

FINANCIAL SERVICES REGULATORY UPDATE

True Oak develops and distributes a monthly overview of current and proposed regulatory changes in the Australian financial services industry that we think might be of interest to our CAR and Fund Manager clients.

GOVERNMENT

(1) Draft Regulation of the First Tranche of the Delivering Better Financial Outcomes Reform Package up for Consultation

[Treasury Laws Amendment \(Delivering Better Financial Outcomes\) Regulations 2024](#) has five sections that aim to make access to financial advice more affordable by cutting some of the red tape advisers endure. Stakeholders have until July 8 to have their say.

- a. The draft bill proposes to remove the requirements for advisers to provide Fee Disclosure Statements as part of an ongoing fee arrangement, update record keeping obligations for new consent requirements, and remove references to civil penalties related to a fee recipient's failure to provide certain notifications to a client. In creating such documents, advisers should be able to have a new streamlined consent process when a client enters or renews an ongoing fee arrangement and authorise ongoing advice fees to be deducted from a financial product.
- b. The bill proposes that advisers should make Financial Services Guides (FSG) easier to provide to retail clients. They can continue to provide clients an FSG or make information in the document available on their website as "website disclosure information".
- c. The third proposal wants to ensure that monetary and non-monetary benefits given by a retail client are not conflicted remuneration. "The new definition of conflicted remuneration clarifies the law to achieve the intended outcome of the conflicted remuneration provisions: to ban benefits given by a product issuer or seller which could reasonably influence financial product advice," the explanatory statement shows.
- d. In instances where personal advice is provided on general insurance products, the new law proposes that informed consent requirements apply.
- e. Lastly, the bill wants written information or documentation requirements for the purposes of section 99FA of the *Superannuation Industry (Supervision) Act 1993* to continue to be met electronically.

(2) Treasury Unveils Roadmap to Tackle Greenwashing and the Growth of Australia's Sustainable Finance Markets

Treasury has unveiled its [sustainable finance agenda](#), offering a three pillar "roadmap" to help mobilise private capital and turn Australia into a renewable energy "superpower".

The roadmap outlines how the government, regulators, and industry can work together to "implement sustainable finance initiatives and reforms in a clear and coordinated way", according to Treasurer Jim Chalmers.

The roadmap focuses on three goals including improving transparency on climate and sustainability, financial system capabilities, and Australian government leadership, and outlines steps to achieve these.

Each goal is broken down further into actionable items such as the implementation of mandatory climate-related financial disclosure requirements for large businesses and financial institutions, which the government plans to enact shortly.

These disclosures, according to the Treasury document, should provide investors with greater transparency and more comparable information about entities' exposures to climate-related financial risks and opportunities and their climate-related plans and strategies

Also included among the items is the development of sustainable investment product labels, with a public consultation slated for early 2025, ahead of the legislation's introduction in 2026, and the regime's planned start date in 2027. "The government has committed to establish consistent labels and disclosure requirements for investment products marketed as 'sustainable' or similar, including for managed funds and within the superannuation system," Treasury explained.

Meanwhile, the Australian Sustainable Finance Institute (ASFI) is expected to finalise the development of the initial Australian Sustainable Finance Taxonomy by the end of 2024, Treasury said, with the government poised to explore initial use cases by mid-2025. The taxonomies will cover "green" and "transition" activities that contribute to climate change mitigation, in six priority sectors, as well as "do no significant harm" and "minimum social safeguard" criteria.

(3) Digital ID Act Passed

The [Digital ID Act 2024](#) and the Digital ID (Transitional and Consequential Provisions) Act 2024 have been passed by Parliament and will commence by 1 December 2024.

The Acts will expand the way individuals will be able to verify their identity online by establishing a voluntary accreditation scheme for providers of Digital ID services in addition to the Australian Government's accredited Digital ID provider, myGovID.

Digital ID will be available instead of providing physical ID documents. The ACCC will be appointed as the initial Digital ID regulator. The OAIC will be the privacy regulator of the Digital ID system.

The Department of Finance is [consulting](#) on the proposed 2024 Digital ID Accreditation Rules, Accreditation Data Standards, and Digital ID Rules which support the Digital ID Act.

