

Policy & advocacy:

The big picture



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FAAA
CONGRESS

2023 ADELAIDE NOVEMBER 20-22

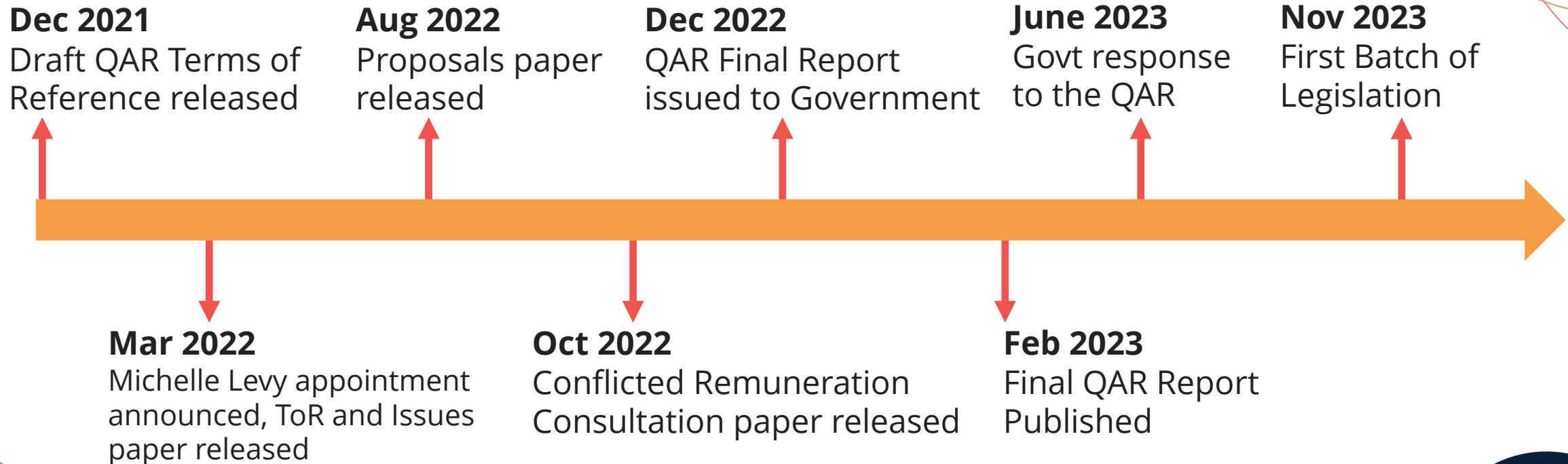
Agenda

- 2023 – Year in Review
 - QAR Recommendations
 - Adviser Registration
 - ASIC Funding Levy
 - Education Standard
 - Compensation Scheme of Last Resort
- Policy Platform Renewal

Quality of Advice Review

QAR – The Timeline

The QAR timeline has played out as follows:



The QAR Response - Summary

In his 13 June 2023 Media release on the QAR, Minister Stephen Jones said:

“The Albanese Government will **adopt the bulk of Quality of Advice review recommendation** to ensure Australians have access to reliable and affordable financial advice.

These reforms aim to address the ***high cost of advice, better protect consumers, bolster ethical standards*** and ensure Australians can ***access helpful information*** that could make a meaningful difference to their ***quality of life in retirement***.

The Government will develop legislation over the coming year to deliver this vital reform.”

In his speech, he also stated – “Of the 22 recommendations, the Government will adopt 14 recommendations in full or in principle today”

The QAR Response - Summary

- In June 2023 Media Minister Stephen Jones announced that the QAR reforms would be progressed in a phased approach with three streams:
- **Stream one** – removing onerous red tape that adds to the cost of advice with no benefit to consumers
- **Stream two** – expanding access to retirement income advice, including changes to intra-fund advice and progressing the Non-Relevant Provider option
- **Stream three** – exploring new channels for advice and other matters, such as fixing the Code of Ethics

The QAR Response – Stream one

The items identified in the Stream One changes include

Recommendation	13 June 2023 Announcement	14 Nov 2023 Draft Leg
Legal certainty for paying advice fees from super	No	Yes
Consolidating 3 fee documents into 1	Yes	Yes
Allowing more flexibility with FSGs	Yes	Yes
Removing the safe harbour steps	Yes	No
Replacing the lengthy and legalistic SoAs	Yes	No
Life Insurance and client consent	Yes	Yes
Conflicted remuneration changes	Yes	Yes

