

## FINANCIAL SERVICES REGULATORY UPDATE

True Oak develops and distributes a monthly overview of current and proposed regulatory changes in the Australian financial services industry that we think might be of interest to our CAR clients and Trustee Services clients.

### FEATURE ARTICLES

#### AML/CTF Tipping Off Changes Are Now In Effect: Are you Complying?

Dwyer Harris Lawyers - <https://www.dwyerharris.com/blog/amlctf-tipping-off-changes-are-now-in-effect-are-you-complying>

Australia's AML/CTF framework has been overhauled by the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2024* (Cth). While most of the changes in the Act will only come into effect in 2026, the changes to the tipping off offence commenced on 31 March 2025.

This excellent article overviews the changes made to the tipping off offence and their implications, addressing:

- What is tipping off?
- How has the tipping off offence changed?
- The four elements of the new tipping off offence
- Disclosures that might not breach the tipping off offence
- Dealing with customers
- Exemptions to the tipping off offence
- Complying with the new regime

#### Season 2 of "Inside ASIC" Launches

ASIC has launched a new season of its podcast series, Inside ASIC, offering in-depth insights into the regulator's work across Australia's financial landscape.

The podcast delves into topics such as combating scams, addressing financial hardship, overseeing insider trading, conducting audit surveillance, and regulating emerging technologies like artificial intelligence. Each episode features discussions with ASIC personnel and external experts, shedding light on the agency's strategies and initiatives.

The inaugural episode of Season 2, titled "Not so Super," examines challenges within the superannuation sector, highlighting issues faced by beneficiaries awaiting death benefit payments and the broader implications for trust in superannuation funds. Subsequent episodes are set to explore areas including greenwashing, market integrity, and ASIC's Indigenous Outreach Program.

The episodes are only 15 mins long, so they're good listening to the way to / from work! You can find it on Spotify [here](#).

## GOVERNMENT

### 1. Federal Election Outcomes (3 May 2025)

The Federal election on 3 May 2025 saw the Australian Labor Party returned to government. In the new Ministry [announced](#) on 13 May 2025, the Hon [Dr Daniel Mulino MP](#) is the Minister for Financial Services and Assistant Treasurer. Treasurer Jim Chalmers and Minister for Finance Katy Gallagher remain in their roles for the new term.

The new Leader of the Opposition, the Hon Sussan Ley MP, [announced](#) her Shadow Ministry on 28 May 2025. The Shadow Minister for Financial Services (and Shadow Assistant Treasurer) is [Mr Pat Conaghan MP](#). Ted O'Brien is the Shadow Treasurer and James Paterson is the Shadow Minister for Finance.

## ASIC

### 2. Proposes to Remake Three Legislative Instruments (15 May 2025)

ASIC has [announced](#) plans to remake three legislative instruments related to financial advice into a single instrument, extending their validity for another five years. The instruments, set to sunset on 1 October 2025, include:

- (a) [ASIC Corporations \(Advertising by Product Issuers\) Instrument 2015/539](#) – exempts AFS licensees from the requirement to give a Financial Services Guide (FSG) and a general advice warning in relation to general advice in an advertisement about an offer or intended offer of their securities if the advertisement includes a like statement.
- (b) [ASIC Corporations \(General Advice Warning\) Instrument 2015/540](#) – exempts an AFS licensee and its authorised representative from the requirement to give a general advice warning for oral general advice if, at the time of providing the advice, the advice provider verbally warns the client that the advice is general advice and may not be appropriate for the client.
- (c) [ASIC Corporations \(Financial Services Guides\) Instrument 2015/541](#)
  - Exempts an AFS licensee and their authorised representatives acting in the capacity as an expert from the requirement to give an FSG when they provide general advice in an expert's report, and this is included in a disclosure document prepared by or on behalf of another person.
  - Exempts arrangers from the requirement to give an FSG when they provide a financial service consisting of arranging for the issue of a financial product under an intermediary authorisation and modifies section 941C(5A)(a) to make clear that AFS licensees and authorised representatives may make available website disclosure information for dealing in a financial product for the purpose of implementing financial product advice they provide to a client.

