKING, SUPERANNUATION AND FINANCIAL SERVICES INDUSTRY – IMPLEMENTATION ROADMAP

**25 November 2019**

## IN BRIEF

The Australian Government has released its Implementation Roadmap outlining its response to date to the Royal Commission's recommendations, a timetable for consultation and the introduction of legislation, and its expectations around regulator and industry accountability.

The government states it has implemented fifteen recommendations and progressed another five to date. These include measures to:

- require financial firms to cooperate with the Australian Financial Complaints Authority (AFCA)
- expand AFCA's remit to consider past disputes
- end grandfathered commissions for financial advisers.

There are three milestones for consultation and the introduction of legislation to Parliament, being the end of 2019, 30 June 2020 and the end of 2020. These include:

- a best interests duty and remuneration reforms for mortgage brokers, and ending grandfathered commissions for financial advisers to be introduced by the end of 2019
- annual renewal of ongoing financial advice fees and disclosure of independence of financial advisers by June 2020
- a new disciplinary system for financial advisers and a compensation scheme of last resort by the end of 2020.

It is also of note that commencement dates have not been provided for the majority of the announced measures. A number of reviews have also been confirmed for 2022, including reviews into:

- changes to mortgage broker remuneration
- measures to improve the quality of financial advice
- the remaining exemptions from the ban on conflicted remuneration
- the effectiveness of changes made by the regulators.

A review by ASIC of industry transition away from grandfathered remuneration for financial advice from 1 July 2019 to 1 January 2021 has also been announced.

# CPA AUSTRALIA'S VIEWS ON THE FINAL REPORT OF THE ROYAL COMMISSION

CPA Australia notes Commissioner Hayne's following observations:

- the connection between conduct and reward resulted in misconduct being rewarded
- the asymmetry of power and information between financial services entities and their customers allowed entities to behave as they did because they could
- conflicts of interest and duties often resulted in the interests of the entity (and shareholders) or intermediary overriding any duty they had to the client
- the regulators failed to hold the entities to account.

CPA Australia is an advocate of regulation that is appropriate to market requirements.

Recent and upcoming regulatory changes, such as the introduction of professional standards for financial advisers, should change behaviour if effectively implemented and enforced.

Importantly, the Interim Report observed that the conduct identified was contrary to existing law and that simply passing new law "would add an extra layer of legal complexity to an already complex regulatory regime". The priority must be getting regulation right.

While CPA Australia is supportive of the government outlining its priorities for reform, clarity is required regarding proposed commencement dates for a number of key measures along with details of their implementation. CPA Australia does not support all of the final recommendations and, in some cases, has practical concerns in relation to implementation, in particular the below.

## RECOMMENDATION 1.3 — MORTGAGE BROKER REMUNERATION

The borrower, not the lender, should pay the mortgage broker a fee for acting in connection with home lending. CPA Australia agrees that conflicts in remuneration need to be removed. However, moving to a pure fee-for-service model may result in mortgage broking services becoming prohibitively expensive, reducing competition and limiting consumers' options to the large institutions. As a first step, introducing a best interests duty will minimise the risk of conflicted remuneration.

## RECOMMENDATION 2.2 – DISCLOSURE OF LACK OF INDEPENDENCE

CPA Australia agrees that financial advisers should not be claiming independence unless they are in fact independent. However, we are concerned the current interpretation by ASIC is too narrow and unnecessarily restricts advisers who are for all intents and purposes free from influence by the large licensees/product manufacturers.

## RECOMMENDATION 2.10 — A NEW DISCIPLINARY SYSTEM

CPA Australia is supportive of the proposal for individual registration of financial advisers. A single overarching disciplinary system may also be beneficial if it addresses the overlapping multiple regulatory systems and the resultant regulatory burden experienced by practitioners. However, we are concerned about the short-term impact as it is likely to make the new FASEA Code of Ethics and other related standards redundant after a relatively short period of time, with the resultant sunk costs and cost of wasted resourcing for the financial advice industry ultimately passed onto the consumer.

### RECOMMENDATION 3.1 — NO OTHER ROLE OR OFFICE FOR SUPERANNUATION FUND TRUSTEES

While CPA Australia agrees in principle, this recommendation requires clarification. For example, is it only roles associated with a superannuation fund, for instance related parties or service providers such as fund manager, insurer, administrator, or does it exclude any other roles? That is, does this mean that directors could only be directors of one registrable superannuation entity (RSE) and not have employment or remunerated services anywhere else? This would preclude part time directors and significantly narrow the talent pool. It should also be noted that most directors of an RSE are gainfully-employed elsewhere. Apart from limiting the talent pool, directors' fees could be expected to significantly increase if directors are unable to hold any other employment, remunerated services or self-employment.

### RECOMMENDATION 3.5 — ONE DEFAULT ACCOUNT FOR SUPERANNUATION

CPA Australia agrees in principle. However, this would also require the responsibility and compliance obligations to be shared between the employer and employee to ensure the employee provides details to the employer in a timely manner and the employer pays in a timely manner. Otherwise, there needs to be another mechanism for the employers to be notified of an employee's default arrangement. Where other alternative arrangements are considered, the risk of identity/data fraud needs to be considered and mitigated.

### RECOMMENDATION 6.14 — A NEW OVERSIGHT AUTHORITY FOR THE REGULATORS

CPA Australia does not support this recommendation as it would create more duplication and bureaucratic red tape. The regulators are already accountable to the government. Other measures proposed should strengthen the effectiveness of regulators. We note that the introduction of a new oversight authority would presumably lead to additional regulatory fees being paid by the financial service industry which will ultimately be passed on to consumers.

### RECOMMENDATION 7.1 — COMPENSATION SCHEME OF LAST RESORT

CPA Australia does not support this recommendation. The organisation's view is that a compensation scheme of last resort would be impacted by complexities and uncertainties, which may introduce an unacceptable element of moral hazard to the system. A last resort scheme would have the effect of imposing the cost of bailing out the obligations of failed licensees on more responsible licensees without necessarily improving the standards of industry behaviour or motivating a greater acceptance by industry participants to take responsibility for consequences of their own conduct. Instead, CPA Australia believes it would be more appropriate to strengthen current compensation arrangements through measures such as ensuring industry participants have adequate professional indemnity insurance and appropriate capital resources to provide compensation to consumers when needed.

## OTHER CONSIDERATIONS

### SUPERANNUATION

As a number of the recommendations overlap with those of the Productivity Commission's report, *Superannuation: Assessing Efficiency and Competitiveness*, CPA Australia strongly recommends that the government considers the recommendations in the Royal Commission report in concert with the Productivity Commission's recommendations on superannuation. While enhancing governance and operations of superannuation funds is important, outcomes should not impair retirement investment and savings, including incentives for people to invest for their retirement and the self-managed superannuation fund market.

## SMALL BUSINESS

More broadly, CPA Australia is concerned with how the responses to the Royal Commission's recommendations impact the flow of credit, especially to small and medium business. Members have expressed concerns that the implementation of the recommendations may add to the already uncertain future of the accounting, financial advisory and financial planning sectors. They are under significant pressure as a consequence of other regulatory factors at play in the market, such as the ASIC user pays funding model and the new professional standards for financial advisers being implemented by the Financial Adviser Standards and Ethics Authority.

CPA Australia research considering the impact of an increasingly complex regulatory framework on professional accountants and the flow-on effect to consumers seeking affordable professional financial advice was released in October 2019. The research findings amplify our concerns of multiple regulatory regimes that duplicate or conflict with each other. The government needs to be mindful of the pre-existing regulatory complexity that exists in the financial services space, and the impact it has on consumers' ability to readily access financial advisory services, before introducing additional regulation that may overlap and be in further conflict with what is already in place.

After further consultation, CPA Australia will seek to issue a white paper with possible policy proposals in the first half of 2020.

We welcome members' views on the recommendations contained in the Royal Commission's final report and the government's implementation roadmap, including how you, your practice or the general public may be impacted. Comments can be sent submissions@cpaaustralia.com.au