QAR Implementation - Update

Treasury has been actively engaging with the profession since late June, addressing how to make these recommendations a reality, however this is complex:

- In the absence of support for the Good Advice Duty, with the removal of the safe harbour test, what objective test will exist to provide confidence on compliance with the Best Interests Duty
- Whilst advice documents will be cut back, what do they need to include and how can licensees/advisers have confidence in terms of what ASIC/AFCA expect?
- How do you efficiently achieve a single fee consent form/process where all the product providers are doing things differently?
- What types of advice should Non-Relevant Providers be allowed to provide and what should be permitted under a collectively charged (intra-fund advice) model?
- What education standard should apply to Non-Relevant Providers?

QAR – What Happens Next?

- The Government remain committed to providing a further statement on implementation before the end of the year
- In a presentation at a joint associations event in Canberra on 18 October, the Minister suggested that legislation will be tabled in the Parliament in the Autumn 2024 sitting. He also made it clear that we need to be realistic in that there is only so much time that he and the Parliament can focus on this
- There are clearly a range of important complex issues to resolve first
- We will continue to advocate for the timely delivery of the QAR benefits

Adviser Registration

Adviser Registration

The Royal Commission recommended that advisers be subject to individual registration. This was part of the 2021 Better Advice Bill, with implementation in two phases:

- I. Done by licensees, by the end of 2022
- II. By individuals through the Modernising Business Registers program when the adviser register is transferred to the ATO (four years later)

This has been a bit confusing for advisers, who think they are already registered, however what is required includes more, such as a fit and proper person declaration

Phase one has been delayed as the Government has only just got necessary legislation through the Parliament. ASIC have provided three extensions, with 1 February 2023 being the latest date. Phase two is now in doubt with the Modernising Business Registers program being scrapped by the Government

ASIC Funding Levy

ASIC Funding Levy

	2017–18	2018–19	2019–20	2020–21	2021–22
Total regulatory costs for the sub-sector without levy relief (\$ million)	25.6	33.0	56.2	60.0*	56.7*
Total regulatory costs for the sub-sector with relief (\$ million)	N/A	N/A	N/A	25.8	22.8
Number of licensees	2,985	3,051	2,991	2,933	2,866
Number of advisers	22,652	24,919	21,308	18,704	16,153
Graduated levy amount without relief (per adviser)	934	1,142	2,426	2,971**	3,021**

* These amounts are what would be recovered from the sub-sector if there was no levy relief.

**These per adviser amounts reflect the amounts that would've been charged had the relief not been in effect.

Source: Review of the Australian Securities and Investments Commission Industry Funding Model - Final Report - June 2023



ASIC Funding Levy

The Advocacy on the Funding Levy is ongoing:

Key Issues for Advice:

- Paying for litigation against unlicensed operators, and those no longer in advice (Big Banks, Dixon Advisory etc)
- Fines and Penalties going straight to Consolidated Revenue
- Allocation of matters that might not be advice or entirely advice (i.e. ASIC High Court action against Westpac)
- Paying for our disciplinary body, when the Government pays for those related to auditors and liquidators
- Wholesale only licensees pay just \$18
- Lack of transparency

Personal advice to retail clients on relevant products - \$m

Cost Category	Direct Costs	Indirect Cost	Total	Percentage
Supervision and surveillance	9.539	7.551	17.090	30.8%
Enforcement	18.198	14.405	32.603	58.7%
Other regulatory activities	2.412	1.909	4.321	7.8%
Capital Expenditure	3.581		3.581	6.4%
Less Own-Source Revenue	-2.073		-2.073	-3.7%
Total	31.657	23.865	55.522	100.0%

Source - The June 2023 ASIC Cost Recovery Implementation Statement

ASIC Funding Levy – Outcome

The Financial Advice Levy Formula:

Total Financial Advice Cost = Licensee Cost * Licensee #'s + Adviser Cost * Adviser #'s

Adviser Cost = (Total FA Cost - Licensee Cost * Licensee #'s) / Adviser #'s

June Estimate - Adviser Cost = **(\$55.5m - \$1,500 * 2,655) / 16,019 = \$3,217**

