

21 January 2025

Senate Standing Committees on Economics

PO Box 6100

Parliament House

Canberra ACT 2600

Via email: seniorclerk.committees.sen@aph.gov.au, economics.sen@aph.gov.au

Dear Committee,

**RE: FSC Submission to Senate Economics Committee on Treasury Laws
Amendment (Genetic Testing Protections in Life Insurance and Other Measures) Bill
2025**

The FSC welcomes the opportunity to provide a submission to the Senate Economics Committee on the [Treasury Laws Amendment \(Genetic Testing Protections in Life Insurance and Other Measures\) Bill 2025](#), which has been referred for inquiry and report.

Our feedback addresses Chapter 2 (Licensing exemptions for foreign financial services providers) and Chapter 4 (Repealing Stage 2 financial adviser registration).

Chapter 2 – Licensing exemptions for foreign financial services providers

Resolving the continued uncertainty of the future of this regime is important not only for foreign financial service providers (FFSPs) wishing to service the Australian market, but also to allow Australian investors to benefit from access to the services and products offered by FFSPs and offshore markets generally.

The FSC believes that the material elements of our previous submission to the Treasury in September 2023 have been addressed and reflected in this current iteration of the Bill.

Chapter 4 – Repealing Stage 2 financial adviser registration

The FSC supports not proceeding with the Stage 2 adviser registration process as proposed.

As such, the FSC strongly recommends the passage of this Bill unchanged.

About the Financial Services Council

The FSC is a peak body which sets mandatory standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services. Our full members represent Australia's retail and wholesale funds management businesses, superannuation funds, financial advice licensees and investment platforms.

The financial services industry is responsible for investing more than \$3 trillion on behalf of over 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is one of the largest pools of managed funds in the world.

Licensing exemptions for foreign financial services providers

The FSC submits it is important to resolve urgently the continuing uncertainty surrounding the future of the regime governing the provision of financial services by FFSPs in Australia and supports Government’s steps to provide certainty to the market by clarifying its intentions for FFSPs. This is important not only for FFSPs wishing to service the Australian market, but also to ensure that FSC members can continue to access the services and products offered by FFSPs and offshore markets generally, for the benefit of Australian investors.

The exemptions from the need to hold an AFSL that have been used by FFSPs since 2003 are due to expire on 31 March 2027. The transitional relief was previously set to expire on 31 March 2026 but was recently extended by an additional 12 months via an ASIC [legislative instrument](#). Despite this extended relief period, it is important that the relevant legislation included in this Bill be passed as a matter of priority.

Two previous Bills introducing exemptions for these providers have been introduced into parliament. However, both lapsed upon the calling of a general election, first in 2022 and more recently in 2025.

The FSC submitted a full response to Treasury’s September 2023 consultation on the second iteration of the Bill, the Treasury Laws Amendment (Measures for Future Bills) Bill 2023: Licensing exemptions for foreign financial services providers.

We believe that the material elements of our response have been addressed and reflected in the current iteration of the Bill, save for two proposals:

2023 FSC Submission proposals	
<p>Cancellation and reinstatement of exemption: if an FFSP decides to cease reliance on an exemption on a permanent basis it should be permitted to cancel the exemption by notifying ASIC, with the consequence that it is no longer required to comply with all the ongoing obligations under the exemption (e.g. notifying offshore regulatory action). Further, the legislation should allow the FFSP to subsequently reinstate the exemption without undue difficulty.</p>	<p>In the current iteration of the Bill, it appears that an FFSP is now able to cease reliance on an exemption by notifying ASIC.</p> <p>However, if the FFSP wanted to rely on the exemption again, it would need to notify ASIC following the same process as for the initial application. We reiterate our previous recommendation that there should be a streamlined process for an FFSP to notify ASIC that they wish to rely on the exemption again.</p> <p><i>Reference: Section 911(5AD) of the Corporations Act 2001 (Cth)</i></p>
<p>Breach reports: the obligation to notify ASIC of a breach of exemption conditions should include a materiality threshold, e.g. only “significant” breaches should be required to be notified.</p>	<p>In the current iteration of the Bill, there is still the obligation to notify ASIC of <i>any</i> breach of exemption conditions. We still consider it important to introduce a materiality threshold for only significant breaches of exemption conditions to be notified to ASIC.</p> <p><i>Reference: Section 911Q of the Corporations Act 2001 (Cth)</i></p>

Repealing Stage 2 financial adviser registration

The requirement for all financial advisers who provide personal financial advice to retail clients to be registered with ASIC was enacted by the *Better Advice Act*, which included amendments to implement recommendation 2.10 of the *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry*.

Recommendation 2.10 sought to establish a new disciplinary system for financial advisers that, in addition to the registration of financial advisers, provides for a single, central, disciplinary body; requires Australian Financial Services Licence (AFSL) holders to report 'serious compliance concerns' to the disciplinary body; and allows clients and other stakeholders to report information about the conduct of financial advisers to the disciplinary body. In agreeing to introduce a new disciplinary system for financial advisers, the Government said 'the new disciplinary system will bring financial advisers into line with other professions — such as lawyers, doctors and accountants — where individual registration is standard practice.'¹

Adviser registration was proposed to take place in two stages. Stage 1 requires AFS licensees to apply to ASIC to register their financial advisers by providing certain declarations about them. ASIC uses this information to update the Financial Advisers Register (FAR). This has been fully in place for over 18 months.

Stage 2 would require individual financial advisers to register themselves with ASIC and renew their registration annually. This is due to commence by 1 July 2026.

The FSC supports reducing the regulatory burden on the financial advice sector and for this reason we are supportive of the Government's decision not to proceed with Stage 2. We appreciate the decision is also based on the determination not to proceed with Modernising Business Registers program, which was to be used to facilitate registration.

Recommendation

The FSC supports the passage of this Bill, unamended.

If you would like to discuss this matter further, please contact Bronwyn Allan on [REDACTED]
or [REDACTED]

Yours sincerely,

Bronwyn Allan

Policy Manager – Cross-Industry Regulation

¹ Restoring trust in Australia's financial system, The Government response to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, February 2019, page 17