# CONTACT

Richard Webb
**P:** 03 9606 9607
**E:** richard.webb@cpaaustralia.com.au

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## CPA Australia views

25 November 2019

| Recommendation | Government response – February 2019 | Action to date/implementation plan | Initial views |
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| **Banking** | | | |
| **Recommendation 1.1 — The NCCP Act**<br>The NCCP Act should not be amended to alter the obligation to assess unsuitability. | The government agrees to this recommendation and the Commissioner's findings that 'not unsuitable' remains the appropriate standard for responsible lending obligations within the *National Consumer Credit Protection Act 2009* (NCCP Act). | The government agreed not to amend the NCCP Act obligation to assess unsuitability of credit contracts. | Agreed. |
| **Recommendation 1.2 — Best interests duty**<br>The law should be amended to provide that, when acting in connection with home lending, mortgage brokers must act in the best interests of the intending borrower. The obligation should be a civil penalty provision. | The government agrees to introduce a best interests duty for mortgage brokers to act in the best interests of borrowers.<br>The best interests duty will not change the responsible lending obligations for broker originated loans, consistent with the government's response to Recommendation 1.1 above.<br>The government also agrees that a breach of the best interests duty should be subject to a civil penalty.<br>The government agrees, following the implementation of the best interests duty, to further align the regulatory frameworks for mortgage brokers and financial advisers.<br>This also responds to the Productivity Commission's report *Competition in the Australian Financial System*, which also recommended imposing a best interests duty on mortgage brokers and a review of the feasibility of enabling financial advisers to also act as mortgage brokers. | Legislation to be consulted on and introduced by end-2019. | Agreed. |
| **Recommendation 1.5 — Mortgage brokers as financial advisers**<br>After a sufficient period of transition, mortgage brokers should be subject to and regulated by the law that applies to entities providing financial product advice to retail clients. | | This recommendation will be progressed following the review of financial advice reforms (recommendation 2.3), given that review may recommend changes to the regulation of financial advisers. | Agreed. There is unnecessary duplication between the Corporations Act, the National Credit Act and the AFSL and ACL regimes. |
| **Recommendation 1.3 — Mortgage broker remuneration**<br>The borrower, not the lender, should pay the mortgage broker a fee for acting in connection with home lending.<br>Changes in brokers' remuneration should be made over a period of two or three years, by first prohibiting lenders from paying trail commission to mortgage brokers in respect of new loans, then prohibiting lenders from paying other commissions to mortgage brokers. | The government agrees to address conflicted remuneration for mortgage brokers. The government recognises the importance of competition in the home lending sector and will proceed carefully and in stages, consistent with the recommendation, with reforms to ensure that the changes do not adversely impact consumers' access to lenders and competition in the home lending market.<br>From 1 July 2020, the government will prohibit for new loans the payment of trail commissions from lenders to mortgage brokers and aggregators. From that date, the government will also require that the value of upfront commissions be linked to the amount drawn-down by borrowers and not the loan amount, and ban campaign and volume-based commissions and payments. The government will additionally limit to two years the period over which commissions can be clawed back from aggregators and brokers and prohibit the cost of clawbacks being passed on to consumers.<br>The government will also ask the Council of Financial Regulators, along with the Australian Competition and Consumer Commission (ACCC), to review in three years' time the impact of the above changes and implications for consumer outcomes and competition of moving to a borrower pays remuneration structure for mortgage broking, as recommended by the Royal Commission, and any | Legislation to be consulted on and introduced by end-2019. | Agree that conflicts in remuneration need to be removed. Introducing a best interests duty will minimise the risk of conflicted remuneration.<br>CPA Australia is concerned that artificial caps may unnecessarily distort pricing. |
| **Recommendation 1.4 — Establishment of working group**<br>A Treasury-led working group should be established to monitor and, if necessary, adjust the remuneration model referred to in Recommendation 1.3, and any fee that lenders should be required to charge to achieve a level playing field, in response to market changes. | | Review in 2022 - Council of Financial Regulators and the Australian Competition and Consumer Commission review of changes to mortgage broker remuneration and operation of upfront and trail commissions. | |

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| | associated changes that should be made to non-broker facilitated loans.<br><br>This also responds to recommendations of the Productivity Commission's report *Competition in the Australian Financial System* dealing with the remuneration of mortgage brokers. | | |
| **Recommendation 1.6 — Misconduct by mortgage brokers**<br><br>ACL holders should:<br>• be bound by information-sharing and reporting obligations in respect of mortgage brokers similar to those referred to in Recommendations 2.7 and 2.8 for financial advisers<br>• take the same steps in response to detecting misconduct of a mortgage broker as those referred to in Recommendation 2.9 for financial advisers. | The government agrees to apply information sharing and reporting obligations to Australian Credit Licence (ACL) holders in respect of misconduct by mortgage brokers, including requiring licensees to make whatever inquiries are reasonably necessary to determine the nature and full extent of misconduct, and, where there is sufficient information to suggest that a broker has engaged in misconduct, to inform affected borrowers and remediate those borrowers promptly.<br><br>It is essential that where misconduct is identified, the perpetrators of such misconduct are disciplined and prevented from simply avoiding consequences by moving from one licensee to another. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |
| **Recommendation 1.7 — Removal of point-of-sale exemption**<br><br>The exemption of retail dealers from the operation of the NCCP Act should be abolished. | The government agrees to remove the point-of-sale exemption. The government recognises that this change may impact on many businesses and will carefully consider how these reforms are implemented to ensure balance is achieved between consumer protection and access to products and services.<br><br>The Royal Commission identified that the provision of inappropriate loans and other financial products has led to consumers experiencing financial hardship. Removing the point-of-sale exemption will require third party vendors, as well as lenders, to only recommend loans that are not unsuitable for the borrower.<br><br>This also responds to the recommendation of the Productivity Commission's report *Competition in the Australian Financial System* to review the current exemption of retailers from the NCCP Act. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. The requirement to act in the borrower's best interest should also minimise risks. |
| **Recommendation 1.8 — Amending the Banking Code**<br><br>The ABA should amend the Banking Code to provide that:<br>• banks will work with customers:<br>  ○ who live in remote areas<br>  ○ who are not adept in using English<br><br>to identify a suitable way for those customers to access and undertake their banking<br><br>• if a customer is having difficulty proving his or her identity, and tells the bank that he or she identifies as an Aboriginal or Torres Strait Islander person, the bank will follow AUSTRAC's guidance about the identification and verification of persons of Aboriginal or Torres Strait Islander heritage<br>• without prior express agreement with the customer, banks will not allow informal overdrafts on basic accounts | The government supports the Australian Banking Association (ABA) acting on this recommendation. | The ABA has announced the amended Banking Code, incorporating recommendations 1.8 and 1.13, will be implemented by March 2020.<br><br>The government welcomes the Customer Owned Banking Association taking action to review its Code of Practice. | Agreed. |

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| • banks will not charge dishonour fees on basic accounts. | | | |
| **Recommendation 1.9 — No extension of the NCCP Act**<br>The NCCP Act should not be amended to extend its operation to lending to small businesses. | The government agrees to this recommendation and the Commissioner's findings that extending the responsible lending obligations in the NCCP Act would likely increase the cost of credit for small business and reduce the availability of credit. The government is committed to ensuring access to affordable credit for small businesses. | The government agreed not to extend the NCCP Act to small business lending. | Agreed. |
| **Recommendation 1.10 — Definition of 'small business'**<br>The ABA should amend the definition of 'small business' in the Banking Code so that the Code applies to any business or group employing fewer than 100 full-time equivalent employees, where the loan applied for is less than $5 million. | The government supports the ABA acting on this recommendation. | The government notes the view of the Council of Financial Regulators that maintaining the current definition of small business, with an independent review to be undertaken 18 months after commencement of the new Banking Code on 1 July 2019, would be appropriate to understand and manage any risks to business access to finance. | Agreed. |
| **Recommendation 1.11 — Farm debt mediation**<br>A national scheme of farm debt mediation should be enacted. | The government agrees to establish a national farm debt mediation scheme.<br>A national scheme would assist lenders and borrowers to agree on practical measures that may lead to the borrower being able to address financial difficulties that have caused the loan to become distressed. The government further supports mediation occurring soon after the loan becomes distressed and not as a last measure prior to the lender taking enforcement action. | The government is working with states and territories through the Agriculture Ministers' Forum (AGMIN) to progress work on the establishment of a national farm debt mediation scheme.<br>On 9 February 2019, the government and the states and territories agreed to continue moving towards a national farm debt mediation scheme, building on earlier work undertaken by senior officials from the Commonwealth (Department of Agriculture), states and territories. | Agreed. The current state-based farm debt mediation schemes are inconsistent. A national approach should remove such inconsistency. |
| **Recommendation 1.12 — Valuations of land**<br>APRA should amend Prudential Standard APS 220 to:<br>• require that internal appraisals of the value of land taken or to be taken as security should be independent of loan origination, loan processing and loan decision processes<br>• provide for valuation of agricultural land in a manner that will recognise, to the extent possible:<br>  ○ the likelihood of external events affecting its realisable value<br>  ○ the time that may be taken to realise the land at a reasonable price affecting its realisable value. | The government supports the Australian Prudential Regulation Authority (APRA) acting on this recommendation. | On 25 March 2019, APRA released for public consultation proposed revisions of Prudential Standard APS 220 Credit Quality. Consultation closed on 28 June 2019. APRA intends to finalise the standard in the second half of 2019 with a view to it becoming effective from 1 July 2020. | Neutral. |
| **Recommendation 1.13 — Charging default interest**<br>The ABA should amend the Banking Code to provide that, while a declaration remains in force, banks will not charge default interest on loans secured by agricultural land in an area declared to be affected by drought or other natural disaster. | The government supports the ABA acting on this recommendation. | See recommendation 1.8. | Agreed. |
| **Recommendation 1.14 — Distressed agricultural loans**<br>When dealing with distressed agricultural loans, banks should:<br>• ensure that those loans are managed by experienced agricultural bankers | The government supports banks acting on this recommendation. | The government expects that banks will implement recommendation 1.14 as soon as possible. | Agreed. |

