



ASIC
Australian Securities &
Investments Commission

Claims handling and settling: How to comply with your AFS licence obligations

This information sheet (INFO 253) is for anyone who provides claims handling and settling services for insurance products regulated by ASIC.

These services were previously excluded from the definition of 'financial service' in the *Corporations Act 2001* (Corporations Act) and persons who provided these services were not required to hold an Australian financial services (AFS) licence. This exclusion has been removed.

This information sheet explains:

- what is a 'claims handling and settling service'
- how the AFS licensing regime applies to these services from 1 January 2022
- when an AFS licence or variation for claims handling and settling is needed
- who can handle and settle claims on behalf of an AFS licensee
- what are the obligations of an AFS licensee and how these obligations apply to claims handling and settling, and
- when and how to apply for an AFS licence or variation, including transitional arrangements, and how we will assess applications.

We have also included some examples of how the AFS licensing regime may apply to claims handling and settling in various circumstances.

If you are applying for an AFS licence or variation, this information sheet will help you understand what you must demonstrate in your application.

This information sheet is based on relevant sections of the Corporations Act, the Corporations Regulations 2001 (Corporations Regulations), the Explanatory Memorandum to the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020 (Bill) and ASIC's general guidance on licensing.

Contents

- What is a 'claims handling and settling service'? 3
- How does the AFS licensing regime apply?..... 3
- When do you need an AFS licence or variation?..... 4
- Who can provide services on behalf of an AFS licensee? 10
- What are the obligations of an AFS licensee? 12
- How do these obligations apply? 13
- Applying for an AFS licence or variation 26
- Examples of how the AFS licensing regime may apply..... 30
- Where can you get more information?..... 34
- Important notice..... 35

What is a 'claims handling and settling service'?

Under Chapter 7 of the Corporations Act, if you undertake certain specific activities in relation to an insurance product, you are providing insurance claims handling and settling as a financial service (a 'claims handling and settling service').

These activities include:

- making a recommendation or stating an opinion in response to an inquiry about a claim or potential claim
- making a recommendation or stating an opinion that could influence a decision about making or continuing with a claim
- representing someone in pursuing a claim
- assisting another person to make a claim
- assessing whether an insurer is liable under an insurance product
- making a decision to accept or reject all or part of a claim
- quantifying an insurer's liability under an insurance product
- offering to settle all or part of a claim, or
- satisfying a liability of an insurer under a claim.

Claims handling and settling services are treated as being provided to the insured person under the policy (i.e. a person who may benefit from the policy) and third-party beneficiaries.

Examples of a third-party beneficiary include:

- a person who is insured under a group policy (e.g. complimentary travel insurance with a credit card or life insurance through superannuation), and
- a person who is entitled to make a claim under a life insurance contract but is not the life insured.

How does the AFS licensing regime apply?

Generally, if you carry on a business in Australia of providing a financial service, you must:

- hold an AFS licence authorising you to provide that service, or
- be authorised to provide the service by someone else who holds an AFS licence authorising them to provide that service (that is, you can provide the financial service under their licence as a representative).

Previously, claims handling and settling services for insurance products were excluded from the definition of a 'financial service'. This exclusion was removed as part of the Government's response to the [final report](#) of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry.

From 1 January 2022, if you carry on a business in Australia of providing claims handling and settling services and you belong to certain prescribed categories, you must hold an AFS licence authorising you to provide such services (a 'claims handling authorisation'), or be authorised by a person who holds a claims handling authorisation, unless an exemption applies.

Since 1 January 2021, ASIC has been accepting applications for an AFS licence or a variation of an existing AFS licence with this authorisation.

The new AFS licence obligations apply to persons providing claims handling and settling services in relation to any insurance claim made on or after 1 January 2021 that is still on foot after the transition period ends on 31 December 2021. This applies regardless of when the insurance contract commenced.

The extraterritorial provisions of the Corporations Act apply to the provision of claims handling and settling services, as they do in relation to other financial services. This means the AFS licence obligations extend to Australian insurance claims, even if they are handled outside Australia.

See Schedule 7 to the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020* (Financial Sector Reform Act), which commenced on 1 January 2021.

When do you need an AFS licence or variation?

Unless an exemption applies, if you or your representatives carry on a business of providing claims handling and settling services in Australia and you belong to any of the prescribed categories in Table 1, you must hold an AFS licence with a claims handling authorisation (or a variation to an existing licence): see section 911A(2)(ek)(i)–(vi) of the Corporations Act.

It is an offence to carry on a financial services business in Australia without holding an AFS licence covering the provision of the financial service, unless an exemption applies.

Table 1: Who must hold an AFS licence with a claims handling authorisation

Category	Description
Insurer	You are the issuer of the insurance product.
Insurance fulfilment provider	You carry on a business of providing goods or services to satisfy an insurer's liability to the insured person and have authority from an insurer to reject all or part of a claim.
Insurance claims manager	You provide a claims handling and settling service on behalf of one or more insurers and do so as a business or as a primary part of your business.

Category	Description
Claimant intermediary	<p>You carry on a business of representing insured people in pursuing a general insurance claim and do so in return for any benefit (monetary or otherwise) which is given to you or a person nominated by you.</p> <p>Certain persons are exempt from being claimant intermediaries, even if they meet the definition above. For example, exempt persons include:</p> <ul style="list-style-type: none"> • mortgage brokers • insurance brokers • qualified accountants • financial advisers • property managers, and • estate managers. <p>See regulation 7.1.04CAA of the Corporations Regulations for all exempt persons and the conditions of each exemption.</p>
Insurance broker	<p>You carry on a business of arranging contracts of insurance for intending insureds <i>and</i> provide a claims handling and settling service on behalf of the insurer.</p>
Financial adviser	<p>You provide financial product advice to an insured person (including a third-party beneficiary) <i>and</i> provide a claims handling and settling service on behalf of the insurer.</p>

Applying for relevant elements of a claims handling authorisation

If you are applying for an AFS licence or variation to provide a claims handling and settling service, you will need to select the elements of a claims handling and settling service in section 766G that apply to you.

If ASIC grants an AFS licence or variation, the authorisation will cover only those elements.

For example, if you are a company that manages, on behalf of an insurer, inbound calls about lodging claims, you may only need an AFS licence that authorises you to respond to inquiries about a potential claim and help a person make a claim.

In your application, you will need to specify if you are:

- an insurer
- a member of one of the categories of person who act on behalf of an insurer and require a claims handling authorisation, or
- neither (in which case you will be assumed to be a claimant intermediary).

If you are an insurer, or in one of the categories of person who act on behalf of an insurer and require a claims handling authorisation, you can select all the elements of a claims handling and settling service under section 766G, except for section 766G(1)(c) (i.e. claimant intermediary). This is because you cannot handle a claim as an insurer, or as someone acting on an insurer's behalf, and also represent an insured person who is pursuing a claim under the insurance product.