The [OAIC](#) will particularly protect the use of biometric information which can be collected, used, and disclosed by accredited entities (where authorised by their accreditation conditions), for the purposes of verifying the identity of an individual, and/or authenticating an individual to their Digital ID.

Biometric information collected for the purposes of verifying identity must be destroyed immediately after verification is complete. Biometric information collected for authentication purposes can be retained where the individual has consented to this so the biometric can be used to authenticate the individual in the future, for example, to log back into a Digital ID account using a face biometric match with the individual's consent. The rules may require that biometrics are stored in an encrypted manner or on the individual's local device to prevent access to the original image while maintaining the authentication functionality.

ASIC

(4) Calls Out Licensees

ASIC commissioner Alan Kirkland has issued a blunt warning to licensees not meeting their obligations. In a speech to financial advice licensees at the Professional Planner Licensee Summit, [posted online](#), Kirkland said the regulator has spent two years warning licensees to lift their game when it comes to compliance with the reportable situations regime, and from now on its focus will be on enforcement.

"The regime has now been in effect for almost three years - but the proportion of licensees that have submitted a report is very low, which suggests some still may not be complying with their obligations," Kirkland said. "There has been little improvement on this since our first report on this in 2022, which is one of the reasons we have made it an enforcement priority for 2024. "Our surveillance on this remains active and ongoing but we have spent the past two years [warning licensees to lift their game](#) - and my message today is that we're not going to spend the next two years doing the same. "Where we find evidence of non-compliance, we will take the appropriate action - including enforcement action, where necessary."

(5) Hopes to Elevate Regulatory Outcomes with Digital Drive

[Speaking before a parliamentary committee on the oversight of the Australian Securities and Investments Commission](#) (ASIC), the chair of the corporate regulator, Joe Longo, said enforcement and compliance work in financial regulation is undergoing a profound shift towards digital integration.

Recognising the pivotal role of technology in modern regulatory landscapes, Longo said ASIC is embarking on a strategic digital transformation aimed at enhancing efficiency, effectiveness, and responsiveness in regulatory oversight.

"The Financial Regulator Assessment Authority (FRAA) recommended that ASIC needed a substantial uplift in its data and technology capability. ASIC wholeheartedly agrees with this recommendation," the chair said. "ASIC is in a digital arms race, with AI rapidly being adopted in financial services firms and digitally enabled misconduct is on the rise. We need to be a leading digitally enabled and data-informed regulator who is ahead of the game."

As such, Longo said, ASIC is ramping up its digital arsenal. Moreover, he shared that central to ASIC's digital agenda is the development of a comprehensive digital target state, supported by initial funding secured in the recent federal budget. "We have developed a digital target state, and we received initial funding in the recent federal budget to commence a program of work to uplift our cyber security across our regulatory systems which will set us on firm foundations for our digital uplift. We will now move to implement these initiatives, including a new 'threat intelligence platform' to improve information collection and real-time detection of internal and external cyber threats."

ASIC's commitment to digital transformation also extends to [revolutionising its data and analytics capabilities](#), Longo said. "Last year, ASIC seized and reviewed 2.6 million documents, as part of its investigations. The time to collect, process and sift through this volume of data to find the 'needle in the haystack' and make the connections with other datasets we've previously collected is exceedingly labour-intensive, relying heavily on manual efforts from our investigators. Bolstering our data and

analytics capabilities through investment in creating a unified view of entities, coupled with advanced analytics, would significantly expedite ASIC's ability to connect disparate datasets and accelerate the investigation process."

Moreover, Longo highlighted that transitioning to a "leading digitally enabled and data-informed regulator" diminishes the reliance on human intuition and experience for decision making. "A further uplift in data capabilities will empower ASIC to make more timely decisions regarding resource allocation and fine-tuning of priorities across prevention, investigation, and enforcement efforts.

Longo also disclosed that as of 30 April, over a 12-month period, ASIC has initiated more than 130 new investigations, marking a 25 per cent increase, filed 29 new civil proceedings in the Federal Court involving 64 defendants, and facilitated charges against 23 individuals by the Commonwealth Director of Public Prosecutions (CDPP).

(6) Launches new Professional Registers Search

ASIC has [announced](#) that it is launching a new streamlined Professional Registers Search (PRS). Releasing in late June 2024, the PRS allows users to review and search all of the professional registers databases with just one search.