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| • offer farm debt mediation as soon as a loan is classified as distressed<br>• manage every distressed loan on the footing that working out will be the best outcome for bank and borrower, and enforcement the worst<br>• recognise that appointment of receivers or any other form of external administrator is a remedy of last resort<br>• cease charging default interest when there is no realistic prospect of recovering the amount charged. | | | |
| **Recommendation 1.15 — Enforceable code provisions**<br>The law should be amended to provide:<br>• that ASIC's power to approve codes of conduct extends to codes relating to all APRA-regulated institutions and ACL holders<br>• that industry codes of conduct approved by ASIC may include 'enforceable code provisions', which are provisions in respect of which a contravention will constitute a breach of the law<br>• that ASIC may take into consideration whether particular provisions of an industry code of conduct have been designated as 'enforceable code; provisions' in determining whether to approve a code<br>• for remedies, modelled on those now set out in Part VI of the Competition and Consumer Act, for breach of an 'enforceable code provision'<br>• for the establishment and imposition of mandatory financial services industry codes. | The government agrees to amend the law to provide the Australian Securities and Investments Commission (ASIC) with additional powers to approve and enforce industry code provisions.<br>The government will establish an approved codes regime that includes 'enforceable code provisions' and implements the ASIC Enforcement Review recommendations.<br>The regime will provide that a breach of an enforceable code provision will constitute a breach of the law. The law will also be amended to provide for remedies that may follow from such a breach.<br>The government continues to support and encourage industry to develop voluntary codes that go beyond the requirements in the law. The Commissioner notes the benefits of voluntary codes in harnessing the views and collective will of industry. | Legislation to be consulted on and introduced by 30 June 2020.<br>On 18 March 2019, the government released a consultation paper: *Enforceability of financial services industry codes*. The paper sets out a series of questions that will inform the development of legislation to enact the government's commitment to implement Recommendation 1.15. Consultation closed on 12 April 2019. | Agreed.<br>CPA Australia supports the more measured response from the government which, subject to further detail being available, is balanced. The government's approach allows for some flexibility between the codes approved by ASIC and voluntary industry codes and is therefore more consistent with co-regulatory models. |
| **Recommendation 1.16 — 2019 Banking Code**<br>In respect of the Banking Code that ASIC approved in 2018, the ABA and ASIC should take all necessary steps to have the provisions that govern the terms of the contract made or to be made between the bank and the customer or guarantor designated as 'enforceable code provisions'. | The government supports ASIC and the ABA acting on this recommendation following the implementation of Recommendation 1.15. | The government expects the ABA to work cooperatively with ASIC to have the relevant provisions of the Banking Code approved as 'enforceable code provisions' as soon as practicable after legislation providing ASIC with these powers (recommendation 1.15) has been enacted. | Neutral. |
| **Recommendation 1.17 — BEAR product responsibility**<br>After appropriate consultation, APRA should determine for the purposes of section 37BA(2)(b) of the Banking Act, a responsibility, within each ADI subject to the BEAR, for all steps in the design, delivery and maintenance of all products offered to customers by the ADI and any necessary remediation of customers in respect of any of those products. | The government supports APRA acting on this recommendation.<br>The government has also agreed to extend the Banking Executive Accountability Regime (BEAR) to other APRA-regulated entities in its response to Recommendation 6.6. | On 28 June 2019, APRA released for consultation a proposed heightened product accountability regime, which requires ADIs to identify and register accountable persons to hold end-to-end product responsibility for each product the ADI offers to its customers. APRA will aim to release a draft schedule with the proposed product responsibility requirements for further consultation in October 2019, and the final legislative instrument in December 2019. APRA expects to implement the new requirements by 1 July 2020. | Neutral. |
| **Financial advice** | | | |
| **Recommendation 2.1 — Annual renewal and payment**<br>The law should be amended to provide that ongoing fee arrangements (whenever made): | The government agrees to require advisers to seek annual renewal, in writing, of ongoing fee arrangements; to require advisers to record, in writing, the services that will be provided and the associated fees; and mandate the client's | Legislation to be consulted on and introduced by 30 June 2020. | This proposal restores the original proposed FoFA measures.<br>An annual renewal for ongoing financial advice provides greater transparency, client engagement and control. |

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| • must be renewed annually by the client<br>• must record in writing each year the services that the client will be entitled to receive and the total of the fees that are to be charged<br>• may neither permit nor require payment of fees from any account held for or on behalf of the client except on the client's express written authority to the entity that conducts that account given at, or immediately after, the latest renewal of the ongoing fee arrangement. | express written authority for the payment of fees from any account held for or on behalf of a client given at, or immediately after, the latest renewal of the ongoing fee arrangement.<br><br>These requirements will apply for all clients. Currently, financial advisers are only required to seek clients' agreement for ongoing fee arrangements for new clients after 1 July 2013.<br><br>The Royal Commission has highlighted problems with clients being charged fees for services that have not been provided. This is mostly associated with clients in ongoing fee arrangements. These changes will help ensure clients actively consider whether they are deriving benefits from ongoing fee arrangements. | | APES 230 already requires annual fee disclosure with annual written consent for commissions and at least biennial written consent for asset-based fees. |
| **Recommendation 2.2 — Disclosure of lack of independence**<br><br>The law should be amended to require that a financial adviser who would contravene section 923A of the Corporations Act by assuming or using any of the restricted words or expressions identified in section 923A(5) (including 'independent', 'impartial' and 'unbiased') must, before providing personal advice to a retail client, give to the client a written statement (in or to the effect of a form to be prescribed) explaining simply and concisely why the adviser is not independent, impartial and unbiased. | The government agrees to require advisers to provide a written statement to a retail client explaining why the adviser is not independent, impartial and unbiased before providing personal advice, unless the adviser is allowed to use those terms under section 923A of the *Corporations Act 2001* (Corporations Act). | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. Best practice would have this disclosed in the FSG.<br><br>However, we need a clear definition of independence. We are concerned the current interpretation by ASIC is too narrow and unnecessarily restricts advisers who are for all intents and purposes free from influence by the large licensees/product manufacturers. |
| **Recommendation 2.3 — Review of measures to improve the quality of advice**<br><br>In three years' time, there should be a review by government in consultation with ASIC of the effectiveness of measures that have been implemented by the government, regulators and financial services entities to improve the quality of financial advice. The review should preferably be completed by 30 June 2022, but no later than 31 December 2022.<br><br>Among other things, that review should consider whether it is necessary to retain the 'safe harbour' provision in section 961B(2) of the Corporations Act. Unless there is a clear justification for retaining that provision, it should be repealed. | The government agrees to a review in three years' time on the effectiveness of measures to improve the quality of advice.<br><br>The government has introduced reforms to enhance the quality of financial advice, in particular, the reforms to increase the educational, training and ethical standards of financial advisers. It also has legislation before the Parliament to ensure that financial products are appropriately targeted and to give ASIC the power to intervene before a consumer suffers harm.<br><br>It is appropriate to undertake a review of these reforms, and earlier reforms such as the Future of Financial Advice, to ensure that they are working effectively and improving the quality of advice. | Review in 2022 – Review of measures to improve the quality of financial advice – Consistent with the Royal Commission recommendations, the review will examine all exemptions from the ban on conflicted remuneration, including for general insurance, consumer credit insurance, timeshare and stockbroking remuneration, and stamping fees. | Agreed with a review.<br><br>CPA Australia would not support the automatic repeal of the safe harbour provision as this provides a structure for advisers to test that they are acting in their clients' best interests. |
| **Recommendation 2.4 — Grandfathered commissions**<br><br>Grandfathering provisions for conflicted remuneration should be repealed as soon as is reasonably practicable. | The government agrees to end grandfathering of conflicted remuneration effective from 1 January 2021.<br><br>Grandfathered conflicted remuneration can entrench clients in older products even when newer, better and more affordable products are available on the market. Grandfathering has now been in place for more than five years, providing industry with sufficient time to transition to the new arrangements. It is therefore now appropriate for grandfathering to end.<br><br>The government is also committed to ensuring that the benefits of removing grandfathering flow to clients. From 1 January 2021, payments of any previously grandfathered | The government introduced legislation on 1 August 2019 to end grandfathered commissions by 1 January 2021 and require rebating of commissions to retail clients.<br><br>The government has also consulted on draft regulations, which outline the requirement for financial product manufacturers to pass through to their retail clients the benefits of any previously grandfathered conflicted remuneration still in contracts after 1 January 2021.<br><br>On 22 February 2019, the government directed ASIC to monitor and report on industry actions from 1 July 2019 to 1 January 2021 (the period leading up to the end of grandfathered conflicted remuneration for financial advisers). | Agreed. CPA Australia does not support conflicted remuneration. There has been sufficient time to transition from grandfathered commissions.<br><br>It is important that there is provision for rebating grandfathered conflicted remuneration where it cannot be stopped in some other way. |

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| | conflicted remuneration still in contracts will instead be required to be rebated to applicable clients where the applicable client can reasonably be identified.<br><br>Where it is not practicable to rebate the benefit to an individual client because, for example, the grandfathered conflicted remuneration is volume-based so it is not able to be attributed to any individual client, the government expects industry to pass these benefits through to clients indirectly (for example, by lowering product fees).<br><br>(Additional commitment) To ensure that the benefits of industry renegotiating current arrangements to remove grandfathered conflicted remuneration ahead of 1 January 2021 flow through to clients, the government will commission ASIC to monitor and report on the extent to which product issuers are acting to end the grandfathering of conflicted remuneration for the period 1 July 2019 to 1 January 2021 and are passing the benefits to clients, whether through direct rebates or otherwise.<br><br>This also responds to the Productivity Commission's report *Superannuation: Assessing Efficiency and Competitiveness* which also recommended ending grandfathered trailing commissions. | ASIC will monitor and report on the extent to which product issuers are acting to end the grandfathering of conflicted remuneration in the period 1 July 2019 to 1 January 2021, as directed by government. | |
| **Recommendation 2.5 — Life risk insurance commissions**<br><br>When ASIC conducts its review of conflicted remuneration relating to life risk insurance products and the operation of the ASIC Corporations (Life Insurance Commissions) Instrument 2017/510, ASIC should consider further reducing the cap on commissions in respect of life risk insurance products. Unless there is a clear justification for retaining those commissions, the cap should ultimately be reduced to zero. | In 2017, the government enacted reforms to life insurance remuneration that capped the commissions a financial adviser would receive for providing advice in relation to the purchase of a life insurance product. As part of these reforms, the government announced that ASIC would conduct a review in 2021 to consider whether the reforms have better aligned the interests of advisers and consumers. If the review does not identify significant improvement in the quality of advice, the government stated it would move to mandate level commissions, as was recommended by the Financial System Inquiry.<br><br>The government supports ASIC conducting this review and considering the factors identified by the Royal Commission when undertaking this review. | ASIC will include the factors identified by the Royal Commission in undertaking its post implementation review of the 2017 life insurance reforms. ASIC's review will take place in 2021. | CPA Australia does not support conflicted remuneration.<br><br>We support a review of conflicted remuneration arrangements including their impact on the availability of affordable independent advice. |
| **Recommendation 2.6 — General insurance and consumer credit insurance commissions**<br><br>The review referred to in Recommendation 2.3 should also consider whether each remaining exemption to the ban on conflicted remuneration remains justified, including:<br><br>• the exemptions for general insurance products and consumer credit insurance products<br>• the exemptions for non-monetary benefits set out in section 963C of the Corporations Act. | The government agrees to review the remaining exemptions to the ban on conflicted remuneration in the course of its review in three years' time on the effectiveness of measures to improve the quality of advice. | Review in 2022 – Review of each remaining exemption from the ban on conflicted remuneration. This review will occur as part of the review of measures to improve the quality of financial advice (recommendation 2.3). | Agreed. |
| **Recommendation 2.7 — Reference checking and information sharing**<br><br>All AFSL holders should be required, as a condition of their licence, to give effect to reference checking and information-sharing protocols for financial advisers, to the same effect as now provided by the ABA in its 'Financial | The government agrees to mandate the reference checking and information-sharing protocol for financial advisers for all Australian Financial Services Licence (AFSL) holders.<br><br>This recommendation will build on the government's work to date to remove advisers who have engaged in misconduct from the industry, particularly, through the establishment of | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |

