

# Review of the Australian Financial Complaints Authority

Commercial & Asset Finance  
Brokers Association of Australia

2021

**CAFBA**

Commercial & Asset Finance Brokers  
Association of Australia

Director  
AFCA Review Secretariat  
Financial System Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

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### **Review of the Australian Financial Complaints Authority**

The Commercial & Asset Finance Brokers Association of Australia (CAFBA) welcomes the opportunity to provide our views on the operation of the Australian Financial Complaints Authority (AFCA).

The Commercial & Asset Finance Brokers Association of Australia (CAFBA) is the peak national body of commercial and equipment finance brokers, whose prime area of business is the distribution of commercial and equipment finance facilities to their clients. With over 1,000 members, in all states and territories, CAFBA is an important national voice in the Australian finance sector.

CAFBA members are career professionals, with recent studies showing nearly 73% (East & Partners 2020) of new commercial equipment finance is sourced through brokers. Our members and their clients are predominantly small to medium-sized businesses and operate in the commercial finance market. The total receivables in the Australian equipment finance market are approximately \$100 billion, so it is an important component of the Australian economy.

CAFBA members know that providing Australian small businesses with access to finance is crucial to economic growth. Although brokers are commonly associated with home loans, CAFBA members work in a complex environment to provide a boutique service. Without the work of CAFBA's professional members, many Australian small business owners would struggle to navigate the complexities involved with commercial equipment finance.

CAFBA embodies the strengths of its members in a unified approach for dealing with financiers and legislators at a national level and regularly seeks the views of members. As an association, CAFBA provides the framework and support to professionally assist our members in their daily activities. This involves education and training, legislative and regulatory updates, and forums where the members can interact and exchange ideas with their peers.

CAFBA prides itself on being self-regulating and maintains strict membership standards on probity, continuing professional development, minimum education standards, industry experience, and reputation.

**It is a condition of CAFBA membership that commercial equipment finance brokers must belong to AFCA.**

CAFBA is a member of the Council for Small Business Australia (COSBOA) and works collaboratively with the government, regulators, and business groups.

### **Overview**

AFCA's role is important to the continuing protection to consumers and small business; however, it is CAFBA's view that the legislation is heavily weighted towards the complainant. Whilst vexatious complaints are discouraged, anecdotally there seems to be a financial incentive available to making a complaint, as there are no associated pecuniary costs if the complaint is not upheld. The costs for any complaint are borne by the AFCA member.

We have had many instances of member feedback that whilst the complaint has eventually been determined in favour of the AFCA member, it has nevertheless come at considerable cost to the member in time and legal advice. Whilst we appreciate there is discretion under the rules for vexatious complaints where there is no loss to the complainant, nevertheless there is still a cost borne by the member to defend the complaint and prove innocence. There is also no right of appeal, which denies natural justice to the member.

The issue for CAFBA members, as commercial brokers who introduce loans to lenders is exacerbated by the fact that not all lenders are AFCA members. Therefore, if the lender does not belong to AFCA the complaint is subsequently lodged against the broker, where the issue really should rest with the lender. This makes the commercial broker an "easy target" for complaints, particularly as there are no associated costs for the complainant.

It is CAFBA's view therefore, that whilst we support the complaint process, there should be a sharing of costs where complaints are made. At present there is really a disincentive to belong to AFCA due to the unfair apportionment of costs involved.

CAFBA appreciates the opportunity to provide this constructive feedback to the Review Committee, and are always available for consultation to provide a fairer and equitable outcome for small business and AFCA members alike.

Yours sincerely,



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