

██████████
Director, AFCA Review Secretariat
Financial System Division
The Treasury
Langston Crescent
PARKES ACT 2600

via email: AFCAReview@treasury.gov.au

Dear ██████████

Review of the Australian Financial Complaints Authority

Thank you for the opportunity to provide a submission to the Treasury review of the Australian Financial Complaints Authority (AFCA).

The FSC supports the principles underpinning AFCA and believes it is important that consumers have access to a cost effective and efficient external dispute resolution mechanism. This mechanism should provide timely outcomes for consumers and be fair to both parties to the dispute.

In making our submission, the FSC reiterates the key principles outlined in our submission on the establishment of AFCA, that is that the scheme should:

- be affordable;
- only address low value matters and refer complex and high value matters to the courts;
- ensure quality decision making with the appropriate checks and balances;
- have proper and on-going training for decision makers;
- be fair and impartial;
- efficiently address and remove meritless complaints early; and
- continue to conduct member liaison.

The FSC would like to acknowledge the significant amount of work that has been performed by AFCA to draw together its predecessor schemes in a short period of time to form the current body. In addition to being a “one stop shop” for complaints, the FSC acknowledges that AFCA also performs important ancillary functions.

While recognising that AFCA has only existed for a short period of time, the FSC has some concerns in relation to AFCA’s performance. A well-functioning, fair, transparent, timely and independent dispute resolution mechanism which provides consistent outcomes is in the best interests of both consumers and the financial services industry.

Fair, efficient, timely and independent

AFCA plays an important role in being an impartial third party. Financial Firms and consumers must perceive and have confidence that there is no bias towards either party. It is important that any such role is

independent, operates at arm's length and does not advocate for the position of either the Financial Firm or the consumer. Ensuring that AFCA remains independent is essential for ensuring that the outcomes are both fair and perceived to be fair to both parties.

In line with the guiding principles of the establishment of AFCA, decisions should be reached in an efficient and timely manner. The FSC is presently concerned that some consumers may not be provided with a consistent experience in their complaints journey. The FSC's members strive to provide good consumer experiences, including during the process of internal or external dispute resolution. FSC members hold themselves to extremely high standards to resolve complaints in a prompt and timely manner (and in accordance with the expectations outlined by ASIC).

It is unfortunate that there are instances where this good experience may not continue into to the AFCA process. The FSC believes there is room for improvement to ensure high standards of customer service are maintained throughout both the internal and external dispute resolution processes.

Consistent and predictable outcomes

It is important that AFCA outcomes are predictable and consistent for both parties, to ensure fairness. By ensuring that outcomes are consistent and predictable, AFCA can also play an important role in setting expectations and further enhancing the standards of the sector.

The FSC's members have observed several instances where outcomes have not been consistent with other AFCA decisions or with the law and this has created some uncertainty. Where AFCA decisions are not consistent, this can cause confusion for the Financial Firm and is not fair to customers who may be receiving inconsistent decisions. While the FSC recognises that AFCA is a relatively new body, it is critical that it continues to work to achieve consistent outcomes for consumers and Financial Firms.

Systemic issues

AFCA is uniquely positioned to identify trends and patterns which may indicate the presence of a systemic issue. It is appropriate for AFCA to identify any such systemic issues and refer these if it is appropriate to the relevant regulator. This would allow AFCA to ensure that it can continue to deliver efficient and timely dispute decisions to consumers and Financial Firms.

Review mechanism

AFCA has evolved from its predecessor bodies and can now examine matters with significantly increased monetary limits. Given that AFCA is empowered to consider cases with a monetary limit of up to \$1 million (this is higher than the NSW District Court), the FSC would support an appropriate independent mechanism to review AFCA's decisions. To ensure that decisions are cost effective and timely, such a review mechanism should only be available in limited circumstances.

Governance and oversight

The FSC believes that it is important for all parties to have confidence in AFCA. While AFCA is not a regulator,

it still plays a significant role in the broader regulatory framework for the financial services industry. However, AFCA is not subject to the same accountability and oversight mechanisms that are required of other regulators. The FSC recommends that such a mechanism is put in place, which would ensure that AFCA is subject to the appropriate level of oversight and accountability as other regulatory bodies.

We have provided a separate submission which features case studies and examples.

We would be pleased to discuss the issues raised in our submission. Please contact Blake Briggs, Deputy CEO on bbriggs@fsc.org.au.

Yours sincerely,

Blake Briggs

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