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| Advice — Recruitment and Termination Reference Checking and Information Sharing Protocol'. | the Financial Advisers Register and the reforms to increase the educational, training and ethical standards of financial advisers. Facilitating licensees to undertake reference checks will make it even more difficult for advisers who engage in misconduct to find alternative employment in the industry. | | |
| **Recommendation 2.8 — Reporting compliance concerns**<br>All AFSL holders should be required, as a condition of their licence, to report 'serious compliance concerns' about individual financial advisers to ASIC on a quarterly basis. | The government agrees to mandate reporting of 'serious compliance concerns' about individual financial advisers to ASIC on a quarterly basis.<br>The Royal Commission has highlighted concerns around the current reporting of breach information to ASIC with firms failing to report significant breaches to ASIC in a timely manner.<br>The government has also agreed, in its response to Recommendation 7.2, to strengthen the obligations to report breaches to ASIC. The government will implement this recommendation as part of strengthening the breach reporting requirements. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |
| **Recommendation 2.9 — Misconduct by financial advisers**<br>All AFSL holders should be required, as a condition of their licence, to take the following steps when they detect that a financial adviser has engaged in misconduct in respect of financial advice given to a retail client (whether by giving inappropriate advice or otherwise):<br>• make whatever inquiries are reasonably necessary to determine the nature and full extent of the adviser's misconduct<br>• where there is sufficient information to suggest that an adviser has engaged in misconduct, tell affected clients and remediate those clients promptly. | The government agrees to require all AFSL holders to make whatever inquiries reasonably necessary to determine the nature and full extent of an adviser's misconduct (when the licensee detects misconduct) and inform and remediate affected clients promptly.<br>This recommendation will be reinforced by the government announcement to provide ASIC with a new directions power as part of its response to the ASIC Enforcement Review. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |
| **Recommendation 2.10 — A new disciplinary system**<br>The law should be amended to establish a new disciplinary system for financial advisers that:<br>• requires all financial advisers who provide personal financial advice to retail clients to be registered<br>• provides for a single, central, disciplinary body<br>• requires AFSL holders to report 'serious compliance concerns' to the disciplinary body<br>• allows clients and other stakeholders to report information about the conduct of financial advisers to the disciplinary body. | The government agrees to introduce a new disciplinary system for financial advisers.<br>The government is committed to the professionalisation of the financial advice industry. A new disciplinary regime as recommended by the Royal Commission further builds on the government's earlier reforms in this area that introduced mandatory educational requirements and required advisers to pass an entrance exam, comply with a code of ethics, and meet ongoing professional development requirements.<br>The new disciplinary system will bring financial advisers into line with other professions — such as lawyers, doctors and accountants — where individual registration is standard practice.<br>This disciplinary system for financial advisers will operate concurrently with the existing AFSL regime and ASIC will retain the powers it has under the current regulatory framework, including the power to commence investigations and undertake enforcement action. | Legislation to be consulted on and introduced by end-2020. | CPA Australia supports individual registration.<br>A single overarching disciplinary system could be beneficial if it addresses the overlapping multiple regulatory systems and the resultant regulatory burden experienced by practitioners. However, we are concerned about the short-term impact as it is likely to make the new FASEA Code of Ethics, code monitoring and other related standards redundant after a relatively short period of time.<br>This means the financial advice industry will incur costs and waste resources, which will ultimately be passed onto the consumer. |

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| **Superannuation** | | | |
| **Recommendation 3.1 — No other role or office**<br>The trustee of an RSE should be prohibited from assuming any obligations other than those arising from or in the course of its performance of the duties of a trustee of a superannuation fund. | The government agrees to address the risks associated with dual regulated entities by prohibiting trustees of a Registrable Superannuation Entity (RSE) assuming obligations other than those arising from, or in the course of, its performance of the duties of a trustee of a superannuation fund.<br>The work of the Royal Commission has indicated that the conflicts of interests that arise between the interests of superannuation members and members of managed investment schemes are difficult to manage where an entity acts as a trustee for both the superannuation fund and the managed investment scheme. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed in principle.<br>This recommendation does, however, need clarification. Does it apply only to roles associated with a super fund, for example related parties or service provider such as fund manager, insurer, administrator or is it all other roles?<br>Does this mean directors can only be directors of one RSE and not have employment or remunerated service anywhere else? This would preclude part time directors and significantly narrow the talent pool. It should also be noted that most directors of an RSE are gainfully-employed elsewhere. Apart from limiting the talent pool, directors' fees could be expected to significantly increase if directors are unable to hold any other employment, remunerated services or self-employment. |
| **Recommendation 3.2 — No deducting advice fees from MySuper accounts**<br>Deduction of any advice fee (other than for intra-fund advice) from a MySuper account should be prohibited. | The government agrees to prohibit the deduction of any advice fees from a MySuper account (other than for intra-fund advice). | Legislation to be consulted on and introduced by 30 June 2020. | Agreed in principle. However, does provision need to be made for a MySuper member who genuinely seeks advice and that advice fee could otherwise be deducted from their account if they were a Choice member? |
| **Recommendation 3.3 — Limitations on deducting advice fees from choice accounts**<br>Deduction of any advice fee (other than for intra-fund advice) from superannuation accounts other than MySuper accounts should be prohibited unless the requirements about annual renewal, prior written identification of service and provision of the client's express written authority set out in Recommendation 2.1 in connection with ongoing fee arrangements are met. | The government agrees to limit deductions of advice fees levied on non-MySuper superannuation accounts consistent with the government's response to Recommendation 2.1, which will require ongoing fee arrangements to be renewed annually in writing by the client, and prevent fees being deducted from the client's account without the client's express written authority. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |
| **Recommendation 3.4 — No hawking**<br>Hawking of superannuation products should be prohibited. That is, the unsolicited offer or sale of superannuation should be prohibited except to those who are not retail clients and except for offers made under an eligible employee share scheme.<br>The law should be amended to make clear that contact with a person during which one kind of product is offered is unsolicited unless the person attended the meeting, made or received the telephone call, or initiated the contact for the express purpose of inquiring about, discussing or entering into negotiations in relation to the offer of that kind of product. | The government agrees that hawking of superannuation products should be prohibited, and the definition of hawking should be clarified to include selling of a financial product during a meeting, call or other contact initiated to discuss an unrelated financial product.<br>The Royal Commission heard evidence of consumers being sold superannuation products in an unsolicited manner which may have led superannuation members to choose products that were not in their best interest. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |
| **Recommendation 3.5 — One default account**<br>A person should have only one default account. To that end, machinery should be developed for 'stapling' a person to a single default account. | The government agrees that a person should have only one default account.<br>This also responds to the Productivity Commission's report *Superannuation: Assessing Efficiency and Competitiveness* which recommended members without an account only be defaulted once. This builds on the action the government has taken to address the stock of unintended multiple accounts through the Protecting Your Super Package, which includes the automatic consolidation of low-balance inactive | Implementation of this recommendation will be considered in the context of the findings and recommendations of the Productivity Commission's report Superannuation: Assessing Efficiency and Competitiveness | Agreed. However, this recommendation would also require the responsibility and compliance obligations to be shared between the employer and employee to ensure the employee provides details to the employer in a timely manner and the employer pays in a timely manner. Otherwise, there needs to be another mechanism for the employers to be notified of an employee's default arrangement. Where other alternative arrangements are considered, the risk of identity/data fraud needs to be considered and mitigated. |