The proposal sets to “remake the instruments by combining the three legislative instruments into one instrument and making some minor and technical changes”.

Submissions can be made until [12 June 2025](#).

### 3. Announces Financial Reporting and Audit Focus Areas for FY2025-26 (19 May 2025)

ASIC has [outlined](#) its financial reporting and audit focus areas for the 2025-26 financial year.

- (a) ASIC will continue to scrutinise areas requiring significant judgement, including [revenue recognition, asset valuation, and estimation of provisions, especially in light of recent market volatility](#).
- (b) The regulator plans to increase the number of audit file reviews, targeting files with changes to financial information or potential material misstatements.

(c) Additionally, ASIC will review a random selection of audit files from its regulated population.

#### 4. Acts on Concerns Kalkine Pty Limited Offered Unlicensed Advice (23 May 2025)

Kalkine is a Sydney-based financial services group which provides equity research reports through a subscription service available on its website. It has held AFS licence 425376 since 11 September 2012, allowing it to provide general advice only.

ASIC held concerns that Kalkine's customer service representatives based in India were giving unlicensed advice. In particular, ASIC was concerned that:

- Kalkine's representatives may have provided personal advice as part of the sale of subscription services when Kalkine was only authorised to provide general advice
- Kalkine's representatives may have misled customers by qualifying the advice as general advice but leaving customers with the impression that advice took into account their own personal circumstances
- Kalkine may have contravened the 'efficiently, honestly and fairly' obligation by failing to ensure the advice was appropriate and within the scope of its licence
- Kalkine had inadequate processes in place to ensure its representatives were complying with the law.

As a result, [ASIC has imposed a new licence condition on Kalkine](#), requiring Kalkine to engage an independent compliance consultant to review, assess and report to ASIC whether its interactions with customers are compliant and supervision mechanisms adequate.

**TIP:** Please ensure that your Authorised Representatives understand the scope of their authorisations. If you need assistance, we'd be pleased to provide you with the details of third-party providers delivering training on the differences between no advice, general advice and personal advice. We also encourage you to read [ASIC Regulatory Guide 244 Giving information, general advice and scaled advice](#), which contains numerous practical examples that can be used for training.

#### 5. Releases Feedback on Private Markets Discussion Paper (4 June 2025)

In response to the [Discussion Paper: Australia's Evolving Capital Markets](#) (26 February 2025), the industry has overwhelmingly urged for increased regulatory scrutiny that could benefit retail and less sophisticated wholesale investors.

While the regulatory framework across private markets is generally sound, [ASIC said after collating 50 responses](#), there is scope for some targeted uplift and for more active and ongoing monitoring and supervision in wholesale and retail private markets.

The lack of transparency is a top issue among respondents. Private credit product providers, however, showed a willingness to engage with ASIC to tackle this and flagged an openness to implement more consistency in standards and practices.

The regulator is currently undertaking a surveillance of private credit funds operating in wholesale and retail private markets, aiming to better understand current disclosure, distribution, conflicts of interest, valuation, conduct practices and use of ratings.

Some respondents highlighted concerns around the need for greater efficiency and transparency of corporate debt markets. ASIC said it will consider this in due course.

Another common sentiment was that "private markets are here to stay and grow" albeit with the need for regulatory guidance and alignment to international standards.

With respect to valuations, additional supervision was warranted in this area, along with guidance on valuing assets, managing conflicts of interests, providing meaningful disclosure of fees and risks, and the fair treatment of different investor types.

Stakeholders also asked for recommendations on how to align practices through existing standards either domestic or international or through ASIC's guidance.

Moving forward, ASIC will announce which suggestions will be adopted and share its roadmaps for public and private markets in the second half of the year.

