

FSR Regulatory Update: Government sets FSLAA commencement date and releases new disclosure regulations

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The new Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 were passed in late June 2020 (the Disclosure Regulations). The Disclosure Regulations set out new disclosure requirements for businesses and individuals that provide financial advice. The Disclosure Regulations amend the Financial Markets Conduct Regulations 2014.

The new disclosure regime is substantively different from the existing Financial Advisers Act disclosure regime. Most notably, disclosures are now given (or made available) at three distinct times in the adviser's interaction with the client, together with a new requirement for certain disclosures to be publicly available on a website at all reasonable times. The new disclosure regime aims to make disclosures available as and when they are most appropriate to the client and as such, the timing and content of each of those disclosures reflects a stated purpose. This can be contrasted with the current regime which relied mainly on a single disclosure statement given to the client at the commencement of the financial advice interaction.

The Disclosure Regulations incorporate feedback on an exposure draft released in October 2019 and [MBIE has released some useful guidance](#) noting the differences between the exposure draft and the final Disclosure Regulations. Many financial advice providers will be pleased to see a slight relaxation in some areas - for example, now complaint disclosure is only required if the complaint remains unresolved after two business days and the 12 month time limit for relying on previous disclosures has been removed.

The Disclosure Regulations form part of the new financial advice regime contained in the Financial Services Legislation Amendment Act 2019 (the FSLAA). In late March 2020, the Government announced that it would delay the commencement of the FSLAA from the initial 29 June 2020 start date to early 2021, due to the impact of COVID-19. At the same time as the Disclosure Regulations were made (late June 2020), a new commencement date of 15 March 2021 was officially announced for the FSLAA. Immediately following that announcement, the Financial Markets Authority (FMA) released a statement encouraging financial advisers who intend to obtain a transitional licence, to file their application before the end of the year so that they will have adequate time to prepare for their new obligations. As of 22 June 2020, the FMA had granted 850 transitional licenses, representing an estimated 6,500 financial advisers.

The FMA noted that Authorised Financial Advisers will not be required to submit their annual 'information returns' this year, providing regulatory relief ahead of the new regulatory regime. All other obligations under the Financial Advisers Act 2008 and current Code of Professional Conduct will remain in force until the start date of the new regulatory regime.

The Government's announcement of the Disclosure Regulations and the new start date for the FSLAA follows the FMA's 16 June 2020 announcement that they were commencing a consultation on proposed licence classes and standard conditions for full licensing of Financial Advice Providers. The FMA's consultation closes on 7 August 2020.

For further information on the Government's announcement, please see [MBIE's website](#).

For further announcements on the FMA's consultation, please see the [consultation page on FMA's website](#).

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