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| | accounts, capping fees for low-balance accounts and preventing inappropriate account erosion by ensuring members receive insurance policies that are suitable for them and represent value for money. | | |
| **Recommendation 3.6 — No treating of employers**<br>Section 68A of the SIS Act should be amended to prohibit trustees of a regulated superannuation fund, and associates of a trustee, doing any of the acts specified in section 68A(1)(a), (b) or (c) where the act may reasonably be understood by the recipient to have a substantial purpose of having the recipient nominate the fund as a default fund or having one or more employees of the recipient apply or agree to become members of the fund.<br>The provision should be a civil penalty provision enforceable by ASIC. | The government agrees to amend the *Superannuation Industry (Supervision) Act 1993* to facilitate enforcement of this provision. | These changes were implemented as part of the *Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Act 2019*, which received Royal Assent on 5 April 2019. | Agreed. |
| **Recommendation 3.7 — Civil penalties for breach of covenants and like obligations**<br>Breach of the trustee's covenants set out in section 52 or obligations set out in section 29VN, or the director's covenants set out in section 52A or obligations set out in section 29VO of the SIS Act should be enforceable by action for civil penalty. | The government agrees that trustees and directors should be subject to civil penalties for breaches of their best interests obligations. Both ASIC and APRA should have powers to enforce the civil penalty provisions.<br>The government has already introduced the Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Bill 2017 into Parliament to establish civil penalties for directors for breaches of the best interests duty and will amend this Bill to extend civil penalties to trustees. | These changes were implemented as part of the *Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Act 2019*, which received Royal Assent on 5 April 2019. | Neutral. |
| **Recommendation 3.8 — Adjustment of APRA and ASIC's roles**<br>The roles of APRA and ASIC with respect to superannuation should be adjusted, as referred to in Recommendation 6.3. | The government agrees to this recommendation, consistent with the government's response to Recommendation 6.3 which sets out the general principles for adjusting the roles of APRA and ASIC.<br>This also responds to the Productivity Commission's report *Superannuation: Assessing Efficiency and Competitiveness* which recommended clarifying the regulators' roles and powers, including their respective areas of focus. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |
| **Recommendation 3.9 — Accountability regime**<br>Over time, provisions modelled on the BEAR should be extended to all RSE licensees, as referred to in Recommendation 6.8. | The government agrees to this recommendation, consistent with the government's response to Recommendation 6.6 about the extension of the BEAR regime. | Legislation to be consulted on and introduced by end-2020. | Neutral. |
| **Insurance** | | | |
| **Recommendation 4.1 — No hawking of insurance**<br>Consistently with Recommendation 3.4, which prohibits the hawking of superannuation products, hawking of insurance products should be prohibited. | The government agrees, consistent with the government response to Recommendation 3.4 (about the hawking of superannuation products), that hawking of insurance products should be prohibited, noting, for example, that the Royal Commission did not propose restricting the ability of insurers to contact policy holders in relation to existing policies. The definition of hawking will be clarified to include selling of a financial product during a meeting, call or other contact initiated to discuss an unrelated financial product. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |

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| | The Royal Commission heard evidence of vulnerable consumers being sold insurance products through unsolicited phone calls where pressure selling tactics were used, resulting in consumers purchasing a product that they did not want or need. | | |
| **Recommendation 4.2 — Removing the exemptions for funeral expenses policies**<br>The law should be amended to:<br>• remove the exclusion of funeral expenses policies from the definition of 'financial product'<br>• put beyond doubt that the consumer protection provisions of the ASIC Act apply to funeral expenses policies. | The government agrees to remove the exemption for funeral expenses policies from the definition of financial products for the purposes of the Corporations Act and ensure that it is clear that the consumer protection provisions of the *Australian Securities and Investments Commission Act 2001* (ASIC Act) apply to funeral expenses policies.<br>The Royal Commission has uncovered evidence of the significant harm that can be caused to vulnerable consumers through the poor sales practices adopted by some funeral expense policy issuers.<br>The government has introduced the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018 into Parliament and consulted on related Regulations. The proposed Product Intervention Powers (PIP) will enable ASIC to intervene in the sale of funeral expenses policies where there is a risk of significant consumer harm.<br>(Additional commitment) The government will also restrict the ability of firms to use terms such as 'insurer' and 'insurance' to only those firms that have a legitimate interest in using terminology regarding insurance (for example APRA-regulated insurers, brokers and other distributors) to avoid any confusion for consumers as to the nature of the products they are purchasing. | Legislation to be consulted on and introduced by end-2019.<br>Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |
| **Recommendation 4.3 — Deferred sales model for add-on insurance**<br>A Treasury-led working group should develop an industry-wide deferred sales model for the sale of any add-on insurance products (except policies of comprehensive motor insurance). The model should be implemented as soon as is reasonably practicable. | The government agrees to mandate deferred sales for add-on insurance products and has tasked Treasury to develop an appropriate deferred sales model.<br>A deferred sales model would require consumers to separately engage with the insurance product that is being purchased rather than considering it at the same time as purchasing a typically much more expensive product.<br>The government has also introduced the Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Bill 2018 into Parliament. The Design and Distribution Obligations (DDOs) and the PIP seek to promote the provision of suitable financial products to consumers and to enable ASIC to proactively reduce the risk of consumer detriment from unsuitable products. These regimes will assist in preventing consumer detriment resulting from poor design or inappropriate distribution practices such as those in the design and sale of add-on insurance products.<br>ASIC has agreed to consider the Royal Commission's findings and recommendation in relation to the sale of add-on insurance in its administration of the DDOs and potential use of the PIP. | Legislation to be consulted on and introduced by 30 June 2020. | Neutral. |

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| | This also responds to the recommendation of the Productivity Commission's report *Competition in the Australian Financial System* to mandate a deferred sales model for all sales of add-on insurance by car dealerships. | | |
| **Recommendation 4.4 — Cap on commissions**<br>ASIC should impose a cap on the amount of commission that may be paid to vehicle dealers in relation to the sale of add-on insurance products. | The government agrees to provide ASIC with the ability to cap commissions that may be paid to vehicle dealers in relation to the sale of add-on insurance products.<br>The value of the commissions paid in relation to add-on insurance products sold through vehicle dealers has significantly exceeded the amounts paid out to consumers through claims. High levels of commissions have contributed to poor consumer outcomes.<br>Providing ASIC with the ability to cap commissions will ensure an appropriate cap is set and varied if required in response to any future concerns. | Legislation to be consulted on and introduced by 30 June 2020. | Neutral. |
| **Recommendation 4.5 — Duty to take reasonable care not to make a misrepresentation to an insurer**<br>Part IV of the Insurance Contracts Act should be amended, for consumer insurance contracts, to replace the duty of disclosure with a duty to take reasonable care not to make a misrepresentation to an insurer (and to make any necessary consequential amendments to the remedial provisions contained in Division 3). | The government agrees to amend the duty of disclosure for consumers in the *Insurance Contracts Act 1984* to ensure that obligations for disclosure applied to consumers do not enable insurers to unduly reject the payment of legitimate claims.<br>The duty of disclosure is important to ensure that insurers are able to appropriately price the risks being underwritten through limiting the risk of fraud and misleading disclosures. However, the current requirements fall short of adequately safeguarding consumers against having their claims declined where they may have inadvertently failed to disclose their past circumstances or because insurers have failed to ask the right questions. | Legislation to be consulted on and introduced by 30 June 2020. | Neutral. |
| **Recommendation 4.6 — Avoidance of life insurance contracts**<br>Section 29(3) of the Insurance Contracts Act should be amended so that an insurer may only avoid a contract of life insurance on the basis of non-disclosure or misrepresentation if it can show that it would not have entered into a contract on any terms. | The government agrees to amend the *Insurance Contracts Act 1984* to ensure that insurers only avoid a contract of life insurance on the basis of non-disclosure or misrepresentation if it can show that it would not have entered into a contract on any terms.<br>Consistent with the government's response to Recommendation 4.5 above, while appropriate disclosure is important to ensure that insurers are able to appropriately price the risks being underwritten, it is essential that appropriate safeguards are in place to avoid consumers having their claims declined where they may have failed to disclose a matter that would not have had any real bearing on the likelihood of them being offered insurance or the price of the insurance. | Legislation to be consulted on and introduced by 30 June 2020. | Neutral. |
| **Recommendation 4.7 — Application of unfair contract terms provisions to insurance contracts**<br>The unfair contract terms provisions now set out in the ASIC Act should apply to insurance contracts regulated by the Insurance Contracts Act. The provisions should be amended to provide a definition of the 'main subject matter' of an insurance contract as the terms of the contract that describe what is being insured. | The government agrees to extend the unfair contract terms provisions to insurance contracts, consistent with its response to the 2017 Senate Economics References Committee Inquiry into the General Insurance Industry.<br>Insurance contracts are excluded from the industry-wide unfair contract provisions in the ASIC Act. Removing this exemption will ensure that standard form insurance contracts offered to consumers and small businesses on a 'take it or | Legislation to be consulted on and introduced by end-2019.<br>On 30 July 2019, the government released exposure draft legislation to extend the unfair contract terms regime to insurance contracts. Consultation closes on 28 August 2019. | Neutral. |

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| The duty of utmost good faith contained in section 13 of the Insurance Contracts Act should operate independently of the unfair contract terms provisions. | leave it' basis cannot include terms that are considered unfair.<br><br>Consultation with industry on this policy occurred between June and August 2018. | | |
| **Recommendation 4.8 — Removal of claims handling exemption**<br><br>The handling and settlement of insurance claims, or potential insurance claims, should no longer be excluded from the definition of 'financial service'. | The government agrees to remove the exemption for the handling and settlement of insurance claims from the definition of a financial service.<br><br>Inappropriate claims handling practices can cause significant consumer detriment as highlighted through the Royal Commission's round six hearings into insurance. | Legislation to be consulted on and introduced by end-2019.<br><br>Legislation to be consulted on and introduced by 30 June 2020.<br><br>On 1 March 2019, the government released a consultation paper: *Insurance Claims Handling*. This paper looks at the removal of the exemption for insurance claims handling from the definition of 'financial service' under the *Corporations Act 2001*. Consultation closed on 29 March 2019. | Agreed. |
| **Recommendation 4.9 — Enforceable code provisions**<br><br>As referred to in Recommendation 1.15, the law should be amended to provide for enforceable provisions of industry codes and for the establishment and imposition of mandatory industry codes.<br><br>In respect of the Life Insurance Code of Practice, the Insurance in Superannuation Voluntary Code and the General Insurance Code of Practice, the Financial Services Council, the Insurance Council of Australia and ASIC should take all necessary steps, by 30 June 2021, to have the provisions of those codes that govern the terms of the contract made or to be made between the insurer and the policyholder designated as 'enforceable code provisions'. | The government supports the Financial Services Council, the Insurance Council of Australia and ASIC acting on this recommendation, following the implementation of the government response to Recommendation 1.15 about ASIC's powers to approve codes with enforceable provisions.<br><br>This responds to the Productivity Commission's report *Superannuation: Assessing Efficiency and Competitiveness* which recommended a binding and enforceable superannuation insurance code of conduct, which would thereafter become a condition of holding an RSE licence. | The government expects the FSC and ICA to work cooperatively with ASIC to have the relevant provisions of their codes approved as 'enforceable code provisions' as soon as practicable after legislation providing ASIC with these powers (recommendation 1.15) has been enacted. | Agreed. |
| **Recommendation 4.10 — Extension of the sanctions power**<br><br>The Financial Services Council and the Insurance Council of Australia should amend section 13.10 of the Life Insurance Code of Practice and section 13.11 of the General Insurance Code of Practice to empower (as the case requires) the Life Code Compliance Committee or the Code Governance Committee to impose sanctions on a subscriber that has breached the applicable Code. | The government supports the Financial Services Council and the Insurance Council of Australia acting on this recommendation. | The government expects the FSC and ICA to strengthen sanctions powers in their codes as soon as possible. | Neutral. |
| **Recommendation 4.11 — Co-operation with AFCA**<br><br>Section 912A of the Corporations Act should be amended to require that AFSL holders take reasonable steps to co-operate with AFCA in its resolution of particular disputes, including, in particular, by making available to AFCA all relevant documents and records relating to issues in dispute. | The government agrees to place an obligation on AFSL holders to take reasonable steps to co-operate with the Australian Financial Complaints Authority (AFCA) in the resolution of disputes.<br><br>It is important that AFSL holders fully co-operate with AFCA in the resolution of a dispute, including making available to AFCA all relevant documents and records relating to the issues in dispute. | On 4 April 2019, regulations were made requiring all compulsory AFCA members to take reasonable steps to cooperate with AFCA in the resolution of disputes. | Agreed. |
| **Recommendation 4.12 — Accountability regime**<br><br>Over time, provisions modelled on the BEAR should be extended to all APRA-regulated insurers, as referred to in Recommendation 6.8. | The government agrees to this recommendation, consistent with the government's response to Recommendation 6.6 about the extension of the BEAR regime to all APRA-regulated entities. | Legislation to be consulted on and introduced by end-2020 | Neutral. |

