



Australian Government
The Treasury

Ministerial Submission

MS24-001441



FOR ACTION - Scams Code Framework – s 22
Progress to Single External Dispute Resolution

TO: Assistant Treasurer and Minister for Financial Services - The Hon Stephen Jones MP

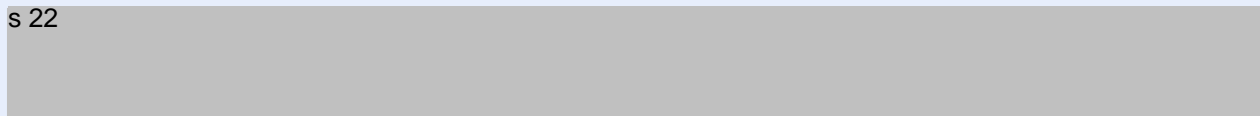
CC: Treasurer - The Hon Jim Chalmers MP

s 22



- That you **sign** the joint letter from you and the Minister for Communications to the Prime Minister (Attachment B) seeking agreement to:

s 22



- prescribing the Australian Financial Complaints Authority (AFCA) as the single external dispute resolution (EDR) scheme for the three initial sectors under Framework.

Signed / Not signed

Signature

Date: 19 / 8 / 2024

KEY POINTS

s 34(3)

s 22

- ✓ ✓ ✓ The exposure draft legislation reflects yours and the Minister for Communication's subsequent decision on AFCA being prescribed as the single EDR scheme for the three initial sectors subject to the Framework s 22). Further detail is at **Additional Information.**

s 22

Further policy authority and next steps

- You and the Minister for Communications previously agreed to make AFCA the single EDR scheme for the three initial sectors under the Framework s 22 . The next step is to obtain the Prime Minister's approval on this approach and to progress the streamlined approach for the telecommunications code.
 - A joint letter from you and the Minister for Communications to the Prime Minister requesting policy approval on these two matters is at Attachment B.
 - Treasury understands your Office has been engaging with Minister for Communication's Office on these matters.
 - The Prime Minister's approval would be urgently required, by no later than 30 August 2024, to enable these decisions to be reflected in exposure draft legislation to be released for consultation from September 2024. A delay in the Prime Minister's approval would risk delivery of the exposure draft legislation for consultation.
- Subject to approvals and the availability of OPC drafting resources, Treasury will provide further advice in the first half of September 2024 on the exposure draft legislation and seek your agreement to release it for consultation.
 - Subject to yours and Minister for Communication's agreement, and the Prime Minister's approval on the above matters, the arrangements for s 22 s 22 EDR would be communicated with industry prior to or as part of releasing the exposure draft legislation for consultation.

RISKS AND SENSITIVITIES

External dispute resolution

s 47C



Clearance Officer

Contact Officer

s 22



ATTACHMENT A – ADDITIONAL INFORMATION

AFCA as the single EDR scheme for the three initial sectors under the Framework

- In line with your decision on s 22, primary legislation for the Framework is being developed in a way that is flexible and allows for, but does not require, a single EDR scheme. To designate AFCA as the single EDR scheme for the three initial sectors, minor consequential amendments to Corporations legislation may also be required to ensure that ASIC's oversight powers in respect of AFCA extend to AFCA's expanded jurisdiction under the Framework.
 - These consequential amendments are being developed as part of the exposure draft legislation for the Framework.

s 22





Australian Government

The Treasury

Ministerial Submission

MS24-001888



FOR ACTION - Scams Prevention Framework - Post Consultation Outcomes and Next Steps


TO: Assistant Treasurer and Minister for Financial Services - The Hon Stephen Jones MP

CC: Treasurer - The Hon Jim Chalmers MP

TIMING

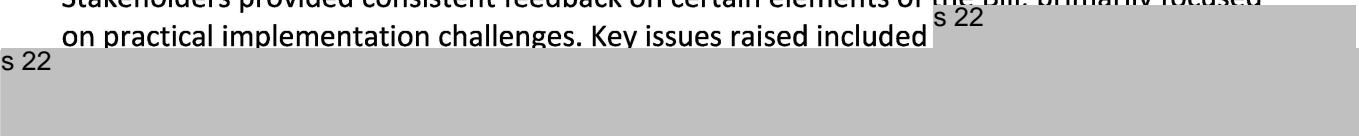

s 22



Signature 	Date: 17 / 10 / 2024
---	----------------------

KEY POINTS



- Stakeholders provided consistent feedback on certain elements of the Bill, primarily focused on practical implementation challenges. Key issues raised included ^{s 22}  ^{s 22}  how dispute resolution arrangements (IDR and EDR) may operate in practice.



Next steps

s 22

- Relatedly, Treasury is developing a comprehensive approach to engage with stakeholders on dispute resolution under the SPF and will brief you in due course.
 - We envisage the approach will involve developing and iterating various options with stakeholders to refine a workable dispute resolution model.
 - The key policy objectives are to have: 1) a complaints process that will deliver a consumer-centric experience for scam victims with a 'no wrong door' approach to IDR and 'single door' approach to EDR; 2) a model that incentivises cooperation to settle the majority of disputes without the need for escalation to EDR; and 3) a model that delivers workable integration between IDR and EDR with sufficient clarity on implementation.
 - It is intended that consultation commence as soon as practical, so that the outcomes can be consistently incorporated into sector codes and AFCA rules as appropriate.

s 22

Pages that are fully out of scope have been deleted from the document set

Changes to policy

Key feature	Issue raised	Treasury recommendation	Minister's decision
-------------	--------------	-------------------------	---------------------

s 22

Dispute resolution

s 22

Proportionate liability and liability guidelines

Industry stakeholders strongly sought clarity around how liability may be apportioned between regulated entities where regulated entities have breached SPF obligations. This is relevant where multiple regulated entities have breached SPF obligations and have caused or contributed to loss or harm arising from a scam. This could include for example, a sending bank, a receiving bank, a telecommunication service provider, and a digital platform.

Many stakeholders (including AFCA) have also sought specific liability apportionment guidelines to be provided in the framework.

Noted

s 47C

Remediation

ASIC has suggested that a regulator should have the ability to seek damages for scam losses suffered by consumers in court, consistent with similar provisions in the ASIC Act.

Changes to policy

Key feature	Issue raised	Treasury recommendation	Minister's decision
	<p>AFCA suggested that:</p> <ul style="list-style-type: none">regulated entities should be subject to obligations to actively identify and remediate consumers in line with pre-determined liability rules where a breach in obligations under the SPF is identified that impacts a number of their customers.the ACCC have the specific power to direct a regulated entity to remediate in line with pre-determined liability rules in circumstances where there is evidence that regulated entities have caused harm and not provided sufficient remediation for consumers.	s 47C	

s 22