The new PRS provides a more intuitive experience for users, making it easier to access information and make sure the person or company the user is dealing with is licensed.

The first release of the Professional Registers Search is scheduled for late June 2024. The following [ASIC Connect](#) registers are moving across to the PRS:

- Australian Financial Services (AFS) licensees,
- AFS authorised representatives,
- credit licensees,
- credit representatives,
- official liquidators,
- registered auditors (registered company auditors and authorised audit companies),
- registered liquidators,
- registered managed investment schemes, and
- approved self-managed super funds (SMSF) auditors.

Other search registers on ASIC Connect will not be impacted by the changes, including searching for company and business names. A second update of the PRS is scheduled for late 2024, when all professional register extracts and documents will be made available.

AFCA

(7) Seeks Industry Feedback on Approaches

AFCA is seeking feedback from the financial services industry on its proposed [annual Approach document schedule for financial year 2024-2025](#).

AFCA Approach documents support consumers, small businesses and financial firms' understanding of its approach to certain issues and how it reaches decisions. The Approach documents provide practical information on how AFCA will assess and determine complaints and enhance its transparency, consistency, and efficiency. "We will publicly consult on Approaches and provide feedback about the outcomes of the consultation process. We will scale consultations according to the breadth, impact and urgency of issues being considered," AFCA said.

The new or amended priorities will be in addition to existing commitments and engagement with stakeholders on current approaches and AFCA will continue to work on key factsheets responding to current and emerging issues, including scams, it said.

CLEAN ENERGY REGULATOR

(8) Releases Quarterly Carbon Markets Report

The [Clean Energy Regulator](#) has released its [Quarterly Carbon Market Report](#) for the quarter to March 2024.

Key points (as identified by the Carbon Farming Foundation summary):

- There's been an increase in:
 - ACCU issuance compared with Q4 2023.
 - safeguard facility retirements/cancellations and holdings, which is likely to be a dominant demand source into the future.
 - Projects claiming for the first time. It's expected that the ongoing supply will grow as the market matures, and more projects start to generate ACCUs as they hit the 2-3 year point post-registration.
- ACCU retirements from vegetation methods have seen a significant increase on Q4 2023 volumes, making up a substantial portion of Q1 retirements. This suggests nature-based credits are a strong source of demand.

PROFESSIONAL DEVELOPMENT OPPORTUNITIES

Online Courses

Carbon Markets Institute - <https://carbonmarketinstitute.org/education-and-training/>

- Carbon Market Fundamentals Training
- Carbon Farming Banker Training

Bright Law - <https://learn.brightlaw.com.au/collections>

- The Hawking Prohibition: financial services marketing (January 2024) – 36 min video; \$330.
- Privacy Law for Financial Services Providers – a course of 4 videos; \$440.
- Responding to Regulatory Investigations – draft policies on responding to regulatory investigations, either with or without notice; \$66

Financial Education - <https://www.financialeducation.com.au/courses/>

FINSIA - <https://www.finsia.com/education>

- Certificate in Climate Risk - <https://www.finsia.com/education/qualifications/certified-professional-banker/the-certificate-in-climate-risk>
- Professional Refresher Packages - <https://www.finsia.com/professional-refresher>

KKR - <https://www.kkr.com/alternatives-unlocked>

- In a changing macro environment that is challenging the durability of traditional 60/40 portfolios, investors may want to consider alternative sources of diversification. With a focus on the private markets, the KKR Alternatives Unlocked education platform empowers investors to confidently explore the alternative path forward, complete with continuing education credit opportunities for financial professionals.

Events and Webinars

July 2024

- (a) CARBON MARKET INSTITUTE – **Safeguard Symposium** (Canberra – 1 July) – more info [here](#).
- (b) AUSTRALIAN INVESTMENT COUNCIL – **ESG in the Spotlight: A New Benchmark for the Venture Capital Industry** (Webinar – 2 July) – more info [here](#).
- (c) FINSIA – **Leadership: Are You Above or Below the Line?** (Webinar – 16 July) – more info [here](#).