If you specify that you are not an insurer, or not in one of the categories of person who act on behalf of an insurer and require a claims handling authorisation, you are assumed to be a claimant intermediary. Claimant intermediaries can apply to be authorised for all elements of a claims handling and settling service under section 766G.

We will assess applications based on the activities specified in the application. We will grant an AFS licence or variation with limited authorisation if we are satisfied that only those elements are needed to cover the claims handling and settling service provided or to be provided.

If we grant such a licence or variation, the authorisation will be expressly limited to the elements that cover those activities.

Exemptions from the AFS licensing regime

You do not need to hold an AFS licence with a claims handling authorisation if you:

- are not specifically required to hold such an AFS licence because of the operation of section 911A(2)(ek) (general exemption) (see Table 1 for a list of who must hold an AFS licence), or
- are covered by a specific exemption from the licensing requirements (specific exemption): see Table 2.

Table 2: Who is exempt from the AFS licensing regime

Exemption	Description
General exemption	<p>You do not need to hold an AFS licence with a claims handling authorisation unless you are specifically required to hold such a licence because of the operation of section 911A(2)(ek)(i)–(vi): see Table 1.</p> <p>This 'general exemption' means that some persons who are often involved in the claims handling process do not need to hold a licence. Some potential examples are:</p> <ul style="list-style-type: none">• loss assessors or loss adjusters• specialists who are providing an expert opinion to help an insurer assess a claim (e.g. engineers, geologists, forensic accountants)• investigators• other 'fulfilment providers' (e.g. builders, smash repairers) – unless they are authorised to reject claims• independent medical examiners• debt collection agents, and• superannuation trustees (see 'Claims handling and settling by superannuation trustees').
Specific exemption	<p>If you provide one of the following services, you are specifically exempted from the requirement to hold an AFS licence with a claims handling authorisation:</p> <ul style="list-style-type: none">• professional legal services provided by a lawyer in a professional capacity relating to insurance claims handling and settling (section 911A(2)(en))• claims handling and settling services provided to a wholesale client under an arrangement between an AFS licensee and the issuer of the insurance (section 911A(2)(em)), and• claims handling and settling services provided to a person under an arrangement between an AFS licensee and the issuer of the insurance product being a Lloyd's underwriter or an unauthorised foreign insurer (section 911A(2)(el) and regulation 7.6.01AAAB). <p>Note: There are additional general licensing exemptions in section 911A(2) and the Corporations Regulations.</p>

Claims handling and settling by superannuation trustees

If you are a registrable superannuation entity (RSE) licensee (i.e. a superannuation trustee regulated by the Australian Prudential Regulation Authority (APRA)), you do not need to hold an AFS licence with a claims handling authorisation to provide claims handling and settling services.

If you are an RSE licensee, you are covered by the general exemption in section 911A(1)(ek) because you do not fall into any of the categories in section 911A(1)(ek)(i)–(vi) which require such a licence: see Table 1.

However, due to amendments made by Schedule 9 to the Financial Sector Reform Act, as an RSE licensee you will need to hold an AFS licence with an authorisation to provide a 'superannuation trustee service' as a new financial service.

A 'superannuation trustee service' means operating an RSE as a trustee and it covers all conduct associated with operating a superannuation fund, including claims handling and settling.

Obligations of trustees providing a superannuation trustee service

As with other financial services, the AFS licence obligations apply to the provision of a superannuation trustee service, including the obligation to provide the service efficiently, honestly and fairly.

A core aspect of providing a superannuation trustee service is assisting members (and their beneficiaries) with insurance claims.

This assistance to members and their beneficiaries may include:

- advising on how to make a claim, and the prospects of a potential claim
- reviewing a member's details to establish their eligibility to make a claim
- lodging the claim with the insurer
- communicating information from the member or beneficiary to the insurer, and vice versa throughout the claims process
- reviewing the insurer's decision and pursuing claims which have a reasonable prospect of success, and
- paying the benefits of successful claims in line with the fund's rules.

The substantive obligations of an AFS licensee with a claims handling authorisation are relevant to understanding an RSE licensee's obligations in providing a superannuation trustee service when assisting members and their beneficiaries with making insurance claims.

Superannuation trustees should regularly and actively engage with members during the claims process (they should not 'step back' once the claim is lodged with the insurer).

Both the superannuation trustee and the insurer must handle claims efficiently, honestly and fairly, despite being authorised under their AFS licences to provide different financial services (i.e. a superannuation trustee service and a claims handling and settling service, respectively): see 'How do these obligations apply?'

Transitional arrangements for a superannuation trustee service

The obligations of RSE licensees in providing a superannuation trustee service apply from 1 January 2021.

If you are an RSE licensee and before 1 January 2021 you held an AFS licence authorising you to deal in a superannuation interest, you are deemed to be authorised to provide a superannuation trustee service from 1 January 2021 and you do not need to vary your AFS licence.

Providing financial product advice

Generally, giving a recommendation or statement of opinion (or a report of either of those things) which is intended to influence a person making a decision about insurance products is regulated as 'financial product advice'.

However, giving a recommendation or opinion (or a report of either of those things) which is reasonably necessary as part of handling and settling an insurance claim is not providing financial product advice: see section 766B(7A).

Examples that are not providing financial advice

If a person is only providing a claims handling and settling service, the obligations relating to financial product advice do not apply because they are not providing financial product advice.

For example, a person will not be providing financial product advice by recommending:

- how to submit a claim most effectively
- how information to support a claim can be obtained most effectively
- whether it would be appropriate to replace or repair an insured asset
- how to mitigate the extent of loss or damage associated with a claim, or
- how to protect against the same or a similar loss in the future.

Examples that are providing financial advice

Recommendations or statements of opinion (or a report of either of those things) which are *not* reasonably necessary as part of handling and settling an insurance claim will be financial product advice.

A person will be providing financial product advice by doing the following:

- *Recommending how a settlement amount should be structured* (regulation 7.1.08AA(1)(a)) – For example, if a client holds insurance through superannuation, you are providing financial product advice if you recommend whether the client should receive the payout as a superannuation income stream or a lump sum.
- *Recommending how a settlement amount should be managed or used* (regulation 7.1.08AA(1)(b)) – For example, if a client receives a large insurance claim payment, you are providing financial product advice if you recommend how to use the funds (i.e. you give investment advice, which may include advice about various financial products).

- Making a recommendation that relates to other insurance products, or other financial products, not held by the person making the claim or potential claim (regulation 7.1.08AA(2)) – For example, if a client seeks advice about how to protect against the same loss in the future, you are providing financial product advice if you recommend an insurance product that the client does not already hold as being more appropriate for them.

In these circumstances, the person providing the advice will need to be licensed or authorised to provide the advice and comply with the obligations under Parts 7.7 and 7.7A of the Corporations Act relating to financial product advice (e.g. the obligation to act in the client’s best interests and the obligation to provide a Statement of Advice).

Persons who provide financial product advice on more complex products such as life insurance also have to comply with certain training standards. However, the training standards do not apply to persons who only provide general advice, or personal advice on products such as general insurance or consumer credit insurance.

