Attachment 1: Disciplinary Process – ASIC and the FSCP Complaints and breach Industry ASIC monitoring **AFCA** TPB Consumers AFS licensees Other associations and surveillance reporting ASIC EXISTING ASIC PROC **ASICtriage** Possible misconduct - matter is progressed for further Matter is not progressed for further investigation as the matter is: a frivolous/vexatious complaint; investigation. past the statute of limitations; referred to another agency; clear that there has not been misconduct; or not able to be investigated. **NO FURTHER ACTION** Investigation ASIC investigates the matter, using information included in the breach report or complaint and any evidence gathered in its enquiries. ASIC reasonably believes that one of the following breaches have occurred: ASIC does not reasonably believe a breach has occurred. AFS license has been suspended or cancelled Not adequately trained or competent **NO FURTHER ACTION** Likely to contravene a financial services law Likely to become involved in the contravention by another person **Banning** Not complied with passport fund requirements Insolvent Fraud Not a fit and proper person **Administrative** Twice linked to refusals to give effect to AFCA determination sanctions, warnings or Officer of two companies that have been unable to pay debts Breached financial services law reprimands Involved in another's breach of financial services law etc. Breach of education and training standards Breach of provisional relevant provider/ supervisor obligations **Restricted civil penalty** Breach of Code of Ethics provisions (infringement Providing financial advice while unregistered notices) ASIC banning process (no change) ASIC must issue warning or reprimand ASIC must convene FSCP If ASIC does not consider a banning order is If ASIC does not consider a banning order is ASIC considers banning order appropriate appropriate and the breach meets the appropriate and the breach does not meet circumstances in regulations the circumstances in regulations FSCP -**Proposed Decision** FSCP -The FSCP gives a notice to the adviser of the proposed administrative sanction or the proposed infringement notice, and the adviser's rights to a hearing or to make a submission. The administrative sanction/s could include a:

direction to undertake additional training/ counselling/ supervision/ reporting;

registration suspension or prohibition order Notice* THE FSCP DECIDES TO TAKE NO FURTHER ACTION Review* Within 28 days the adviser can Within 28 days the adviser The adviser does not request a hearing or make a request a hearing with the can make a submission to the submission. FSCP. FSCP. FSCP - Final Decision*^ The FSCP decides to ASIC applies to court **ASIC TAKES NO FURTHER ACTION** for civil penalty take no further action. **Appeal** The adviser can appeal the administrative sanction/s, warning or reprimand to the AAT. The adviser can request that the infringement notice is withdrawn. Reporting ASIC must update the Financial Advisers Register to record details of the administrative sanction, warning or ASIC reports publicly on its decision to not pursue civil penalty. No personal information is published. reprimand (as per regulations), infringement notice (once paid and with caveats), or enforceable undertaking.