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| **Recommendation 4.13 — Universal terms review**<br>Treasury, in consultation with industry, should determine the practicability, and likely pricing effects, of legislating universal key definitions, terms and exclusions for default MySuper group life policies. | The government agrees to review the merits of legislating universal key definitions, terms and exclusions for default insurance cover within MySuper products. | From 28 March to 26 April 2019, the government consulted on a consultation paper: Universal terms for insurance within MySuper. The government is considering its response to the outcomes of those consultations. | Neutral. |
| **Recommendation 4.14 — Additional scrutiny for related party engagements**<br>APRA should amend Prudential Standard SPS 250 to require RSE licensees that engage a related party to provide group life insurance, or who enter into a contract, arrangement or understanding with a life insurer by which the insurer is given a priority or privilege in connection with the provision of life insurance, to obtain and provide to APRA within a fixed time, independent certification that the arrangements and policies entered into are in the best interests of members and otherwise satisfy legal and regulatory requirements. | The government supports APRA acting on this recommendation. | APRA has completed and published a post-implementation review of the superannuation prudential framework and will address these recommendations as part of the implementation of the findings of that review. Consultation on revised standards will take place throughout 2020. | Agreed. |
| **Recommendation 4.15 — Status attribution to be fair and reasonable**<br>APRA should amend Prudential Standard SPS 250 to require RSE licensees to be satisfied that the rules by which a particular status is attributed to a member in connection with insurance are fair and reasonable. | The government supports APRA acting on this recommendation. | APRA has completed and published a post-implementation review of the superannuation prudential framework, and will address these recommendations as part of the implementation of the findings of that review. Consultation on revised standards will take place throughout 2020. | Agreed. |
| **Culture, governance and remuneration** | | | |
| **Recommendation 5.1 — Supervision of remuneration — principles, standards and guidance**<br>In conducting prudential supervision of remuneration systems, and revising its prudential standards and guidance about remuneration, APRA should give effect to the principles, standards and guidance set out in the Financial Stability Board's publications concerning sound compensation principles and practices.<br>Recommendations 5.2 and 5.3 explain and amplify aspects of this Recommendation. | The government supports APRA acting on this recommendation. | On 23 July 2019, APRA released a discussion paper and draft prudential standard to strengthen remuneration practices across all APRA-regulated entities. Consultation on the proposed reforms will take place until late October 2019. | Agreed. |
| **Recommendation 5.2 — Supervision of remuneration — aims**<br>In conducting prudential supervision of the design and implementation of remuneration systems, and revising its prudential standards and guidance about remuneration, APRA should have, as one of its aims, the sound management by APRA-regulated institutions of not only financial risk but also misconduct, compliance and other non-financial risks. | The government supports APRA acting on this recommendation. | On 23 July 2019, APRA released a discussion paper and draft prudential standard to strengthen remuneration practices across all APRA-regulated entities. Consultation on the proposed reforms will take place until late October 2019. | Agreed. Potentially, the reference to 'misconduct, compliance and other non-financial risks' provides a more holistic basis for guiding remuneration systems that recognise the widening context of matters affecting performance. |
| **Recommendation 5.3 — Revised prudential standards and guidance** | The government supports APRA acting on this recommendation. | On 23 July 2019, APRA released a discussion paper and draft prudential standard to strengthen remuneration practices across all APRA-regulated entities. Consultation on the proposed reforms will take place until late October 2019. | Agreed. Further emphasising the point made above around drawing a stronger link between remuneration and reducing risk of misconduct, the fourth dot-point foreshadowing claw backs is consistent with other governance developments over the past decade, particularly those related to excessive |

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| In revising its prudential standards and guidance about the design and implementation of remuneration systems, APRA should:<br>• require APRA-regulated institutions to design their remuneration systems to encourage sound management of non-financial risks, and to reduce the risk of misconduct<br>• require the board of an APRA-regulated institution (whether through its remuneration committee or otherwise) to make regular assessments of the effectiveness of the remuneration system in encouraging sound management of non-financial risks, and reducing the risk of misconduct<br>• set limits on the use of financial metrics in connection with long-term variable remuneration<br>• require APRA-regulated institutions to provide for the entity, in appropriate circumstances, to claw back remuneration that has vested<br>• encourage APRA-regulated institutions to improve the quality of information being provided to boards and their committees about risk management performance and remuneration decisions. | | | director and executive remuneration and termination payments. |
| **Recommendation 5.4 — Remuneration of front line staff**<br>All financial services entities should review at least once each year the design and implementation of their remuneration systems for front line staff to ensure that the design and implementation of those systems focus on not only what staff do, but also how they do it. | The government supports all financial services entities acting on this recommendation. | The government expects all financial services entities to monitor remuneration arrangements on an ongoing basis, as recommended. | Agreed. |
| **Recommendation 5.5 — The Sedgwick Review**<br>Banks should implement fully the recommendations of the Sedgwick Review. | The government supports banks fully implementing the recommendations of the Sedgwick Review. | The government expects that banks will implement the recommendations of the Sedgwick Review relating to staff remuneration as soon as possible. | Neutral. |
| **Recommendation 5.6 — Changing culture and governance**<br>All financial services entities should, as often as reasonably possible, take proper steps to:<br>• assess the entity's culture and its governance<br>• identify any problems with that culture and governance<br>• deal with those problems<br>• determine whether the changes it has made have been effective. | The government supports financial entities acting on this recommendation. | The government expects all financial services entities to monitor culture and governance on an ongoing basis, as recommended. | Agreed. This recommendation broadly mirrors developments contained in Principle 3 (instil a culture of acting lawfully, ethically and responsibly) in the recently-released 4th edition of the ASX Corporate Governance Council's Principles & Recommendations (CGPRs). Note also that footnote 41 of CGPRs makes reference to the Interim Report of the Royal Commission. |
| **Recommendation 5.7 — Supervision of culture and governance**<br>In conducting its prudential supervision of APRA-regulated institutions and in revising its prudential standards and guidance, APRA should:<br>• build a supervisory program focused on building culture that will mitigate the risk of misconduct<br>• use a risk-based approach to its reviews | The government supports APRA acting on this recommendation. | Issues of culture and governance are priority areas for APRA. APRA is reviewing its program of work to enhance its regulatory and supervisory approach in these areas, following the government's announcement of additional funding as part of the 2019-20 Budget.<br>APRA intends to publish a statement of its approach by the end of 2019. | Agreed. |