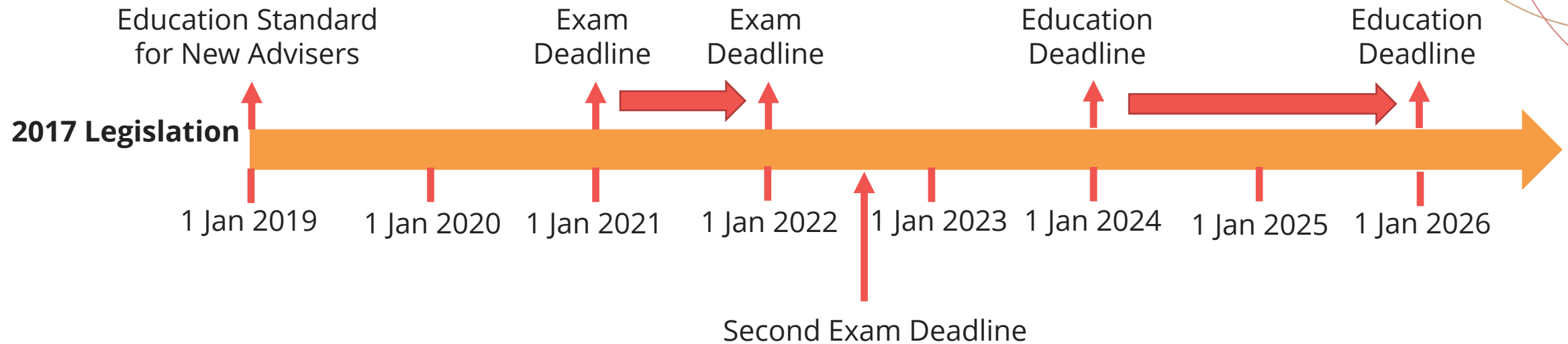
November Final - Adviser Cost = **(\$47.6m - \$1,500 * 2,766) / 15,416 = \$2,818**

Based upon the original estimate of cost (\$55.5m), at the lower adviser number (15,416) the cost per adviser would have been \$3,333

Education Standard

Professional Standards Journey

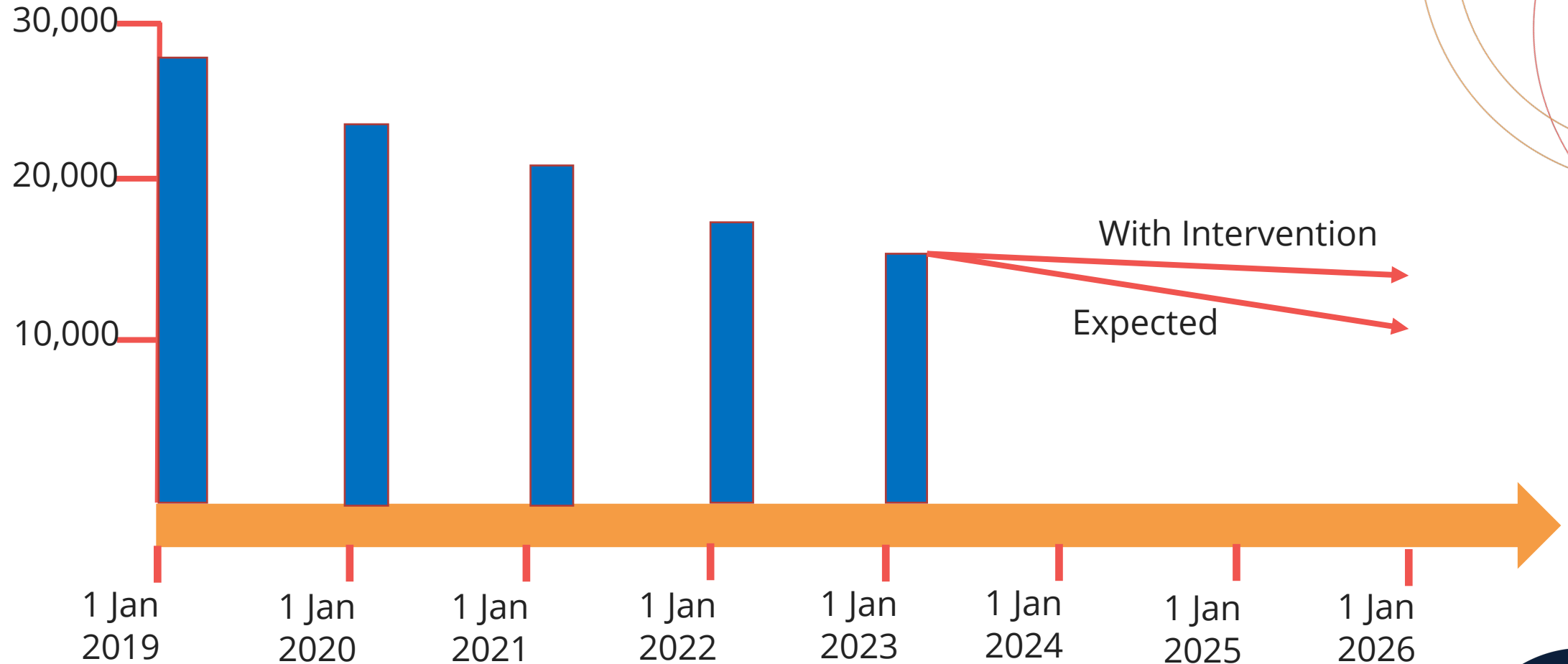
The professional standards journey has been challenging:



