



FINANCIAL PLANNING
ASSOCIATION of AUSTRALIA

27 September 2019

Treasury
Langton Cres
Parkes ACT 2600
Email: MiscAmendments@treasury.gov.au

Dear Sir / Madam

Miscellaneous amendments to Treasury portfolio laws 2019

The Financial Planning Association of Australia¹ (FPA) welcomes the opportunity to provide feedback in response to the Treasury's consultation on Treasury Laws Amendment (Measures for a later sitting) Bill 2019: miscellaneous amendments, and the accompanying Explanatory Memorandum.

The FPA supports the proposed amendments to ensure the sharing of information between ASIC and code monitoring bodies for the purpose of enforcing the new *Financial Planner and Financial Adviser Code of Ethics*. The FPA seeks clarification regarding an inconsistency between the draft Bill and the Exposure Draft Explanatory Memorandum.

The proposed Explanatory Memorandum states:

1.3 The amendments to ensure that ASIC may disclose certain information to monitoring bodies apply in relation to disclosures of information made on or after the day of Royal Assent, regardless of whether ASIC obtained the information it is disclosing on or after that date.

However, Schedule 1 Part 1(7) of the draft legislation states the application of the authorised disclosure to a monitoring body "*applies...., whether ASIC obtained the information before, on or after that commencement*".

The Code of Ethics and the enforcement of the Code by code monitoring bodies commences on 1 January 2020. Information from before this date may relate to ongoing behavior which is a breach of the Code after this date. There is also a chance that these amendments may not receive Royal Assent prior to the 1 January 2020 commencement date.

Therefore, the FPA recommends the draft Explanatory Memorandum be amended to make it clear that ASIC may make authorised disclosures to a monitoring body of information the Regulator obtained before, on or after commencement of the Code and its enforcement by code monitoring bodies. While the phrase "*regardless of whether ASIC obtained the information it is disclosing on or after that date*" may have a similar intent, we suggest this could be misunderstood and should be made clearer.

If you have any questions, please contact me on ben.marshan@fpa.com.au or 02 9220 4500.

Yours sincerely

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Head of Policy and Professional Standards
Financial Planning Association of Australia

¹ The Financial Planning Association (FPA) has more than 14,000 members and affiliates of whom 11,000 are practising financial planners and 5,720 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and superannuation for our members – years ahead of FOFA.
- We have an independent Conduct Review Commission, chaired by Dale Boucher, dealing with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 26 member countries and the more than 175,570 CFP practitioners that make up the FPSB globally.
- We have built a curriculum with 18 Australian Universities for degrees in financial planning. Since 1st July 2013 all new members of the FPA have been required to hold, or be working towards, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally.
- We are recognised as a professional body by the Tax Practitioners Board.