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| • assess the cultural drivers of misconduct in entities<br>• encourage entities to give proper attention to sound management of conduct risk and improving entity governance. | | | |
| **Regulators** | | | |
| **Recommendation 6.1 — Retain twin peaks**<br>The 'twin peaks' model of financial regulation should be retained. | The government agrees to retain the 'twin peaks' model of financial regulation where responsibility for conduct and disclosure regulation lies primarily with ASIC and responsibility for prudential regulation with APRA.<br>There is a strong rationale for retaining the twin peaks structure: conduct and prudential regulation involve necessarily different functions that are most efficiently met when they are the responsibility of separate but mutually supporting regulators. | The government committed to retain the twin peaks model of financial regulation. | Agreed. |
| **Recommendation 6.2 — ASIC's approach to enforcement**<br>ASIC should adopt an approach to enforcement that:<br>• takes, as its starting point, the question of whether a court should determine the consequences of a contravention<br>• recognises that infringement notices should principally be used in respect of administrative failings by entities, will rarely be appropriate for provisions that require an evaluative judgment and, beyond purely administrative failings, will rarely be an appropriate enforcement tool where the infringing party is a large corporation<br>• recognises the relevance and importance of general and specific deterrence in deciding whether to accept an enforceable undertaking and the utility in obtaining admissions in enforceable undertakings<br>• separates, as much as possible, enforcement staff from non-enforcement related contact with regulated entities. | The government supports ASIC acting on this recommendation.<br>The adoption of the Royal Commission's recommendation will build on changes already underway within ASIC, both with its recent shift to a 'why not litigate' stance, and recommended changes to its policies, processes and procedures put forward by its recent internal review of enforcement. | ASIC has established an Office of Enforcement within ASIC. The purpose is to strengthen ASIC's enforcement culture and effectiveness, and to implement a single enforcement strategy for ASIC. The Office will lead the application of ASIC's 'why not litigate' enforcement approach. | Agreed. |
| **Recommendation 6.3 — General principles for co-regulation**<br>The roles of APRA and ASIC in relation to superannuation should be adjusted to accord with the general principles that:<br>• APRA, as the prudential regulator for superannuation, is responsible for establishing and enforcing Prudential Standards and practices designed to ensure that, under all reasonable circumstances, financial promises made by superannuation entities APRA supervises are met within a stable, efficient and competitive financial system<br>• as the conduct and disclosure regulator, ASIC's role in superannuation primarily concerns the relationship between RSE licensees and individual consumers.<br>Effect should be given to these principles by taking the steps described in Recommendations 6.4 and 6.5. | The government agrees that the roles of APRA and ASIC in superannuation should be adjusted to align with the general principles of the twin peaks model, whereby APRA is the prudential regulator and responsible for system and fund performance, including for licencing and supervision, and ASIC is the conduct and disclosure regulator.<br>The government agrees that both ASIC and APRA should have stronger powers to enforce provisions that are civil penalty provisions and other provisions relating to conduct that may harm a consumer.<br>Regulators' responsibilities under the *Superannuation Industry (Supervision) Act 1993* will be shared in a way that aligns with ASIC and APRA's mandates.<br>This also responds to the Productivity Commission's report *Superannuation: Assessing Efficiency and Competitiveness* which recommended clarifying the regulators' roles and powers, including their respective areas of focus. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed |
| **Recommendation 6.4 — ASIC as conduct regulator** | | | |

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| Without limiting any powers APRA currently has under the SIS Act, ASIC should be given the power to enforce all provisions in the SIS Act that are, or will become, civil penalty provisions or otherwise give rise to a cause of action against an RSE licensee or director for conduct that may harm a consumer. There should be co-regulation by APRA and ASIC of these provisions.<br><br>**Recommendation 6.5 — APRA to retain functions**<br><br>APRA should retain its current functions, including responsibility for the licensing and supervision of RSE licensees and the powers and functions that come with it, including any power to issue directions that APRA presently has or is to be given. | | | |
| **Recommendation 6.6 — Joint administration of the BEAR**<br><br>ASIC and APRA should jointly administer the BEAR. ASIC should be charged with overseeing those parts of Divisions 1, 2 and 3 of Part IIAA of the Banking Act that concern consumer protection and market conduct matters. APRA should be charged with overseeing the prudential aspects of Part IIAA.<br><br>**Recommendation 6.7 — Statutory amendments**<br><br>The obligations in sections 37C and 37CA of the Banking Act should be amended to make clear that an ADI and accountable person must deal with APRA and ASIC (as the case may be) in an open, constructive and co-operative way. Practical amendments should be made to provisions such as sections 37K and 37G(1) so as to facilitate joint administration.<br><br>**Recommendation 6.8 — Extending the BEAR**<br><br>Over time, provisions modelled on the BEAR should be extended to all APRA-regulated financial services institutions. APRA and ASIC should jointly administer those new provisions. | The government agrees to extend the BEAR to all APRA regulated entities, including insurers and superannuation RSEs.<br><br>(Additional commitment) Further, the government will introduce a similar regime for non-prudentially regulated financial firms focused on conduct.<br><br>The Royal Commission has demonstrated that serious governance and accountability failings extend beyond Authorised Deposit-taking Institutions and beyond prudential matters. The government is committed to ensuring that senior individuals who operate in the financial sector conduct themselves in an appropriate manner and face consequences where they fail to meet these standards.<br><br>The new ASIC-administered accountability regime will apply to AFSL and ACL holders, market operators, and clearing and settlement facilities. Like the BEAR, individuals with specified functions (including senior executives) will be registered and have explicit obligations related to the conduct of the entity. Financial entities will also have an obligation to deal with APRA and ASIC (as the case may be) in an open, constructive and co-operative way.<br><br>Treasury will consult on how this new ASIC-administered accountability regime will be implemented, including any practical changes to support proper administration of the respective regimes between APRA and ASIC, such as a clear ability to share and use information. | Legislation to be consulted on and introduced by end-2020 | Agreed. CPA Australia observes that the respective roles of ASIC and APRA should remain sufficiently well-defined and certain. |
| **Recommendation 6.9 — Statutory obligation to co-operate**<br><br>The law should be amended to oblige each of APRA and ASIC to:<br><br>• co-operate with the other<br>• share information to the maximum extent practicable<br>• notify the other whenever it forms the belief that a breach in respect of which the other has enforcement responsibility may have occurred. | The government agrees to remove barriers to information sharing between the regulators and require APRA and ASIC to co-operate, share information and notify each other of relevant breaches or suspected breaches, as appropriate.<br><br>Improvements to informal and formal communication, co-operation and collaboration between the two regulators are critical. This should include efficiently sharing information and intelligence and working together on enforcement and investigation activities. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |

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| **Recommendation 6.10 — Co-operation memorandum**<br>ASIC and APRA should prepare and maintain a joint memorandum setting out how they intend to comply with their statutory obligation to co-operate.<br>The memorandum should be reviewed biennially and each of ASIC and APRA should report each year on the operation of and steps taken under it in its annual report. | The government supports ASIC and APRA continuing to work together to update their existing memorandum of understanding to ensure that it clearly sets out how they will comply with their statutory obligation to co-operate. | APRA and ASIC are reviewing the cooperation and coordination arrangements between the two agencies, including revising the existing Memorandum of Understanding. This review is expected to be completed before the end of 2019. | Agreed. |
| **Recommendation 6.11 — Formalising meeting procedure**<br>The ASIC Act should be amended to include provisions substantially similar to those set out in sections 27–32 of the APRA Act — dealing with the times and places of Commissioner meetings, the quorum required, who is to preside, how voting is to occur and the passing of resolutions without meetings. | The government agrees to amend the ASIC Act to include provisions dealing with the places of Commissioner meetings, the quorum required, who is to preside, how voting is to occur and the passing of resolutions without meetings. | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |
| **Recommendation 6.12 — Application of the BEAR to regulators**<br>In a manner agreed with the external oversight body (the establishment of which is the subject of Recommendation 6.14 below) each of APRA and ASIC should internally formulate and apply to its own management accountability principles of the kind established by the BEAR. | The government agrees that APRA and ASIC should be subject to accountability principles consistent with the BEAR.<br>The government notes that the Financial Conduct Authority in the UK has adopted a similar regime to enhance its own internal accountability. | ASIC will implement this recommendation in anticipation of the government's establishment of a financial regulator oversight authority. ASIC will develop and publish accountability statements before the end of 2019.<br>APRA will implement this recommendation in anticipation of the government's establishment of the external oversight authority. APRA is expecting to develop and publish accountability statements before the end of 2019. | Agreed. |
| **Recommendation 6.13 — Regular capability reviews**<br>APRA and ASIC should each be subject to at least quadrennial capability reviews. A capability review should be undertaken for APRA as soon as is reasonably practicable. | The government agrees to conduct regular capability reviews going forward and to a capability review of APRA commencing in 2019, chaired by Mr Graeme Samuel AC.<br>The capability review will build on the recently completed International Monetary Fund's Financial Sector Assessment Program, which included an assessment of APRA's policy and supervisory framework for banks and insurers.<br>This also responds to the recommendation of the Productivity Commission's report *Superannuation: Assessing Efficiency and Competitiveness* to conduct a capability review of APRA. | The government committed to regular capability reviews, commencing with an APRA Capability Review led by Graeme Samuel AC (Chair), Diane Smith-Gander and Grant Spencer in March 2019. On 17 July 2019, the government released its response to the Capability Review, agreeing to take action on all five of the recommendations directed to it. APRA also released its response, indicating support for all 19 of the recommendations directed to it. | Agreed. |
| **Recommendation 6.14 — A new oversight authority**<br>A new oversight authority for APRA and ASIC, independent of government, should be established by legislation to assess the effectiveness of each regulator in discharging its functions and meeting its statutory objects.<br>The authority should be comprised of three part-time members and staffed by a permanent secretariat.<br>It should be required to report to the Minister in respect of each regulator at least biennially. | The government agrees to create an independently-chaired oversight body to report on the performance of ASIC and APRA.<br>The Royal Commission noted that while regulators are subject to a number of accountability mechanisms, an independent assessment of their strategic performance against their overall mandate was lacking. Having a dedicated oversight body will allow for better assessment of the regulators' sustained performance and improve the effectiveness of other accountability mechanisms.<br>The government is committed to maintaining the independence of the financial system regulators. Accordingly, this body will not have the ability to direct, make, assess or comment on specific enforcement actions, regulatory decisions, complaints and like matters. | Legislation to be consulted on and introduced by 30 June 2020. | CPA Australia questions whether this creates more duplication. APRA and ASIC are already answerable to government. |

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| | The Financial Sector Advisory Council will be disbanded given the establishment of this new body and consideration will be given to streamlining other accountability mechanisms. | | |

