



“The financial system plays a vital role in meeting the financial needs of Australians, allowing people to make payments, access credit, manage risk and save for retirement. To fulfil this role effectively, consumers should be treated fairly and financial products and services should perform in the way that consumers are led to believe they will.” (*Financial System Inquiry Final Report, page 193*)

“The Inquiry notes the (Future of Financial Advice) FOFA ban on conflicted remuneration and associated measures are relatively new and should bring significant change to the industry and benefits for consumers.” (*Financial System Inquiry Final Report, pages 220-221*)

“This Inquiry’s recommendations focusing on consumer outcomes, in this and related chapters, combine deregulatory elements, self-regulation and new regulation. They build on recent changes, such as the FOFA and product disclosure reforms, accommodate and promote market discipline and aim to reduce calls for future significant changes to the regulatory framework.” (*Financial System Inquiry Final Report, page 194*)

The Inquiry’s recommendations “seek to strengthen the current framework to promote consumer trust in the system and fair treatment of consumers”. (*Financial System Inquiry Final Report, page xx*)

Recommendations relating to consumer outcomes are listed in Table 1.

**Table 1: Consumer outcomes recommendations**

<b>Recommendation</b>	<b>Description</b>	<b>Page Reference</b>
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Source: Derived from *Financial System Inquiry Final Report, page xxv*

**Strengthen product issuer and distributor accountability**

“The existing framework relies heavily on disclosure, financial advice and financial literacy. However, disclosure can be ineffective for a number of reasons, including consumer disengagement, complexity of documents and products, behavioural biases,

misaligned interests and low financial literacy.” (*Financial System Inquiry Final Report, page 199*)

“Currently, in seeking to align commercial incentives with consumer outcomes, the regulatory framework is focused on point of sale. Recent examples of poor conduct suggest the alignment needs to start at the point of product design, and then be strengthened through distribution and advice”. (*Financial System Inquiry Final Report, page 193*)

The Inquiry has made the following recommendation:

**“Introduce a targeted and principles-based product design and distribution obligation.”**

(*Recommendation 21*) (*Financial System Inquiry Final Report, page 198*)

This recommendation seeks to:

- “Reduce the number of consumers buying products that do not match their needs, and reduce consequent significant consumer detriment;
- Promote fair treatment of consumers by firms that design and distribute financial products;
- Promote efficiency and limit or avoid the future need for more prescriptive regulation; and
- Build confidence and trust in the financial system.” (*Financial System Inquiry Final Report, page 199*)

“The obligation would require product issuers and distributors to consider a range of factors when designing products and distribution strategies. In addition to commercial considerations, issuers and distributors should consider the type of consumer whose financial needs would be addressed by buying the product and the channel best suited to distributing the product.” (*Financial System Inquiry Final Report, page 198*)

“This option would deliver benefits to industry, including strengthening internal risk management for product design, which may mitigate future problems, as well as signalling a higher level of customer focus. This approach should also avoid new, more complex and interventionist regulation in the future, promoting efficiency in the financial system overall.” (*Financial System Inquiry Final Report, page 203*)

“In the Inquiry’s view, firms that already invest in customer-focused business practices and procedures would not be required to change their operations significantly.... These recommendations should have limited effect on incentives for product innovation”. (*Financial System Inquiry Final Report, page 194*)

## Introduce product intervention power

“Currently, ASIC can only take action to rectify consumer detriment after a breach or suspected breach of the law by a firm. Further, ASIC can only take enforcement action against conduct causing consumer detriment on a firm-by-firm basis, even where the problem is industry-wide. Australia has had cases of significant consumer detriment where ASIC had exhausted its current regulatory toolkit and where there was no clear basis to take enforcement action.” (*Financial System Inquiry Final Report, page 207*)

The Inquiry has made the following recommendation:

**“Introduce a proactive product intervention power that would enhance the regulatory toolkit available where there is risk of significant consumer detriment.”**

