



Sent via email to: AFCAreview@treasury.gov.au

Subject: Request for feedback and comments

Dear AFCA Review Secretariat,

We refer to the request for feedback on AFCA.

We wish to start by acknowledging the importance of an EDR scheme and the outcomes it allows.

The Guidance for submissions provides the following question to address in our response: *Is AFCA meeting its statutory objective of resolving complaints in a way that is fair, efficient, timely and independent?* Our response to that question is as follows.

1. Fair

As mentioned above, we understand the importance of AFCA and the platform it gives to both complainants and financial firms. In most cases, we have found that AFCA have provided a fair and reasonable outcome. However, we have observed instances of inconsistent approaches across similar complaints resulting in disparate outcomes for complainants.

We feel that each AFCA complaint provides us with an opportunity to learn and to ensure that our policies and procedures are working effectively and in accordance with industry. An AFCA recommendation or determination indicates that we are either doing the right thing, or that changes and improvements are required.

While we understand the challenge when considering information from a number of third parties, and that the facts of each case are different, we feel that a more consistent approach to general complaints/matters is required to ensure comparable outcomes are achieved, which are critical to ensuring we can improve our policies and procedures to prevent recurrence.

2. Efficient

The AFCA process is clear and the collateral provided by AFCA is useful. This ensures a good understanding of what happens when a complaint is submitted to AFCA and the process that AFCA follows. Also, we feel that in most cases, that AFCA is working well in requesting information and setting expectations for both financial firms and complainants. We do however feel that improvement is required on processes for considering subsequent complaints from complainants.

3. Timely

While we understand that each complaint is different and therefore the time taken to consider and resolve complaints can differ, we have noted instances where significant time has passed between AFCA stages. This can result in communication breakdowns; not only between complainants and ourselves, but also between complainants and AFCA. While we understand that complaints need to be allocated to the next stage, the current

process of escalation is unclear, which results in back and forth communication, which may or may not result in matters being escalated and assigned. This is particularly prominent in the rules review stage.

Our concerns specifically with this are not only the breakdown of communication, but in instances that complainants are already in arrears or financial hardship and not making payments, we have found complainants being unable to rectify the arrears once the AFCA complaint is closed, resulting in a worse situation for complainants.

Furthermore, we have observed complainants using AFCA to frustrate enforcement action due to the timeframes between submission and resolution; be that rules review, negotiation or recommendation and determination. While we note that we can request consent to continue with enforcement action, the timing between submission and approval can be significant. This is prevalent in cases of repeat complaints from the same complainants which may or may not cover the same or similar issues. While the rules are clear, the review timings are susceptible to delay.

4. Independent

AFCA are doing well at being independent throughout the process. We understand the benefit of having AFCA being an independent third party to express the feeling, information, and view of both sides. However, we have observed in some instances a disproportionate approach in favor of complainants.

We provide this feedback in an effort to improve the process for all; coming back to the idea of resolving complaints in a way that is fair, efficient, timely and independent. We wish to acknowledge the significant improvements made by AFCA over the last two years and hope the above is seen as constructive in the continuing development of AFCA.

We hope you find the submission useful in your review and would be happy to provide specific examples if required.

Kind Regards,

Thomas Maden

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