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| **Other important steps** | | | |
| **Recommendation 7.1 — Compensation scheme of last resort**<br>The three principal recommendations to establish a compensation scheme of last resort made by the panel appointed by government to review external dispute and complaints arrangements made in its supplementary final report should be carried into effect. | The government agrees to establish an industry-funded, forward-looking compensation scheme of last resort (CSLR). The scheme will be designed consistently with the recommendations of the Supplementary Final Report of the Review of the financial system external dispute resolution framework (Ramsay Review) and will extend beyond disputes in relation to personal financial advice failures.<br>For there to be confidence in the financial system's dispute resolution framework, it is important that where consumers and small businesses have suffered detriment due to failures by financial firms to meet their obligations, compensation that is awarded is actually paid. The CSLR will operate as a last resort mechanism to pay out compensation owed to consumers and small businesses that receive a court or tribunal decision in their favour or a determination from AFCA, but are unable to get the compensation owed by the financial firm — for example, because the firm has become insolvent.<br>The CSLR will be established as part of AFCA.<br>The government also agrees to fund the payment of legacy unpaid determinations from the Financial Ombudsman Service and Credit and Investments Ombudsman. The Ramsay Review found that there was a strong case for these determinations to be paid. | Legislation to be consulted on and introduced by end-2020.<br>On 4 April 2019, regulations were made to enable the payment of unpaid determinations made under the Financial Ombudsman Service (FOS) Terms of Reference and the Credit & Investments Ombudsman (CIO) Rules.<br>The Department of Industry, Innovation and Science is administering the payments of unpaid EDR determinations through the Business Grants Hub. | CPA Australia does not support a compensation scheme of last resort.<br>A CSLR would be fraught with complexities and uncertainties which may introduce an unacceptable element of moral hazard to the system.<br>A last resort scheme would have the effect of imposing on more responsible licensees the cost of bailing out the obligations of failed licensees without necessarily improving the standards of industry behaviour or motivating a greater acceptance by industry participants of responsibility for consequences of their own conduct.<br>Similarly, such a scheme enables aggressive investors to take on riskier investments at the expense of risk-averse investors. Consumers need to take some accountability for their actions and decisions.<br>We believe it would be more appropriate to strengthen current compensation arrangements through measures such as ensuring industry participants have adequate professional indemnity insurance and appropriate capital resources to provide compensation to consumers. |
| | The government will also require AFCA to consider disputes dating back to 1 January 2008 — the period looked at by the Royal Commission, if the dispute falls within AFCA's thresholds as they stand today. This will ensure that consumers and small businesses that have suffered from misconduct but have not yet been heard will be able to take their cases to AFCA. Consumers and small businesses will have twelve months from the date that AFCA commences accepting legacy disputes to lodge their complaint with AFCA.<br>The government will further strengthen regulatory oversight and transparency of remediation activities through increasing the role of AFCA in the establishment and public reporting of firm remediation activities.<br>The government will also provide a new directions power to ASIC, consistent with the recommendations of the ASIC Enforcement Review in the response to Recommendation 7.2. The new directions power provides ASIC with the ability to direct firms to undertake remediation activities. | On 20 February 2019, the government extended AFCA's remit to consider financial complaints dating back to 1 January 2008, providing expanded access to redress for consumers and small businesses harmed by financial misconduct. AFCA commenced receiving legacy complaints from 1 July 2019.<br>(Additional commitment) Increasing AFCA's role in remediation programs – legislation to be introduced by mid-2021 | Agreed. |
| **Recommendation 7.2 — Implementation of recommendations**<br>The recommendations of the ASIC Enforcement Review Taskforce made in December 2017 that relate to self-reporting of contraventions by financial services and credit licensees should be carried into effect. | The government agrees to implement the outstanding ASIC Enforcement Review recommendations to improve the breach reporting regime.<br>(Additional commitment) The government also agrees to provide ASIC with powers to give directions to AFSL and | Legislation to be consulted on and introduced by 30 June 2020. | Agreed. |

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| | ACL holders consistent with the recommendations of the ASIC Enforcement Review.<br><br>The ASIC Enforcement Review Taskforce also made recommendations relating to the enforceability of industry codes, which is covered by the government's response to Recommendation 1.15. | | |
| **Recommendation 7.3 — Exceptions and qualifications**<br><br>As far as possible, exceptions and qualifications to generally applicable norms of conduct in legislation governing financial services entities should be eliminated. | The government agrees to simplify the financial services law to eliminate exceptions and qualifications to the law, where possible. The government also agrees to identify the norms of behaviour and principles that underpin legislation as part of the legislative simplification process.<br><br>The Royal Commission has noted that over-prescription and excessive detail can shift responsibility for behaviour away from regulated entities and encourage them to undertake a 'box-ticking' approach to compliance, rather than ensuring they comply with the fundamental norms of behaviour that should guide their conduct. A clearer focus on those fundamental norms in the primary legislation and subordinate instruments will improve the regulatory architecture and ensure that the law's intent is met. | The government has provided $12.1 million to Treasury and the Office of Parliamentary Counsel (OPC) for implementation related work in the 2019-20 Budget and will now provide an additional $9.3 million to Treasury and OPC. The additional funding will support the delivery of the government's ambitious plans for the implementation of the Royal Commission recommendations.<br><br>The additional funding also includes resourcing for Treasury to begin the longer term task of considering how to simplify the law, consistent with recommendations 7.3 and 7.4 of the Royal Commission. | Agreed. |
| **Recommendation 7.4 — Fundamental norms**<br><br>As far as possible, legislation governing financial services entities should identify expressly what fundamental norms of behaviour are being pursued when particular and detailed rules are made about a particular subject matter. | | | |

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| **Additional measures/commitments** | | | |
| **Additional measure — Federal Court jurisdiction in relation to criminal corporate crime** | The government will expand the Federal Court's jurisdiction in relation to criminal corporate crime.<br><br>The Royal Commission has emphasized that effective deterrence through judicial decisions relies on the timely institution of proceedings and punishment of misconduct. The government agrees, and has already provided an additional $70.1 million to boost ASIC's enforcement capabilities and supervisory approach and $41.6 million to the Commonwealth Director of Public Prosecutions (CDPP) to prosecute briefs from ASIC.<br><br>Extending the Federal Court's jurisdiction will boost the overall capacity within the Australian court system to ensure the prosecution of financial crimes does not face delays as a result of heavy caseloads in the Courts.<br><br>The Federal Court has considerable expertise in civil commercial matters and is well-positioned to accommodate the conferral of a greater corporate criminal jurisdiction, which will help to increase the speed with which such matters are dealt with. | | Agreed. This measure has the further advantage of providing a clearer path to the High Court as the highest appellate court in handling any contested legal principle. |

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| **Additional measure — Funding for financial counselling** | The government agrees with the suggestion by Commissioner Hayne that there is a need for predictable and stable funding for the legal assistance sector and for counselling services.<br><br>Financial counselling services play an important role in supporting consumers and the challenges faced by parties delivering these services include increasing demand, inconsistent and short-term grant-based funding streams and fragmented delivery across jurisdictions.<br><br>The government will review the co-ordination and funding of financial counselling services. This immediate review will be led by the Department of Social Services, in consultation with Treasury and the Department of the Prime Minister and Cabinet. The review will consider gaps and overlaps in current services and the adequacy of, and appropriate delivery models for, funding. | On 7 February 2019, the government commissioned a review of the coordination and funding of financial counselling services, led by Louise Sylvan AM. That review has now been completed and the government is considering its response. | Agreed, but who will pay for it? CPA Australia is concerned that the cost will ultimately be paid by the consumer. |
| **Additional measure — Extension of legislation for Product Intervention Power and Design and Distribution Obligations** | The government agrees with the suggestion by the Commissioner to extend the proposed DDOs to apply to NCCP Act products and ASIC Act products and the ASIC PIP to apply to ASIC Act products. The extension of the DDOs will benefit consumers by ensuring issuers of credit products and ASIC Act financial products identify in advance which consumers their products are suitable for, and direct sales to that target market, rather than promoting products to all consumers. These obligations will complement responsible lending obligations that apply to those offering credit.<br><br>The extension of the PIP to all ASIC Act products will empower ASIC to intervene in relation to a wider range of products, where ASIC identifies detriment or potential detriment to consumers.<br><br>The government recognises that the extension of the DDOs may have a significant impact on many businesses and will carefully consider how these reforms are implemented. | The government extended the Product Intervention Power and Design and Distribution Obligations legislation so that it applied to credit and *Australian Securities and Investments Commission Act 2001* products. The legislation received Royal Assent on 5 April 2019. | Neutral. |
| **Additional measure — Superannuation binding death benefit nominations for indigenous people** | The government will consult with Aboriginal and Torres Strait Islander peoples and relevant representative bodies as well as the superannuation industry about difficulties in using binding death benefit nominations. | From 29 March to 24 May 2019, the government consulted on a discussion paper: *Superannuation binding death benefit nominations and kinship structures*. The government is considering its response to the outcomes of those consultations. | Agreed. |
| **Additional measure — Review of the effects of vertical and horizontal integration in the financial system** | The government agrees that understanding the longer term market implications of integration is an important component of promoting competition in the financial system, and supports the ACCC considering integration issues where they are identified as part of its market studies work.<br><br>This also responds to the Productivity Commission's report *Competition in the Australian Financial System* which recommended that the ACCC should undertake five yearly market studies on the effect of vertical and horizontal integration on the financial system. | The Australian Competition and Consumer Commission now considers integration issues in the financial system where they are identified as part of its market studies work. | Agreed. |

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| **Additional commitment – ASIC's search warrants powers (ASIC Enforcement Review)** | | Legislation to be consulted on and introduced by end-2019. | |
| **Additional commitment – ASIC's telecommunications interceptions powers (ASIC Enforcement Review)** | | Legislation to be consulted on and introduced by end-2019. | |
| **Additional commitment – ASIC's licensing powers (ASIC Enforcement Review)** | | Legislation to be consulted on and introduced by end-2019. | |
| **Additional commitment – ASIC's power to ban people in the financial sector (ASIC Enforcement Review)** | | Legislation to be consulted on and introduced by end-2019. | |
| **Additional commitment – Independent inquiry into changes in industry practices** | | Review in 2022. | |
| **Additional commitment – Assessment of the effectiveness of changes made by the regulators following the Royal Commission by the (to be established) financial regulator oversight authority** | | Review in 2022. | |