(d) AUSTRALIAN INVESTMENT COUNCIL - **Enhancing or undermining? Why it's time to put an ESG lens on AI** (Sydney – 18 July) – more info [here](#).

(e) INTERNATIONAL BUSINESS REVIEW – **Asset Allocation Strategies Forum** (Sydney – 22-23 July) – more info [here](#).

(f) AUSTRALIAN INVESTMENT COUNCIL – **Principles of Private Equity** (Melbourne – 23 July) – more info [here](#).

(g) AUSTRALIAN INVESTMENT COUNCIL – **Principles of Venture Capital** (Melbourne – 23 July) – more info [here](#).

(h) INTERNATIONAL BUSINESS REVIEW – **Tax Strategies Australia 2024 Forum** (Sydney – 24-25 July) – more info in 2024.

(i) FINSIA – **Enter the Conversation: Investment Governance in Action** (Sydney – 25 July) more info [here](#).

August 2024

(a) CARBON MARKET INSTITUTE – **Singapore Carbon Market and Investor Forum** (Singapore – 15-16 August) – more info [here](#).

(b) THOMSON REUTERS – **Australian Regulatory Summit** (Sydney – 29 August) – more info [here](#).

September 2024

(a) JANA – **Annual Conference 2024** (Melbourne – 5 September) – more info soon.

(b) INTERNATIONAL BUSINESS REVIEW – **Investment Operations Challenges** (Sydney – 11-12 September) – more info [here](#).

(c) INTERNATIONAL BUSINESS REVIEW – **Member Engagement, Communications and Experience in Financial Services 2024 Forum** (Sydney – September 24) – more info in 2024.

October 2024

(a) IQ INTERNATIONAL – **Carbon Capture Summit Australia 2024** (Perth – 9-10 October) – more info [here](#).

(b) FSC – **Investment Performance Training Course** (Melbourne -16-18 October) – more info [here](#).

(c) INTERNATIONAL BUSINESS REVIEW – **Foundational Investment Finance Workshop 2024** (Melbourne – 17 October) – more info [here](#).

(d) FSC – **Investment Performance Training Course** (Sydney -22-24 October) – more info [here](#).

(e) INTERNATIONAL BUSINESS REVIEW – **Foundational Investment Finance Workshop 2024** (Sydney – 23 October) – more info [here](#).

(f) INTERNATIONAL BUSINESS REVIEW – **Asset Allocation Strategies 2024 Forum** (Sydney – 28-29 October) more info [here](#).

(g) CARBON MARKET INSTITUTE – **Australasian Emissions Reduction Summit** (Melbourne – 29-30 October) – more info [here](#).

November 2024

- (a) ASIC – **Annual Forum 2024** (Sydney – 14-15 November) – more info [here](#).
- (b) INTERNATIONAL BUSINESS REVIEW – **AI for Customer Experience in Financial Services 2024 Summit** (Sydney – 18-19 November) – more info [here](#).

December 2024

- (a) INFORMACONNECT – **Australian Carbon Capture, Utilisation and Storage Conference** (Perth – 3 December) – more info [here](#).

INTERESTING READS

Links to interesting blogs and articles I've recently read:

- a. [Deciphering the Australian sustainable finance taxonomy](#) - Australia's first sustainable finance taxonomy (the Taxonomy) will be a critical tool in the global push towards sustainable development. Released by the Australian Sustainable Finance Institute, the Taxonomy has the potential to play a critical role as a framework to efficiently and credibly evaluate green and transition activities and facilitate investment and financing in them. In this Insight, we set out a high-level guide on what the Taxonomy is trying to achieve, how it is being developed and how it may impact businesses in the future. We also outline some of the key themes stakeholders want addressed in the Taxonomy's development and implementation. (Allens Lawyers – 14 June 24)
- b. [Will ASIC use AI for advice compliance monitoring?](#) - The rapid expansion of artificial intelligence (AI) applications in the financial advice industry has led to a prediction that ASIC could soon incorporate AI into its compliance and audit checks of advisers. (Financial Standard – 17 June 24)
- c. [Unprecedented vulnerabilities in financial services: KPMG](#) - KPMG specialists say disruptive technologies, particularly generative AI, and the imperative to automate, are exposing financial services executives to unprecedented vulnerabilities. (Financial Standard – 27 June 24)

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