Who can provide services on behalf of an AFS licensee?

As an AFS licensee, you can provide financial services directly or through a representative or another AFS licensee who acts on your behalf.

Claims handling and settling is different to other financial services because multiple parties are often involved in providing these services. To allow for this difference, some special rules apply to claims handling and settling services provided by people (‘providers’) on behalf of an AFS licensee with a claims handling authorisation: see Table 3.

Some of these providers will be people who provide claims handling and settling services as your representatives. This means they do not need to hold an AFS licence themselves because they are acting under your licence.

Under section 910A, as an AFS licensee, your ‘representatives’ include your authorised representatives, employees or directors, the employees or directors of a related body corporate, or any other person acting on your behalf under section 911B.

As an AFS licensee, you are responsible for your representative’s conduct, even if it is outside the representative’s authority: see sections 917B–917C. This is so clients can seek redress through your internal and external dispute resolution processes if something goes wrong.

There are also several general AFS licence obligations which apply to your representatives: see ‘What are the obligations of an AFS licensee?’.

Table 3: Who can provide services on behalf of an AFS licensee

Provider	Description
Directors or employees of the AFS licensee or of a related body corporate: section 911B(1)(a)	These providers are ‘internal’ to you and are your representatives by law (e.g. an employee of an insurer). You do not need to authorise these providers.

Provider	Description
<p>Authorised representatives of the AFS licensee: section 911B(1)(b)</p>	<p>These providers are 'external' to you and would otherwise require an AFS licence with a claims handling authorisation to provide these services (e.g. a financial adviser or claims manager who handles claims on behalf of an insurer).</p> <p>There are formal processes for appointing and notifying ASIC about your authorised representatives:</p> <ul style="list-style-type: none"> • Authorised representatives are your representatives by law. They may be an individual or another company (a 'corporate authorised representative'). • A person can be the authorised representative of multiple claims handling licensees. • An authorised representative can 'sub-authorise' other people with the consent of the AFS licensee. <p>As an insurer, if you want another AFS licensee to be your authorised representative (e.g. a financial adviser or insurance broker), you must give them a binder: section 916E.</p> <p>For more information, see Information Sheet 91 <i>Who can be an authorised representative of an AFS licensee</i> (INFO 91) and Information Sheet 88 <i>Notifying ASIC of the appointment of an AFS authorised representative</i> (INFO 88).</p>
<p>Other AFS licensees with a claims handling authorisation: section 911B(1)(d)</p>	<p>These providers are 'external' to you and may provide their services to multiple entities, including other AFS licensees (e.g. a claims management company which holds its own AFS licence with a claims handling authorisation and provides services to multiple insurers).</p>
<p>Insurance fulfilment and other service providers: section 911B(1)(f)</p>	<p>Insurance fulfilment providers are deemed to be acting on your behalf when providing services or goods to satisfy an insurer's liability: see section 910D.</p> <p>These providers are your representatives by law because they provide claims handling and settlement services on your behalf (e.g. a smash repairer who is engaged by an insurer to repair cars under the insurer's liability to the insured, but who does not have authority to reject claims).</p> <p>You do not need to appoint these people as your authorised representatives, and there is no process you need to follow under the Corporations Act to engage these persons to provide claims handling services on your behalf.</p> <p>Other people involved in claims handling may also be acting on your behalf (e.g. persons who assist an insurer to decide claims by providing assessment or investigation services, such as loss assessors, loss adjusters, investigators). They also do not need to be appointed as authorised representatives.</p>

Provider	Description
A person who provides claims handling and settling services on behalf of an AFS licensee and authorised representative under an agreement with the authorised representative: section 911B(1)(g)	<p>This is similar to sub-authorisation of a provider by your representatives. But, unlike sub-authorisation, you do not need to consent to the authorisation of the provider.</p> <p>However, the provider must have an agreement with your authorised representative to provide claims handling and settling services on behalf of you and your authorised representative.</p> <p>These providers are your representatives by law because they provide claims handling and settling services on your behalf.</p>
A person who provides legal services for an AFS licensee or an authorised representative of an AFS licensee: section 911B(1)(f)–(g)	<p>These people may provide claims handling and settling services as part of a legal service, but only in their professional capacity as lawyers.</p> <p>Regardless of whether they are acting for you or your authorised representative, these providers are your representatives by law because they provide claims handling and settling services on your behalf.</p>

What are the obligations of an AFS licensee?

As an AFS licensee, you must comply with the obligations in sections 912A and 912B to:

- do all things necessary to ensure that the financial services covered by the AFS licence are provided efficiently, honestly and fairly
- have adequate arrangements in place to manage your conflicts of interest
- comply with your AFS licence conditions
- comply with the financial services laws
- take reasonable steps to ensure your representatives comply with the financial services laws, unless those representatives are insurance fulfilment providers
- have available adequate financial, human and technological resources, unless you are also regulated by APRA
- maintain the competence to provide the financial services
- adequately train your representatives and ensure they are competent to provide the financial services
- have a dispute resolution system that satisfies section 912A(2) where financial services are provided to retail clients (including an internal dispute resolution system and membership of the Australian Financial Complaints Authority (AFCA))
- have adequate risk management systems, unless you are also regulated by APRA, and
- have compensation arrangements if financial services are provided to retail clients.

You will need to demonstrate that you can meet these obligations when applying for an AFS licence (or a variation to an existing AFS licence) to authorise you to provide a claims handling and settling service.

As an AFS licensee, you also have obligations to ASIC under sections 912C–912E to:

- comply with ASIC’s directions to provide a statement about the financial services you provide
- notify ASIC of breaches or likely breaches of any of your obligations as an AFS licensee
- assist ASIC with surveillance checks on your compliance with your obligations
- notify ASIC of any change in control of your organisation, and
- notify ASIC if you have not started providing financial services within six months after you are granted an AFS licence.

ASIC can take enforcement action if you breach your obligations as an AFS licensee. This includes cancelling or suspending your AFS licence or imposing conditions on your licence, as well as seeking civil penalties.

For more information about meeting your general obligations, see Regulatory Guide 104 *AFS licensing: Meeting the general obligations* ([RG 104](#)).

How do these obligations apply?

Providing financial services efficiently, honestly and fairly

As an AFS licensee, you are obliged under section 912A(1)(a) to do all things necessary to ensure that the financial services are provided efficiently, honestly and fairly.

This means that, to satisfy this obligation, you will generally need to handle and settle insurance claims:

- in a timely way
- in the least onerous and intrusive way possible
- fairly and transparently, and
- in a way that supports consumers, particularly ones who are experiencing vulnerability or financial hardship.

Table 4 summarises how we interpret each of these aspects and other information we consider is relevant.

