

LAWS 7040 FINANCIAL ADVICE (REGULATORY AND LEGAL OBLIGATIONS)

Credit Points 10

Legacy Code 201041

Coordinator William Higgs (<https://directory.westernsydney.edu.au/search/name/William Higgs/>)

Description This subject examines the regulation of provision of financial advice within the Australian financial services sector - including the regulatory and legal obligations relating to financial advice that arise under Chapter 7 ("Financial Services and Markets") of the Corporations Act 2001 (Cth) and the reporting and notification requirements under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (AML/CTF Act) and the Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules). The main object of Chapter 7 is to promote: confident and informed decision making by consumers of financial products and services while facilitating efficiency, flexibility and innovation in the provision of those products and services; fairness, honesty and professionalism by those who provide financial services; fair, orderly and transparent markets for financial products; and the reduction of systemic risk and the provision of fair and effective services by clearing and settlement facilities. Businesses that are required to comply with the AML/CTF Act are also required to comply with the Privacy Act 1988 (Cth) when handling personal information collected for the purposes of compliance with their AML/CTF Act obligations. The subject examines the role of the Australian Transaction Reports and Analysis Centre (AUSTRAC) which is the Australian Government agency responsible for ensuring compliance with the AML/CTF Act. The subject critically evaluates the reasons for regulation in the context of contemporary and evolving events which affect the financial services sector including the overarching Australian Privacy Principles (APPs) set out by the Privacy Act 1988 (Cth). The subject also examines the Tax Agent Services Act 2009 (Cth) (TASA) requirements for tax (financial) advisors and the role of the Tax Practitioners Board (TPB) in enforcing the requirements under TASA. The subject examines the professional and ethical obligations in providing financial advice and the consequences of failing to comply with these obligations with a particular focus upon the critical importance of professional ethical conduct, the consequences understanding the need to put the clients interest first, the importance of identifying and resolving conflict of interest, and the need to identify and avoid instances of professional misconduct and unsatisfactory conduct. This subject is available as a standalone bridging subject which is accredited by the Financial Adviser Standards and Ethics Authority (FASEA) having met the FASEA curriculum and standards requirements.

School Law

Discipline Business and Commercial Law

Student Contribution Band HECS Band 4 10cp

Check your fees via the Fees (https://www.westernsydney.edu.au/currentstudents/current_students/fees/) page.

Level Postgraduate Coursework Level 7 subject

Pre-requisite(s) LAWS 7010 or LAWS 7060

Restrictions

Students must be enrolled in 2824 Master of Laws or 2826 Juris Doctor to enrol in this subject.

Students in program 2825 Graduate Certificate in Financial Advising should seek permission from the law school via a rule waiver to enrol in this subject.

Assumed Knowledge

Students are expected to have practical experience working in the financial planning industry and be on the Financial Adviser Register. For LLM and JD students an understanding of corporate law is needed.

Learning Outcomes

On successful completion of this subject, students should be able to:

1. Examine how the Australian legal and regulatory compliance requirements frame the provision of financial advice and the financial services sector.
2. Critically evaluate the policy rationale behind the regulation of the provision of financial advice within the Australian financial services sector.
3. Apply relevant regulatory provisions to case studies.
4. Critically appraise professional and ethical obligations, and the consequences of failing to comply with these obligations, in providing financial advice.

Subject Content

- Overview of current financial services environment and purpose of regulation
- Introduction to Australian regulatory framework of financial advice and advisors and regulators: Australian Investments and Securities Commission (ASIC), Tax Practitioners Board (TPB), Financial Adviser Standards and Ethics Authority (FASEA), Office of the Australian Information Commissioner (OAIC), and the Australian Transaction Reports and Analysis Centre (AUSTRAC)
- Obligations arising under Chapter 7 ("Financial Services and Markets") of the Corporations Act 2001 (Cth)
- Reporting and notification requirements under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (AML/CTF Act) and the Anti-Money Laundering and Counter-Terrorism Financing Rules (AML/CTF Rules).
- Requirements for use and handling of personal information arising under the Privacy Act 1988 (Cth).
- Compliance with Tax Agent Services Act 2009 (Cth) (TASA) requirements for tax (financial) advisors.
- Overview of the professional and ethical obligations in the provision of financial advice and the consequences of failing to comply with these regulatory and legal obligations.

Assessment

The following table summarises the standard assessment tasks for this subject. Please note this is a guide only. Assessment tasks are regularly updated, where there is a difference your Learning Guide takes precedence.

Type	Length	Percent	Threshold	Individual/ Group Task
Essay	2,000 Words	30	N	Individual
Quiz	6 Quizzes (marked online) of 30 minutes each, the best 5/6 used to make mark of 10.	10	N	Individual
Final Exam	3 Hours	60	Y	Individual

Prescribed Texts

- Robert Baxt, Ashley Black and Pamela Hanrahan, *Securities and Financial Services Law* (Lexis Nexis, 9th ed, 2017) (or latest edition)