



Australian Government

Australian Government response to the Senate
Economics Legislation Committee report:

Financial Sector Reform (Hayne Royal Commission
Response—Better Advice) Bill 2021 [Provisions]

DECEMBER 2021

INTRODUCTION

The Australian Government welcomes the Senate Economics Legislation Committee report on the Financial Sector Reform (Hayne Royal Commission Response—Better Advice) Bill 2021.

The Bill passed Parliament on 21 October 2021 and received Royal Assent on 28 October 2021. It is the *Financial Sector Reform (Hayne Royal Commission Response – Better Advice) Act 2021*.

The Act delivers on the Government’s commitment to implement the recommendations from the Hayne Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry by establishing a single disciplinary body for financial advisers and imposing a requirement for financial advisers to be registered – Recommendation 2.10.

The term ‘financial adviser’ refers to those individuals who are authorised to provide personal advice to retail clients in relation to relevant financial products.

The Royal Commission highlighted that the financial advice industry lacked an effective system of professional discipline, as a result of there being too many different pathways for consumer complaints and ineffective sanctions to deal with misconduct appropriately. In addition, while sanctions are available to the Australian Securities and Investments Commission (ASIC), the lack of less serious sanctions means that ASIC generally only focuses on the most serious incidents.

The Act establishes the Financial Services and Credit Panel within ASIC as the single disciplinary body from 1 January 2022 and gives it additional sanctions which can be applied to misconduct and breaches which occur on or after this date. It also imposes a requirement on a financial adviser to be registered with ASIC.

The Act also removes the requirement for financial advisers to be registered with the Tax Practitioners Board.

Finally, the Act winds-up the Financial Adviser and Standards Authority and transfers its functions to ASIC and the Minister administering the *Corporations Act 2001*.

RESPONSE TO THE RECOMMENDATIONS

Recommendation 1

The Committee recommends that the government conduct a review of the Financial Services and Credit Panel (FSCP) and its functions two years after the legislation comes into effect.

Australian Government response

The Government **notes** this recommendation.

It is unnecessary to prescribe that the FSCP's functions are reviewed. As a matter of course, the Government will monitor the effectiveness and operation of the FSCP.

Recommendation 2

The Committee recommends that the bill not be put to a vote until the regulations have also been put before the Parliament.

Australian Government response

The Government **notes** this recommendation.

The subordinate legislation was released for public consultation between 29 September 2021 and 15 October 2021. As part of this consultation, the Department of Treasury held virtual roundtables with key stakeholders. Parliament was therefore aware of the proposed contents of the subordinate legislation before debate resumed in the Senate on 21 October 2021. Senator Patrick acknowledged that consultation had taken place prior to debate resuming and supported passage of the Bill.