Table 4: Providing services efficiently, honestly and fairly

Aspect	What it means
<p>Timeliness</p>	<p>You should act without undue delay, acknowledging and balancing the negative effects of delay on the claimant against your reasonable requests for information. This includes following up outstanding information, and reviewing the ongoing need for this information, on a regular basis.</p> <p>Insurance fulfilment and other service providers acting on your behalf should be sufficiently overseen by you to ensure they do not cause delays. This includes being responsive to complaints about the quality and timeliness of work they perform.</p> <p>Industry codes of practice set timeframe obligations on subscribers for various activities relating to claims handling and settling.</p> <p>The timeframes for handling claims set out in industry codes are useful indicators of what industry considers to be appropriate standards.</p>
<p>Minimum intrusion and burden</p>	<p>You should also assess claims in the least onerous and intrusive way reasonably possible in the circumstances.</p> <p>When assessing a claim, we expect that requests for information or attendance for a medical examination would only be made if strictly relevant to the claim. It is not acceptable to issue a standard template request with a long list of requirements to all claimants.</p> <p>Surveillance and other intrusive assessments should only be undertaken in exceptional circumstances (e.g. a reasonable suspicion of misrepresentation or fraud).</p>
<p>Transparency and fairness</p>	<p>You should ensure:</p> <ul style="list-style-type: none"> • claimants know what to expect from you in the claim process • claimants know what you will expect of them • claimants know how long it generally takes for a decision • claimants know why you need certain information from them • claimants are regularly told about the progress of their claim • you explain any adverse findings to the claimant and give them an opportunity to respond and provide additional information (i.e. provide procedural fairness) • you explain to the claimant why you rejected their claim or part of their claim, and • you inform the claimant of their right to make a complaint and how to access internal and external dispute resolution.

Aspect	What it means
Claimants experiencing vulnerability or financial hardship	<p>You should ensure that your service can be tailored to consumers who are experiencing vulnerability or financial hardship.</p> <p>A person's vulnerability may come from a range of factors including age, disability, mental health, physical health, family violence, language barriers, literacy, cultural background, Aboriginal or Torres Strait Islander status, remote location or financial distress.</p> <p>Insurance industry codes provide useful indicators of what industry considers to be appropriate strategies for dealing with consumers experiencing vulnerability. These include:</p> <ul style="list-style-type: none"> • having policies that recognise a person's vulnerability may be temporary and is not always an inherent part of that person • having a policy that defines the factors that contribute to vulnerability in your policyholders and sets out how you will tailor the claims process for the needs of those consumers • training your representatives on how to proactively identify if a person is experiencing vulnerability or financial hardship, and not rely on a person to self-identify this • ensuring your representatives are trained on your policies and that you monitor compliance with those policies • having measures to provide extra support if consumers need it (e.g. being flexible in information requests and deadlines, using interpreters, delaying or reducing payments), and • making your policies publicly available and easy to access.

Aspect	What it means
<p>Code membership</p>	<p>Although not mandatory, subscribing to and complying with a relevant industry code of practice, where available, is a strong indicator of your commitment to raised standards that complement the legislative requirements.</p> <p>The relevant insurance codes of practice are:</p> <ul style="list-style-type: none"> • Life Insurance Code of Practice • Insurance in Superannuation Voluntary Code of Practice • General Insurance Code of Practice, and • Insurance Brokers Code of Practice. <p>Industry codes typically set out obligations for subscribers about:</p> <ul style="list-style-type: none"> • completing stages of claims handling and settling within certain timeframes • making relevant requests for information • explaining the claims process to claimants, keeping them informed during claims assessment, outlining reasons for decisions and how to access dispute resolution, and • identifying and responding to consumers who are experiencing vulnerability or financial hardship. <p>We expect that you will have internal processes and guidance for staff and will monitor compliance with these processes.</p> <p>If you are not a code subscriber, we consider it a strong indicator of your commitment to handling claims efficiently, honestly and fairly if your own service standards and timeframes relating to claims handling and settling are consistent with the relevant industry's code of practice.</p> <p>If you are in an industry that does not have a code covering claims handling and settling, we expect you will set your service standards in a way that is informed by the relevant codes, and consistent with them where feasible.</p>
<p>Further guidance</p>	<p>The Explanatory Memorandum to the Bill gives examples of conduct which meets or fails to meet the requirement to handle and settle claims efficiently, honestly and fairly.</p> <p>We also recommend that you consider the findings and recommendations of ASIC's reviews of the insurance sector listed at the end of this information sheet.</p>

Having adequate procedures and resources

As an AFS licensee, you must comply with other obligations to ensure you have adequate procedures and resources: see Table 5.

Table 5: Having adequate procedures and resources

Obligation	What you must do
Dispute resolution	<p>As an AFS licensee providing services to retail clients, you must have a dispute resolution system in place that consists of:</p> <ul style="list-style-type: none">• internal dispute resolution (IDR) procedures that meet certain prescribed standards, and• membership of AFCA: see sections 912A(1)(g) and 912A(2). <p>You must certify that your IDR procedures comply with ASIC's requirements. Critically, these procedures must be independent of the rest of your operations, such as your claims handling, underwriting and sales functions.</p> <p>You must be a current member of AFCA before we will grant you an AFS licence. Your IDR procedures and AFCA membership must be maintained on an ongoing basis.</p> <p>For more information, see Regulatory Guide 271 <i>Internal dispute resolution</i> (RG 271) and Regulatory Guide 267 <i>Oversight of the Australian Financial Complaints Authority</i> (RG 267).</p>
Compensation and insurance arrangements	<p>As an AFS licensee providing services to retail clients, you must have arrangements in place to compensate clients for any losses they suffer as a result of you or your representatives breaching your licence obligations: see section 912B. Generally, these compensation arrangements will involve professional indemnity (PI) insurance.</p> <p>We will only grant you an AFS licence or variation with a claims handling authorisation if you have adequate PI insurance. You must ensure you maintain this insurance on an ongoing basis.</p> <p>These compensation and insurance requirements do not apply if you are an insurer regulated by APRA: see regulation 7.6.02AAA.</p> <p>For more information, see Regulatory Guide 126 <i>Compensation and insurance arrangements for AFS licensees</i> (RG 126).</p>

Obligation	What you must do
<p>Managing conflicts of interest</p>	<p>As an AFS licensee, you must have adequate arrangements for managing conflicts of interest that may arise wholly or partially from the provision of financial services by you or your representatives: see section 912A(1)(aa).</p> <p>This means you must ensure that you are aware of and have processes in place for managing conflicts of interest that may arise between you and the claimant, and that you regularly review the adequacy of these processes.</p> <p>For example, we expect you to manage any conflicts of interest that may arise between:</p> <ul style="list-style-type: none"> • incentives and performance measurements for claims handling staff and management and the obligation to assess each claim on its merits • any remuneration agreements with your representatives and the obligation to handle claims efficiently, honestly and fairly, and • contracts that involve profit-sharing between entities and the obligation to assess each claim on its merits. <p>Examples of arrangements that could result in a conflict of interest between you and the claimant include:</p> <ul style="list-style-type: none"> • an insurer linking the remuneration of staff to the level of accepted, declined or withdrawn claims, or to staff keeping total payouts for accepted claims below certain financial targets • a life insurer having 'early intervention' programs which are structured in a way that might effectively dissuade a person from lodging a claim, and • an insurer offering rebates or other benefits to the policyholder of a group insurance policy if claims received under the group policy do not exceed agreed benchmarks. <p>For more information, see Regulatory Guide 181 <i>Licensing: Managing conflicts of interest</i> (RG 181).</p>

