

Advisers providing claims handling will need binder

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Financial advisers acting as an agent of an insurer to provide claims handling and settlement services will need a binder with the insurer to comply with the *Financial Sector Reform (Hayne Royal Commission Response) Bill 2020*.

An analysis by The Fold Legal looked at claims handling and settling services for insurance products and claims as a financial service regulated by the Australian Securities and Investments Commission (ASIC).

The Fold said Australian financial services licence (AFSL) applications and authorised representative (AR) needed to be in by 30 June, 2021, but the authorisations requirements were effective from 31 December 2021, and ARs could represent more than one AFSL without getting cross approval from others.

“As an insurer, if you want another AFS licensee to be your authorised representative (e.g. a financial adviser or insurance broker), you must give them a binder,” it said,

“AFS licensees with a claims handling authorisation may provide their services to multiple entities, including other AFS licensees (e.g. a claims management company which holds its own AFS licence with a claims handling authorisation and provides services to multiple insurers).”

The Fold noted that giving a recommendation or opinion (or a report of either) which was reasonably necessary as part of handling and settling an insurance claim was not providing financial product advice.

“However, if you recommend how a settlement amount is to be structured or should be managed or if you recommend an insurance product, then you will be providing financial product advice,” the analysis said.