Exam and Education Deadline Extension announced in August 2019

Exam Deadline further extended for some as part of the Better Advice Bill in 2021

Adviser Numbers



Education Standard

The Bill containing the **Experienced Adviser Pathway** (EAP) was introduced into Parliament on 14 June 2023, was passed on 6 September 2023 and obtained Royal Assent on 20 September 2023. It is now law and you can rely upon it

The EAP allows those advisers who have 10 years experience between 1 January 2007 and 31 December 2021, with a clean track record, who have passed the exam, to continue to practice beyond the 1 January 2026 education deadline, without needing to do any further study

There are a range of existing advisers who do not meet this criteria.

But that alone is not enough to turn adviser numbers around. The Government is also committed to provide **greater flexibility for new entrants**. Universities are pulling out of financial advice programs and the Group of Eight (Sandstone) Universities have not supported financial advice programs. **Change is essential** if we are to rebuild our profession, however it should not result in a reduction in standards

Compensation Scheme of Last Resort

CSLR – Origins

The September 2017 Supplementary Report of the Ramsay Review recommended a prospective Compensation Scheme of Last Resort:

*A CSLR should initially be restricted to **financial advice failures** where a financial adviser (relevant provider) has provided personal and/or general advice on 'relevant financial products' to a consumer or small business.*

At the time, the Government was supportive, however deferred a decision in the context of the Banking Royal Commission, which handed down the following recommendation:

7.1 The three principal recommendations to establish a compensation scheme of last resort made by the panel appointed by government to review external dispute and complaints arrangements made in its supplementary final report should be carried into effect

CSLR – Royal Commission

The Government's February 2019 response to the Banking Royal Commission, which came just three days later, proposed the following:

*The Government agrees to establish an industry-funded, forward-looking compensation scheme of last resort (CSLR). The scheme will be designed consistently with the recommendations of the Supplementary Final Report of the Review of the financial system external dispute resolution framework (Ramsay Review) and will **extend beyond disputes in relation to personal financial advice failures.***

Well, that is what they said then. Later they refined the scope to the following:

- engaging in credit activity (i.e. mortgage brokers and credit providers)
- providing financial product advice that is personal advice provided to a person as a retail client
- dealing in securities for a person as a retail client, other than issuing securities

CSLR – Scope and Risk

The former Government introduced legislation in October 2021, however were unable to get it through the Parliament. The ALP, in opposition, proposed a broader scheme and specifically referred to **Managed Investment Schemes**, however after coming to power in May 2022, they went back to the narrower scope

Legislation was introduced on 8 September 2022, however was amended in March 2023 and finally passed in the Senate in June 2023. This marked the end of the Banking Royal Commission recommendations that were relevant to financial advice

We always feared the risk of a **black swan event**, that could result in a huge compensation bill that would be left to financial advisers. This came in the form of the Dixon Advisory business, when the parent company walked away from the business in early 2022, and later when ASIC encouraged clients to submit a complaint to AFCA

CSLR – Who Pays

The cost related to the implementation of the CSLR will be borne as follows:

- Complaints submitted before 8 September 2022 will be covered by the 10 largest financial institutions in Australia. In response to questions at Senate Estimates in May, Treasury advised that the “10 largest financial institutions are estimated to pay out \$230 million in compensation for in-scope complaints received by AFCA before 8 September 2022”
- Treasury also said at that time that “Unpaid determinations that relate to complaints lodged with AFCA on or after 8 September 2022 which are paid out by the CSLR before 30 June 2024 will be funded by the Commonwealth”
- Financial advisers will need to pay the cost of unpaid AFCA advice determinations for matters from 1 July 2024. At this stage, it is difficult to estimate what the cost might be, however we would expect it to be a few hundred dollars a year in the absence of a further black swan event

What Next

- We are expecting the following:
 - Further QAR announcement and second batch of draft legislation
 - Consultation on increased education flexibility
 - Further advocacy on the ASIC Funding Levy
 - Consultation on Changes to the Code of Ethics

Opportunity for Change

The Minister has been clear that we need to be practical in terms of what is achievable in the context of constraints (drafting, parliamentary time):

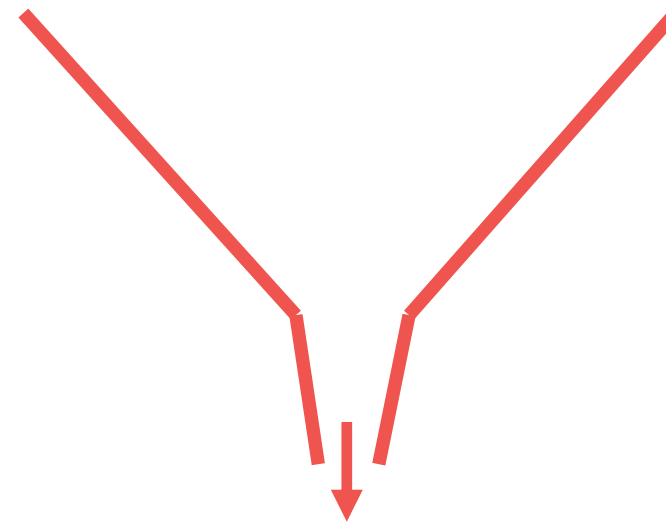
Other Reform Proposals

Quality of Advice Review

New Entrant Pathway

Australian Law Reform
Commission

Licensing Regime Changes



Sept 2023
Experienced Adviser Pathway

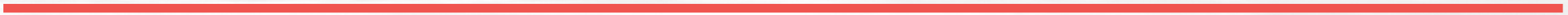
Policy Platform Renewal



Why?

- Merger
- Success
- New paradigm

As a merged organisation it is time that our policy platform was, like our organisation, focused on the future of the profession. Join us on the journey.



Timelines for renewal

1) SIX TRANCHES

- I. Starting in August
- II. Ending just after Roadshow 2024
- III. Active from 1 July 2024
- IV. Would cover the next six years (only because ending at 2029 would look weird)

Policy Platform Renewal

In numbers:

305

3 year, 6 years

39



Are you Ready to Poll?



What rates higher?

Restrictions on who can provide personal financial advice

OR

Potential additional pathways for new entrants



What rates higher?

Automation of fee consent

OR

Automation of AML/CTF requirements



What rates higher?

There will be an ongoing outflow of advisers retiring - should there be a focus on how to replenish talent

OR

Ensuring all registered advisers possess and maintain their level of education, skills and knowledge



What rates higher?

Tighten wholesale client thresholds and consent requirements

OR

Tighten the personal advice test to capture more of what is now general advice



A model for reform

Adviser numbers

Who else provides advice?

What does an adviser look like?

FAAA's capacity to advocate for change

From the members

Shift away from advice being about "products" and towards it being about "strategy"

Bringing our profession into line with other similar professions, particularly legal and accounting. This covers a broad range of matters including how we are licenced and regulated, the documentation required to be provided to clients, who can provide advice and what advice can be provided etc.

Moving towards more self-regulation and consolidating the professional bodies...

"Self determination. Our own charter and disciplinary body. Genuine Profession status."

"Allow individual licensing. It works for lawyers, doctors, electricians and accountants. The cost of running a licensee is astronomical."

So what can we tell you now?

- Professionalism is the highest priority
- More members want to serve more consumers
- Achievable goals make for more likely policy successes

Q&A

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Meet the speaker zone



**Thank you for
attending this
session**

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