Obligation	What you must do
Financial requirements	<p>Unless you are an entity regulated by APRA, as an AFS licensee you must meet minimum financial requirements to ensure that you have:</p> <ul style="list-style-type: none"> • sufficient financial resources to conduct your financial services business in compliance with the Corporations Act (including for supervisory arrangements) (see section 912A(1)(d)) • a financial buffer decreasing the risk of a disorderly or non-compliant wind-up if the business fails, and • incentives to comply through risk of financial loss. <p>Generally, we expect that AFS licensees with a claims handling authorisation will not hold client money or property. This means you must meet only the 'base level financial requirements' to:</p> <ul style="list-style-type: none"> • be solvent at all times, and • have sufficient resources for anticipated cash flow expenses. <p>For more information on these financial requirements, see <i>Regulatory Guide 166 Licensing: Financial requirements</i> (RG 166).</p>
Adequate human and technological resources	<p>Unless you are an entity regulated by APRA, as an AFS licensee you must demonstrate you have human and technological resources to provide a claims handling and settling service, and to supervise services your representatives provide: see section 912A(1)(d).</p> <p>To ensure you have adequate resources, we expect you to:</p> <ul style="list-style-type: none"> • monitor and manage staff recruitment and retention • have policies about number of staff and skills required, and • if relevant, have processes in place to upscale resources to deal with large-scale events that increase demand for your claims handling services (e.g. natural disasters).

Obligation	What you must do
<p>Organisational competence</p>	<p>As an AFS licensee, you must maintain competence to provide the financial services covered by your AFS licence: see section 912A(1)(e).</p> <p>You need to show you are and will continue to be competent to provide a claims handling and settling service. To do this, you must nominate in your application the people you will depend on for your organisational competence ('responsible managers').</p> <p>You will be asked in your application about your responsible managers' knowledge and skills to provide a claims handling and settling service. There are five options for demonstrating the knowledge and skills of your responsible managers.</p> <p>For a claims handling authorisation, we generally expect your responsible managers to have at least three years' relevant experience in handling and settling insurance claims over the past five-year period and:</p> <ul style="list-style-type: none"> • a university degree in business, law, commerce or finance, or another relevant degree, or • a qualification equivalent to a diploma (or higher) from a relevant professional body (e.g. the Australian and New Zealand Institute of Insurance and Finance or Australasian Life Underwriting and Claims Association). <p>If the responsible managers you nominate cannot meet these requirements, they may also seek to be assessed on the basis of one of the other options for demonstrating knowledge and skills: see options 1–5 in Regulatory Guide 105 <i>AFS licensing: Organisational competence</i> (RG 105).</p> <p>Your responsible managers, controllers and officers (directors, secretaries and senior managers) must also be 'fit and proper persons': see section 913B. To demonstrate this, you will need to submit criminal and solvency checks and other documents in support of your application.</p> <p>For more information, see RG 2, RG 3, RG 105 and Information Sheet 240 <i>AFS licence applications: Providing information for fit and proper people and certain authorisations</i> (INFO 240).</p>
<p>Breach reporting</p>	<p>For information on your obligations to report breaches, including guidance on which types of breach must be reported, see Regulatory Guide 78 <i>Breach reporting by AFS licensees</i> (RG 78).</p> <p>The requirements for reporting breaches to ASIC were amended by Schedule 11 to the Financial Sector Reform Act. These amended requirements commence on 1 October 2021.</p>

Supervising your representatives

You must take reasonable steps to ensure your representatives comply with the financial services laws: see section 912A(1)(ca).

For information about who your representatives are, see Table 3.

This means you must do what is reasonable to ensure that the claims handling and settling services provided by your representatives on your behalf meet your obligations under the financial services laws and your AFS licence.

Doing what is reasonable depends on the circumstances. For example, your obligations may differ when handling a claim under ordinary circumstances compared to handling claims arising from a large-scale disaster.

We expect that most insurers will have processes in place for supervising the various people they engage to provide services relating to assessment and investigation of claims and administrative services: see Table 6.

Table 6: Supervising your representatives

Area	What we expect
Due diligence and contracts when appointing representatives	<p>Before you engage a representative, we expect you to take reasonable steps to ensure they will comply with financial services laws by conducting due diligence checks when selecting and appointing your representatives.</p> <p>We also expect you to ensure that contracts for appointing your representatives clearly set out:</p> <ul style="list-style-type: none">• their responsibilities in relation to the financial services laws that apply to them (e.g. ensuring they understand the difference between claims handling and providing financial advice, and that they do not give unauthorised financial advice)• the service level agreements and standards of conduct for the representative• how subcontracting arrangements are to be handled, including how the standard of such services will be monitored and controlled (i.e. the same standards that apply to the primary service provider also apply to subcontractors)• arrangements for managing any conflicts of interest• reporting requirements to allow the representative to be effectively monitored• remedies for addressing misconduct, and• the circumstances that would lead to termination of the appointment.

Area	What we expect
Processes and procedures for monitoring and supervision	<p>When a person acts on your behalf, we expect you will supervise them by having processes to:</p> <ul style="list-style-type: none"> • review and approve their requests for work (e.g. approve the commencement or expansion of surveillance by an investigator) • verify compliance and detect any non-compliance (e.g. record complaints and monitor key indicators of quality and performance) • investigate, assess and escalate reports of non-compliance • deal with non-compliance (e.g. train the representative, change processes to ensure future compliance and monitor processes to ensure they are operating effectively), and • remediate claimants who have been harmed by the non-compliance (e.g. refer the claimant to another representative), regardless of whether or not the claimant was aware of the non-compliance.
Insurance fulfilment providers	<p>You do not need to have arrangements to supervise and monitor the conduct of your representatives who are insurance fulfilment providers.</p> <p>However, as an AFS licensee you are still responsible for the conduct of these representatives – regardless of whether their conduct was within the authority you gave them.</p> <p>Other obligations you have in relation to representatives also apply to insurance fulfilment providers (e.g. ensuring competency under section 912A(1)(f)).</p>

Training of representatives

As an AFS licensee, you must ensure that your representatives are adequately trained and competent to provide a claims handling and settling service on your behalf: see section 912A(1)(f).

For information about who can provide services on your behalf, see Table 3.

How you ensure your representatives are adequately trained depends on what is reasonable in the circumstances. We do not prescribe any specific arrangements for ensuring your representatives are trained and competent.

