

Australia: Economic concerns crowd out rethink of financial services reform

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The recent shift of the government's focus to more immediate issues relating to economic stimulus and the survival of the economy following COVID-19 lockdowns is unlikely to work in favour of those who want a complete rethink of reforms in the financial advice sector, industry experts say.

The government has decided to move and base its new regulation rollout solely on the findings of a royal commission that, while desperately needed, was clearly retrospective and focused solely on misconduct, according to an article in *Professional Planner*, a publication for financial planners.

Treasurer Josh Frydenberg's proposed reform package based on the 76 recommendations outlined last year by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, is the largest and most comprehensive corporate and financial services law reform package in the three decades since the Corporate Law Economic Reform Programme in the 1990s. It includes changes that have already come to bear on financial advisers or are about to be implemented, including the banning of grandfathered commissions, changes to annual opt-in arrangements and independence disclosure. There are also proposed changes that will shape the industry down the track including continuing reforms around the payment of commissions in the insurance industry.

Experts in policy and government reform who spoke with *Professional Planner* believe it is unlikely much of what has already begun can be stopped, and that genuine reform won't begin until much of what is currently in the pipeline makes its way through the system (and emerging in the form of laws) and a review is conducted. "I'd love to do an audit of all the advice legislation that's come through and check how much of it actually helps clients," said Mr Simon Carrodus, solicitor director at The Fold Legal, who has previously had stints as an in house council at CBA as well as ASIC.

Value in proposed changes

"For a long time I wondered about the real value of FSGs (Financial Service Guides), they're pretty harmless but does the client get any benefit from them?"

"You look at the whole thing through the prism of – is this going to help clients? Yes, some of it works towards prohibiting conflicted remuneration. But some of the other stuff makes life really hard for advisers and offers no benefit. Just put a line through it," Mr Carrodus said.

Scott Donald, University of NSW Law's director of the Centre for Law, Markets and Regulation, agrees the Royal Commission findings are the wrong basis for policy outcomes.

“The Royal Commission wasn’t given the resources to give a policy review, it was a royal commission into misconduct,” he said. What’s still missing is a clear vision for what the financial advice industry ought to look like, he added.

Different priorities

But the COVID-19 crisis means that the government's priorities are different now, with economic recovery outweighing financial sector reform.

Mr Bernie Ripoll, the former Labour Financial Services Minister who was the principal architect behind the Future of Financial Advice reforms, said, “The economy is more important, all the other things are less important... We have an economy to rebuild, jobs to create. When everyone loses their jobs, a lot of things become less important.”