(*Recommendation 22*) (*Financial System Inquiry Final Report, page 206*)

This recommendation seeks to:

- “Reduce significant detriment from consumers buying financial products they do not understand;
- Limit or avoid the future need for more prescriptive regulation; and
- Build consumer confidence and trust in the financial system and, in turn, improve efficiency through increased consumer engagement and participation.” (*Financial System Inquiry Final Report, page 207*)

“ASIC should be equipped to take a more proactive approach to reducing the risk of significant detriment to consumers with a new power to allow for more timely and targeted intervention. This power should be used as a last resort or pre-emptive measure where there is risk of significant detriment to a class of consumers. This power would enable intervention without a demonstrated or suspected breach of the law. Given the potential significant commercial impact of this power, the regulator should be held to a high level of accountability for its use.” (*Financial System Inquiry Final Report, page 206*)

“If the power is used effectively, it should not significantly affect innovation. The power is expected to be used infrequently and as a last resort or pre-emptive measure.” (*Financial System Inquiry Final Report, page 210*)

## Facilitate Innovative Disclosure

“Mandated product disclosure requirements, which set form and content requirements, are impeding issuers from developing innovative approaches to communicating disclosure information. With technological developments, such as those enabling online financial services, consumer expectations have changed, but the current regime inhibits the ability of firms to meet these expectations.” (*Financial System Inquiry Final Report, page 214*)

The Inquiry has made the following recommendation:

**“Remove regulatory impediments to innovative product disclosure and communication with consumers, and improve the way risk and fees are communicated to consumers.”**

*(Recommendation 23) (Financial System Inquiry Final Report, page 213)*

This recommendation seeks to:

- “Promote more engaging and effective communication with consumers to increase consumer understanding and facilitate better decision making;
- Reduce the number of consumers buying products that do not match their needs;
- Promote efficiency, including competition, by better informing consumers.” *(Financial System Inquiry Final Report, page 213)*

### **Align interests of financial firms and consumers**

The Inquiry has made the following recommendation:

**“Better align the interests of financial firms with those of consumers by raising industry standards, enhancing the power to ban individuals from management and ensuring remuneration structures in life insurance and stockbroking do not affect the quality of financial advice.”**

*(Recommendation 24) (Financial System Inquiry Final Report, page 217)*

This recommendation seeks to better align the interests of financial firms with those of consumers by:

- “Industry raising standards of conduct and levels of professionalism to build confidence and trust in the financial system.
- Government amending the law to provide ASIC with an enhanced power to ban individuals, including officers and those involved in managing financial firms, from managing a financial firm. This would enhance adviser and management accountability.
- Government amending the law to require that an upfront commission for life insurance advice is not greater than ongoing commissions. This would reduce incentives for churning and improve the quality of advice on life insurance.
- ASIC reviewing the effect of current stockbroking remuneration structures on the quality of consumer outcomes. If this review raises significant concerns, ASIC should advise Government on the need to remove the sector’s exemption from the ban on conflicted remuneration.” *(Financial System Inquiry Final Report, page 217)*

“The Inquiry believes that better aligning the interests of financial firms with consumer interests, combined with stronger and better resourced regulators with access to higher penalties, should lead to better consumer outcomes.” (*Financial System Inquiry Final Report, page 221*)

“To build confidence and trust in the financial system, financial firms need to be seen to act with greater integrity and accountability...A change in culture in line with community expectations should promote confidence and trust in the financial system and limit the need for more significant regulation.” (*Financial System Inquiry Final Report, page 220*)

“The Inquiry considers that cases of consumer detriment and poor advice reflect organisational cultures that do not focus on consumer interests. Such cultures promote short-term commercial outcomes over longer-term customer relationships. This has contributed to a lack of consumer confidence and trust in the system.” (*Financial System Inquiry Final Report, page 218*)

### **Raise the competency of advisers**

The Inquiry has made the following recommendation:

**“Raise the competency of financial advice providers and introduce an enhanced register of advisers.”**

(*Recommendation 25*) (*Financial System Inquiry Final Report, page 222*)

This recommendation seeks to improve adviser competence by increasing the minimum standards for advisers advising on Tier 1<sup>1</sup> products:

- “A relevant tertiary degree.
- Competence in specialised areas, such as superannuation, where relevant.
- Ongoing professional development – including technical skills, relationship skills, compliance and ethical requirements – to complement the increased focus on standards of conduct and professionalism in Recommendation 24: Align the interests of financial firms and consumers...” (*Financial System Inquiry Final Report, page 222*)

The Inquiry recommends that “...ASIC should complete the establishment of an enhanced public register of all financial advisers, which includes those who are employees. The Inquiry considers that the register should include licence status, work history, education, qualifications and credentials, areas of advice, employer, business structure and years of experience.” (*Financial System Inquiry Final Report, page 222*)

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<sup>1</sup> Tier 1 products are all financial products except general insurance products, consumer credit insurance, basic deposit products, non-cash payment products and First Home Saver Account deposit accounts. However, personal sickness and accident insurance are also classed as Tier 1 products.

The “Government should continue the current process to raise minimum competency standards for financial advisers.” (*Financial System Inquiry Final Report, page 222*)

“The benefits of improving the quality of advice are significant. To achieve this, the Inquiry believes that minimum competency standards should be increased and the current Government process to review these standards should be prioritised.” (*Financial System Inquiry Final Report, page 224*)

“...the Inquiry supports the establishment of the enhanced register [of financial advisers] to facilitate consumer access to information about financial advisers’ experience and qualifications and improve transparency and competition.” (*Financial System Inquiry Final Report, page 225*)

“A number of high-profile cases where consumers have suffered significant detriment through receiving poor advice, and a series of ASIC studies, have revealed issues with the quality of advice...Although these cases and many of these studies occurred before the FOFA reforms to improve remuneration structures, this is not the only issue. Adviser competence has also been a factor in poor consumer outcomes.” (*Financial System Inquiry Final Report, page 223*)

### **Improve guidance and disclosure in general insurance**

The Inquiry has made the following recommendation:

**“Improve guidance (including tools and calculators) and disclosure for general insurance, especially in relation to home insurance.”**

(*Recommendation 26*) (*Financial System Inquiry Final Report, page 227*)

This recommendation seeks to:

- “Reduce the incidence of inadvertent underinsurance by assisting consumers to make an informed decision about the sum insured.
- Increase the ability of consumers to make informed decisions when taking out insurance.
- Enhance consumer understanding of insurance policies, especially key features, caps and limits, and exclusions.” (*Financial System Inquiry Final Report, page 227*)

“Many stakeholders are concerned about underinsurance flowing from natural disasters and high premiums, especially in disaster-prone areas...The Inquiry believes this issue should be primarily handled by risk mitigation efforts rather than direct government intervention, which risks distorting price signals.” (*Financial System Inquiry Final Report, page 227*)

## Provision of financial advice and mortgage broking

The Inquiry has made the following recommendation:

**“Rename ‘general advice’ and require advisers and mortgage brokers to disclose ownership structures.”**

*(Recommendation 40) (Financial System Inquiry Final Report, page 271)*

“The Inquiry believes greater transparency regarding the nature of advice and the ownership of advisers would help to build confidence and trust in the financial advice sector. In particular, ‘general advice’ should be replaced with a more appropriate, consumer-tested term to help reduce consumer misinterpretation and excessive reliance on this type of information.” *(Financial System Inquiry Final Report, page 272)*

“Although stakeholders have provided little evidence of differences in the quality of advice from independent or aligned and vertically integrated firms, the Inquiry sees the value to consumers in making ownership and alignment more transparent.” *(Financial System Inquiry Final Report, page 272)*