## AUSTRAC

### 6. Seeks Further Feedback on Proposed Changes to AML/CTF Rules (19 May 2025)

AUSTRAC has [opened](#) a second round of public consultation on the new Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules), with submissions accepted until [27 June 2025](#).

This follows the initial consultation phase that began in late 2024, which provided feedback on key areas such as customer due diligence, AML/CTF programs, value transfer services, and reporting groups.

The updated draft AML/CTF Rules now:

- (a) allow for delayed initial customer due diligence in more circumstances;
- (b) offer greater flexibility in determining the lead entity of reporting groups;
- (c) provide further clarity on definitions relevant to value transfer and travel rule requirements, and on how to form reporting groups; and
- (d) address challenges that businesses may have in their implementation and compliance with the AML/CTF Rules.

In addition, the draft includes new requirements for reportable details in threshold transaction reports and suspicious matter reports, as well as information needed for enrolment and registration applications.

## PROFESSIONAL DEVELOPMENT OPPORTUNITIES

### Sophie Grace Compliance Videos

Consultancy [Sophie Grace](#) has released a number of compliance-based videos that can be purchased separately. Consider, in particular, [AFSL Wholesale Client Qualification](#) and [What Things Must Not Be On Your Website](#).

### Carbon Market Institute Courses

- a. **Carbon Market Fundamentals Training:** e-learning course provides participants with an overview of the scientific and economic basis for carbon markets. More info [here](#).
- b. **Carbon Farming Banker Training:** This finance sector-focused module builds capacity and knowledge of carbon farming in Australia from the perspective of bankers and agri-lenders. More info [here](#).

### June 2025

- a. **Adviser Innovation Summit** (Melbourne – 4 June; Sydney – 11 June) – more info [here](#).
- b. **FINSIA – 2025 Tax Updates for End of Financial Year** (Webinar – 4 June) – more info [here](#).
- c. **Australian Investment Council – Supporting Diversity in Venture Capital** (Sydney – 11 June) – more info [here](#).
- d. **FINSIA – Can Impact Investing Deliver Better Commercial Returns** (Webinar – 11 June) – more info [here](#).
- e. **FINSIA – What Does Gen AI Mean For Me in Financial Services** (Webinar – 17 June) – more info [here](#).
- f. **RSM – Financial Reporting Update** (Webinar – 18 June) – more info [here](#).

- g. International Business Review – **Investment Performance Measurement, Attribution and Risk Management 2025 Conference** (Sydney – 18-19 June) – more info [here](#).
- h. Australian Investment Council – **Principles of Venture Capital** (Melbourne – 26 June) – more info [here](#).

#### July 2025

- a. Investor Daily – **Australian Wealth Management Summit** (Sydney – 31 July) – more info to come.

#### August 2025

- a. Carbon Market Institute – **12<sup>th</sup> AER Summit** (Melbourne – 13-14 August) – more info [here](#).

#### September 2025

- a. Australian Investment Council – **Australian Investment Conference** (Gold Coast – 3-4 September) – more info [here](#).
- b. International Business Review – **Invest-Ops Australia Investment and Operations Challenges 2025 Forum** (Sydney – 9-10 September) – more info [here](#).
- c. FINSIA – **The Regulators** (Sydney – 12 September) – more info [here](#).

#### November 2025

- a. ASIC – **Annual Forum** (Melbourne – 12-13 November) – more info to come.

### INTERESTING READS

#### Links to interesting blogs and articles I've recently read:

- a. [The Crypto Wild West Frontier: The Battle to Balance Crypto Innovation and Regulation](#) (FINSIA, 13 May 2025)
- b. [Data governance for directors: Practical insights for boards, in-house counsel and senior management](#) (AICD, Allens and Melbourne Business School, 14 May 2025)
- c. [Fast-moving AI leaves investment platforms on edge](#) (Investor Daily, 26 May 2025)
- d. [2025 State of the Voluntary Carbon Market](#) (Forest Trends, 29 May 2025)

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