Depending on the circumstances, such arrangements might include:

- training representatives directly
- arranging a competent external provider to train representatives, and
- relying on the previous training of representatives: see Table 7.

Table 7: Training of representatives

Person	What we expect
Representatives who are employees	<p>We expect you to develop training and competency frameworks to ensure that representatives who are your employees are adequately trained to handle and settle claims.</p> <p>We expect these representatives would receive training in:</p> <ul style="list-style-type: none">• specific product(s) relating to the claims they are handling and settling• the legal obligations which apply when handling and settling claims• the difference between financial product advice and a claims handling and settling service• obligations under the relevant code of practice which apply when handling and settling a claim• your claims philosophy• your claims processes and procedures• your internal and external dispute resolution processes, and• how to identify and serve consumers who are experiencing vulnerability and financial hardship. <p>We also expect that training will be tailored to different employees' needs and responsibilities (e.g. new starters or staff with decision-making authority).</p> <p>We expect you will conduct annual reviews, or take various regular steps that constitute review, of staff competency to ensure ongoing compliance with your AFS licence obligations.</p>

Person	What we expect
Representatives who are not employees	<p>You also need to ensure that representatives who are not your employees are adequately trained and competent to handle and settle claims on your behalf.</p> <p>You can do this by:</p> <ul style="list-style-type: none"> • taking reasonable steps to establish the person’s identity • conducting due diligence checks before engaging them • checking that the person holds any licence or registration legally required to perform the service, and • if the person is not required to be licensed or registered, taking other reasonable steps to assure yourself that they are trained and competent to provide the service (e.g. checking the person’s education, alternative learning or accreditation, or considering the person’s experience and reputation). <p>For more information about how to conduct reference checks, see Standards Australia’s handbook, Reference checking in the financial services industry (HB 322-2007).</p>

Providing disclosure documents

As an AFS licensee providing claims handling and settling services, there are disclosure documents you must provide to clients in certain circumstances: see Table 8.

Table 8: Providing disclosure documents

Document	What you must do
Cash Settlement Fact Sheet	<p>As an AFS licensee, you must give a Cash Settlement Fact Sheet to retail clients who are offered a cash payment to settle part or all of a general insurance claim if there are other legally available options to settle the claim (e.g. repair or replacement): see sections 948B–948F and 952A–953C.</p> <p>You, your authorised representatives or people acting on your behalf must give the Cash Settlement Fact Sheet to the client at the time you make the cash settlement offer.</p> <p>The fact sheet must contain:</p> <ul style="list-style-type: none">• options for settlement legally available under the insurance product (e.g. to have the insured person's goods repaired or replaced, or to receive a cash payment)• the sum insured under the insurance product• the amount of the cash settlement you are offering in total and as a breakdown of each component (e.g. sum insured, emergency payments and ex gratia payments), and• a statement that the client should consider obtaining independent legal or financial advice before agreeing to the cash settlement. <p>The fact sheet must be:</p> <ul style="list-style-type: none">• in writing• titled on the cover or front as 'Cash Settlement Fact Sheet' (but can be abbreviated to 'CSFS' elsewhere on the fact sheet)• dated with the date on which it was prepared, and• worded and presented in a clear, concise and effective way. <p>Penalties apply for failing to comply with these requirements.</p>
Financial Services Guide	<p>Generally, if you are only providing a claims handling and settling service to a client, you <i>do not</i> have to give the client a Financial Services Guide (FSG) unless you represent the client in pursuing an insurance claim as part of your claims handling services to the client: see section 941C(7A).</p> <p>That is, a claimant intermediary will need to provide an FSG.</p> <p>For more information on preparing an FSG, see Section C of Regulatory Guide 175 <i>Licensing: Financial product advisers: Conduct and disclosure</i> (RG 175).</p>

Document	What you must do
Confirmation of transactions	<p>Certain transactions between you and retail clients are required to be confirmed by you in writing or electronically. These transactions include:</p> <ul style="list-style-type: none"> • the acceptance of an insurance claim, and • the settlement of an insurance claim (including payment of a settlement amount). <p>The confirmation of the transaction must be provided to the client, or made available through a facility that is accessible to the client, as soon as is reasonably practicable after the transaction occurs.</p> <p>The confirmation of the transaction must:</p> <ul style="list-style-type: none"> • identify the issuer and holder of the product, and • give details of the transaction (including the date and a description of the transaction). <p>See section 1017F of the Corporations Act and regulation 7.9.62 of the Corporations Regulations.</p>

Applying for an AFS licence or variation

When to apply

From 1 January 2021 you can apply:

- for a new AFS licence with a claims handling authorisation, or
- to vary your existing AFS licence to include a claims handling authorisation.

You can continue to provide claims handling and settling services up to and including 30 June 2021 without having submitted an application.

However, you can only continue to provide claims handling and settling services from 1 July 2021 if you have submitted a complete application on or before 30 June 2021.

ASIC may reject an application for lodgement if it is incomplete: see section 1274(8). For this reason, we strongly recommend applications are submitted as soon as possible, and **no later than 7 May 2021**, to help ensure you have sufficient time to collate any additional information and resubmit your application before 30 June 2021.

ASIC will provide confirmation when you have lodged a complete application, or alternatively advise you if your application has been rejected for lodgement.

How the transitional arrangements operate

Even if you have submitted an application before 30 June 2021, from 1 July 2021 you must stop providing claims handling and settling services if any of the following happens:

- your application is rejected for lodgement by ASIC
- you withdraw your application
- your application is deemed to have been withdrawn (see section 913B(4B)), or
- you are not granted an AFS licence or variation with a claims handling authorisation by 31 December 2021.

If any of the above events happens to you from 1 July 2021, you must cease providing claims handling and settling services at the time of the event, otherwise you will be providing unlicensed financial services. To meet your contractual obligations to process claims, you may need to use the claims handling and settling services of a provider who is able to operate under the transitional arrangements.

The transitional arrangements end on 31 December 2021 unless the Minister extends the end date. The Minister may prescribe a later end date of between 1 January 2022 and 30 June 2022.

From 1 January 2022 (unless the Minister has prescribed a later end date to the transitional arrangements), you must hold an AFS licence with a claims handling authorisation to continue to provide these services as an AFS licensee.

If you are granted an AFS licence or variation with this authorisation, the AFS licence obligations relating to claims handling and settling services will apply when you handle or settle claims that are either:

- made from 1 January 2021 and still in progress on or after 1 January 2022 (or the Minister's later end date of the transitional arrangements), or
- made from 1 January 2022 (or the Minister's later end date of the transitional arrangements).

If you only intend to provide claims handling and settling services from **1 January 2022** (or the Minister's later end date of the transitional arrangements), you can apply for an AFS licence or variation at any time before you provide these services. You will not need to rely on transitional arrangements. You must not provide claims handling and settling services unless you are granted an AFS licence with a claims handling authorisation.

Table 9 sets out examples of how the transitional arrangements may operate – depending on when you submit an application and other factors – and how this affects your ability to provide claims handling and settling services. These examples are not intended to be an exhaustive list of possible scenarios or outcomes following an event.

Table 9: Examples of how the transitional arrangements operate

If you submit an application on...	And on...	Then...
1 April 2021	1 September 2021, ASIC <i>grants</i> you an AFS licence or variation	You can continue to handle claims.
1 April 2021	1 December 2021, ASIC <i>refuses to grant</i> you an AFS licence or variation	You must cease handling claims on 1 December 2021.
1 April 2021	1 May 2021, ASIC <i>refuses to grant</i> you an AFS licence or variation	You can continue to handle claims without an AFS licence or variation until 1 July 2021.
1 April 2021	1 May 2021, ASIC <i>rejects the lodgement</i> of your application because it is incomplete	You have until 30 June 2021 to amend and resubmit a complete application to continue to handle claims after 1 July 2021.
1 April 2021	1 September 2021, you <i>withdraw</i> your application	You must cease handling claims on 1 September 2021.
30 June 2021	2 July 2021, ASIC <i>rejects the lodgement</i> of your application because it is incomplete	You must cease handling claims on 2 July 2021. You may submit another application; however, you will not be able to handle claims until the AFS licence or variation is granted.
1 August 2021	1 December 2021, ASIC <i>grants</i> you an AFS licence or variation	You must not handle claims between 1 July 2021 and 31 December 2021 because you did not submit a complete application on or before 30 June 2021. You can begin handling claims on 1 January 2022.
1 March 2022	1 May 2022, ASIC <i>grants</i> you an AFS licence or variation	You can begin handling claims from the date specified on the AFS licence or variation.

How to apply

Before applying for an AFS licence or variation, make sure you have read ASIC's guidance and prepared the documents you will need for your application. Our regulatory guides, pro forma and sample online application will help you comply with the requirements for submitting a complete application.

See the [sample AFS eLicensing application](#) and Pro Forma 209 *Australian financial services licence conditions (PF 209)*.

You will need to read the AFS Licensing Kit (Regulatory Guides 1–3):

- *Part 1: Applying for and varying an AFS licence (RG 1)* – Read this for an overview of the application process.
- *Part 2: Preparing your AFS licence or variation application (RG 2)* – This helps you answer the questions in the application form and prepare your 'core' supporting proof documents.
- *Part 3: Preparing your additional proofs (RG 3)* – This explains any additional 'non-core' proof documents you might be asked to provide.

There is additional information that we require you to provide with your application. This is set out in Section C12 of [RG 3](#).

If you only require an AFS licence that authorises some, but not all elements, of claims handling and settling, please specify this in your application.

How we will assess applications

We will assess applications for new AFS licences for claims handling and settling, or variations to existing licences, in the same way and against the same criteria as for other financial services as set out in [RG 1](#), [RG 2](#), [RG 3](#), [RG 104](#), [RG 105](#) and [RG 166](#).

Applications will take longer if they raise complex or new policy issues, or if all the information we need is not available in a timely manner. If an applicant does not provide us with the information we need within the requested timeframe, the application will be deemed to have been withdrawn: see section 913B(4)(b).

ASIC does not guarantee we will be able to complete our assessment of your application by 31 December 2021.

This is because our ability to complete our assessment is based on the quality of your application, and the number of other applications lodged ahead of yours.

We strongly recommend that you submit your application as soon as possible and no later than 7 May 2021.

For more information, go to www.asic.gov.au/afslicensing.

Examples of how the AFS licensing regime may apply

The following examples explain how the AFS licensing regime may apply to claims handling and settling in various circumstances.

These examples are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

Example 1: Who needs to hold an AFS licence?

Scenario

Theresa's laundry is flooded and damaged by a burst tap. She contacts her insurer to make a claim on her home and contents insurance policy. The insurer appoints a claims management firm (CMF Pty Ltd) to handle Theresa's claim.

CMF Pty Ltd acts on behalf of the insurer, as an authorised representative providing claims handling and settling services. The insurer has its own AFS licence which authorises it to provide a claims handling and settling service.

CMF Pty Ltd then appoints a loss assessor and builder to assess the damage to the laundry and quantify the insurer's liability. CMF Pty Ltd provides the loss assessor's report, along with the builder's quote, to the insurer, who accepts the claim.

CMF Pty Ltd advises Theresa that the insurer has accepted the claim and arranges for the builder to start repairs.

Commentary

All the entities are providing claims handling and settling services for Theresa's claim. However, only the insurer and CMF Pty Ltd need an AFS licence (or need to be an authorised representative of a licensee) to provide the services: section 911A(2)(ek).

The builder and loss assessor can provide claims handling services on behalf of the insurer and claims management firm under section 911B(1)(g). Because they are acting on behalf of the insurer, they are representatives of the insurer.

Example 2: Who doesn't need to hold an AFS licence?

Scenario

Hendrik operates a smash repair business and is an approved smash repairer for an insurer. When an insured lodges a claim, the insurer refers them to Hendrik.

Under an agreement with the insurer, Hendrik is authorised to approve claims and start repairs of damage that he assesses to be under \$1,500 and covered by the insurance policy. If the damage is over \$1,500 or there are other issues, he prepares a quote for the insurer. If accepted by the insurer, it authorises Hendrik to do the repairs.

Commentary

Hendrik is providing a claims handling and settling service when he provides repair services to satisfy the insurer's liability. He does so as a representative of the insurer because, as an insurance fulfilment provider, Hendrik is treated as acting on behalf of the insurer by section 910D. Hendrik can provide this claims handling and settling service on behalf of the insurer under section 911B(1)(f).

Hendrik does not need an AFS licence or to be an authorised representative of the insurer because he does not have authority from the insurer to reject claims.

Example 3: What is a claimant intermediary?

Scenario

ABC Pty Ltd markets itself as a claims assistance provider for people making a claim on their home insurance. ABC Pty Ltd does all the administrative work in making a claim for its clients, and advocates for its clients throughout the claims process.

ABC Pty Ltd works on a 'no-win no-fee' basis. Clients agree to pay 20% of any cash settlement to ABC Pty Ltd. If the claim is rejected, the client pays nothing.

Alternatively, if the insurer offers to repair or rebuild the property, the clients agree to use a builder appointed by ABC Pty Ltd, instead of one appointed by the insurer.

Commentary

ABC Pty Ltd must hold an AFS licence because it is providing a claims handling and settling service and meets the definition of a 'claimant intermediary' under section 761CAA. Further, ABC Pty Ltd must provide its clients with a Financial Services Guide because it represents them in pursuing insurance claims: section 941C(7A).

Example 4: Handling claims in a timely manner

Scenario

Leo makes a claim on his income protection insurance policy. After completing the waiting period under the policy, he tells the insurer that he is still unable to work. The insurer accepts his claim based on medical information and asks Leo to provide a copy of his financial information from before he became disabled to determine the correct benefit to pay.

Leo is self-employed and needs to get this information from his accountant. He tells the insurer it will take about a month to get the information.

In the meantime, the insurer accepts Leo's claim and decides to make monthly income protection payments based on the sum insured under Leo's policy. The payments will be adjusted if required after the financial information is submitted.

Two months later, Leo provides his current financial information. The insurer confirms Leo's monthly benefit and adjusts his future payments based on this information.

Commentary

The insurer has acted efficiently, honestly and fairly by accommodating the fact that it will take Leo some time to provide the financial information required at claim time to verify the correct benefit, and starting Leo's income protection payments based on information the insurer already has.

Example 5: Handling claims in the least onerous and intrusive way possible

Scenario

Andrej is involved in a car accident and makes a claim under his car insurance. The insurer appoints an investigator to 'double-check' the facts of his claim, despite there being no indicators that his claim is not genuine.

One morning, the investigator turns up at Andrej's house without any notice and asks for Andrej's personal details, a police report number, criminal record checks, bank statements, and mobile phone records in a specific format.

Andrej spends many hours collecting this information. His phone company charges him \$40 and takes three weeks to reformat his records into the specified format.

Two months later, the insurer accepts Andrej's claim and authorises the repairs.

Commentary

The insurer has likely failed to act efficiently, honestly and fairly by taking action that is unreasonable and making unnecessary requests for information from Andrej, despite there being nothing suspicious about his claim.

Example 6: Handling claims transparently

Scenario

Emily has a serious illness and lodges a claim under her life insurance cover which she holds through her superannuation fund. A representative of the superannuation trustee explains to Emily the general process and timeframes involved in assessing her claim, as well as the kind of information she must provide to support her claim.

The superannuation trustee tells Emily that the trustee will check her identity, coverage and employment details to determine if her claim is eligible under the fund's group policy, but that the insurer is responsible for assessing the claim. The trustee forwards the claim to the insurer and updates Emily on her claim every two weeks.

A month later, the insurer informs the superannuation trustee that it proposes to decline Emily's claim because she does not meet the policy definition for 'terminal illness'. The superannuation trustee calls Emily to tell her of the proposed decision to decline the claim and that the trustee will send a letter outlining the reasons for the insurer's view, along with copies of the information which the insurer used to reach this view.

Commentary

By setting out the process and decision transparently, the insurer and trustee have likely complied with the obligation to handle claims efficiently, honestly and fairly.

Example 7: Supporting consumers experiencing vulnerability

Scenario

Soonja is a 79-year-old woman who lives alone and speaks mainly Korean, with some very limited English. Her daughter, Areum, buys her a dog to keep her company and helps her buy pet insurance for the dog.

The dog is hit by a car, injured and taken to a vet. Soonja pays the vet's bill of \$3,500 upfront. A few weeks later, Soonja tries to lodge a claim with her insurer. Areum is overseas and not available to help.

Soonja calls the insurer and struggles to explain the basic details of her claim. The insurer does not try to arrange for an interpreter but tells her that she must submit additional information online to proceed. Soonja is confused and hangs up.

The insurer does not try to validate Soonja's claim in other ways (e.g. by asking the vet for details directly). Two months later, the insurer tells Soonja her claim has been denied because she did not provide the required information within 90 days of the incident.

Commentary

The insurer has likely failed to ensure that its claims handling and settling service is provided efficiently, honestly and fairly. This is because the insurer failed to identify Soonja as a person who may be vulnerable because of her age and limited English, and to give additional support and tailor the claim process for her.

Example 8: Supervising an authorised representative

Scenario

A general insurer with an AFS licence appoints a claims management company, XYZ Pty Ltd, as its authorised representative to handle home insurance claims. The insurer monitors key indicators of XYZ Pty Ltd's performance based on its reports, including average duration to make a claim decision, the ratio of accepted claims by the insurer and complaints received.

From reviewing this information, the insurer becomes aware that claims handled by XYZ Pty Ltd take much longer to be settled than expected and exceed the timeframes set out in the General Insurance Code of Practice. The insurer also receives complaints from consumers about XYZ Pty Ltd not conducting assessments of their homes in a timely manner and not communicating to claimants about the progress of their claim.

The insurer reviews XYZ Pty Ltd's reports and processes. It works with XYZ Pty Ltd to improve its service level and review denied claims and complaints for three months. The insurer also works to ensure XYZ Pty Ltd's claims processes are in line with standards set in the General Insurance Code of Practice.

Commentary

As the AFS licensee, the insurer is responsible and liable for the conduct of XYZ Pty Ltd. While the claims handling and settling services may not have been provided efficiently, honestly and fairly, the insurer has likely met its obligation to supervise compliance with financial services laws by taking steps to monitor performance and address non-compliance.

Where can you get more information?

For more information on complying with your obligations as an AFS licensee, see the following regulatory guides, information sheets, reports and media releases.

Regulatory guides

- [RG 1, 2 and 3: AFS Licensing Kit](#)
- [RG 78 Breach reporting by AFS licensees](#)
- [RG 98 ASIC's powers to suspend, cancel and vary AFS licences and make banning orders](#)
- [RG 104 AFS licensing: Meeting the general obligations](#)
- [RG 105 AFS licensing: Organisational competence](#)
- [RG 126 Compensation and insurance arrangements for AFS licensees](#)
- [RG 165 Licensing: Internal and external dispute resolution](#)
- [RG 166 Licensing: Financial requirements](#)
- [RG 175 Licensing: Financial product advisers—Conduct and disclosure](#)
- [RG 181 Licensing: Managing conflicts of interest](#)

- [RG 246](#) *Conflicted and other banned remuneration*
- [RG 267](#) *Oversight of the Australian Financial Complaints Authority*
- [RG 271](#) *Internal dispute resolution*
- [CP 311](#) *Internal dispute resolution: Update to RG 165*

Information sheets

- [INFO 88](#) *Notifying ASIC of the appointment of an AFS authorised representative*
- [INFO 91](#) *Who can be an authorised representative of an AFS licensee*
- [INFO 240](#) *AFS licence applications: Providing information for fit and proper people and certain authorisations*

Reports

- [REP 245](#) *Review of general insurance claims handling and internal dispute resolution procedures*
- [REP 498](#) *Life insurance claims: An industry review*
- [REP 603](#) *The consumer journey through the Internal Dispute Resolution process of financial service providers*
- [REP 621](#) *Roadblocks and roundabouts: A review of car insurance claim investigations*
- [REP 633](#) *Holes in the safety net: A review of TPD insurance claims*

Media releases

- [20-302MR](#) *Youi breached duty of utmost good faith – Royal Commission case study*
- [21-042MR](#) *Court finds that TAL Life Limited breached its duty of utmost good faith – Royal Commission referral*

You can also contact your industry body or another professional organisation, or call ASIC on 1300 300 630 or [ask a question online](#).

Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice.

You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases, your particular circumstances must be taken into account when determining how the law applies to you.

This is **Information Sheet 253 (INFO 253)**, issued in May 2021.