
From: Section 22 [REDACTED]@afca.org.au>
Sent: Friday, 7 October 2022 2:26 PM
To: AFCA Notifications Section 22 [REDACTED]@asic.gov.au>
Cc: Section 22 [REDACTED]@afca.org.au>; Section 22 [REDACTED]@afca.org.au>
Subject: AFCA systemic issues case ref: Section 47G [REDACTED]

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear Section 22 [REDACTED]

I write to you about AFCA member, Section 47G [REDACTED]. The matters identified in our case reference Section 47G [REDACTED] have been identified as a possible serious contravention.

This information is being provided to ASIC under clause A.18.1 of the AFCA Rules and in accordance with our obligations under ASIC's Regulatory Guide 267.

I have attached AFCA's possible serious contravention letter with further information.

Kind regards,

Section 22 [REDACTED]

Senior Systemic Issues Specialist

Systemic Issues

T. 03 Section 22 [REDACTED] | Free Call 1800 931 678

www.afca.org.au



IMPORTANT The contents of this email (including any attachments) are confidential and may contain privileged information. Any unauthorised use of the contents is expressly prohibited. If you have received this email in error, please notify us immediately by Telephone: 1800 931 678 (local call) or by email and then destroy the email and any attachments or documents. Our privacy policy is available on our website.



7 October 2022

Case Ref: Section 47G

Section 22
Misconduct & Breach Reporting
Australian Securities and Investments Commission
Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)

Dear Section 22

Possible serious contravention: Section 47G poor claims handling practices and potential breaches of the *Corporations Act 2001 (Cth)* and *Insurance Contracts Act 1984 (Cth)*

I am writing about the conduct of Australian Financial Complaints Authority (AFCA) member, Section 47G

We recently received a referral from the Senior Ombudsman, Insurance (Senior Ombudsman) that the conduct of Section 47G represents a possible serious contravention of section 912(1)(a) of the *Corporations Act* and section 13 of the *Insurance Contracts Act*.

Recently, AFCA has observed poor claims handling practices by Section 47G across multiple complaints. We have listed several AFCA determinations Section 47G serious concerns with Section 47G claims handling practices. For example, AFCA Section 47G issued determinations:

- finding that Section 47G conduct in handling the claim was inconsistent with its duty of utmost good faith, or it could have been inconsistent with its duty of utmost good faith
- awarding Section 47G to complainants due to Section 47G poor claims handling.

Possible serious contravention

AFCA is providing this information to the Australian Securities and Investments Commission (ASIC) under section A.18.1 of AFCA's Rules, and in accordance with our

obligations under ASIC's Regulatory Guide 267: *Oversight of the Australian Financial Complaints Authority* (RG267).

Clause 40 of RG267 requires AFCA to report all contraventions and breaches to ASIC or other appropriate regulators. In accordance with RG267, AFCA must also give particulars of a serious contravention of any law which may have occurred.

For the reasons below, AFCA is reporting this matter to ASIC as a possible serious contravention of the law.

The complaints

The below table lists **Section 47G** determinations involving **Section 47G** poor claims handling and the remedy AFCA awarded. As noted, AFCA found that in some instances **Section 47G** breached its duty of utmost good faith, or could have breached its duty of utmost good faith.

Section 47G

Section 47G

Other open complaints

AFCA is currently considering complaints **Section 47G** which involve similar concerns about **Section 47G** poor claims handling. We will provide ASIC with an update once AFCA finalises these complaints.

Our View

The Senior Ombudsman and Lead Ombudsman, Insurance hold concerns about:

- the number of recent complaints where **Section 47G** engaged in poor claims handling practices

- instances where AFCA found **Section 47G** breached its duty of utmost good faith, or it could have breached its duty of utmost good faith
- the **Section 47G** awarded to complainants because of **Section 47G** poor claims handling.

AFCA is concerned there have been multiple instances where it was found **Section 47G** had breached its duty of utmost good faith, or could have breached its duty of utmost good faith, as set out under section 13 of the *Insurance Contracts Act*.

Further, as **Section 47G** is providing insurance claims handling as a financial service, this conduct raises concern that **Section 47G** may not be doing all things necessary to ensure that the financial services covered by its licence are provided efficiently, honestly and fairly to comply with section 912A(1)(a) of the *Corporations Act*.

In AFCA's view, the seriousness of the conduct, observed across multiple complaints **Section 47G**, represents a possible serious contravention of the law and is likely to cause significant consumer harm.

For ASIC's information, we are also investigating whether **Section 47G** claims handling represents a systemic issue. We will provide ASIC with an update in due course.

I welcome the opportunity to discuss this matter further, if required. If you wish to discuss, please contact me on **Section 22**.

Yours sincerely

Section 22

**Senior Systemic Issues Specialist, Systemic Issues
Australian Financial Complaints Authority**

From: Section 22
To: Section 22
Cc: Section 22
Subject: RE: Possible Serious Contravention case Section 47G [SEC=OFFICIAL]
Date: Thursday, 13 June 2024 12:56:38 PM
Attachments: [image001.png](#)
[image002.jpg](#)
[image004.jpg](#)

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Section 22,

Thank you for your email.

I can confirm the only attachment for this Possible Serious Contravention referral was the ASIC spreadsheet.

In regards to a PDF, no correspondence/letter was sent to the Financial Firm in this file. As noted in the spreadsheet, AFCA would be considering a possible systemic issue regarding the same issue and the Possible Serious Contravention referral to ASIC was to be noted within correspondence to the Financial Firm in that matter.

At this stage, AFCA has not formed a view or finalised any assessment on whether a systemic issue exists, as such, no assessment correspondence has been issued.

I hope this assists.

Kind regards,

Section 22

Manager

Systemic Issues

T. Section 22 | Free Call 1800 367 287

www.afca.org.au



AFCA acknowledges the traditional owners of country throughout Australia and their continuing connection to land, culture and community. We pay our respects to elders past, present and future.

From: Section 22 @asic.gov.au>
Sent: Thursday, 13 June 2024 12:31 PM
To: Section 22 @afca.org.au>
Cc: Section 22 @asic.gov.au>
Subject: RE: Possible Serious Contravention case Section 47G [SEC=OFFICIAL]

[CAUTION: EXTERNAL EMAIL] DO NOT reply, click links, or open attachments unless you have verified the sender and know the content is safe.

Dea, Section 22

In my recent review of this case, it appears that ASIC only received an excel spreadsheet (systemic issue and afca reportable matter notifications **Section 47G**) with that email. From reading the email, I believe that a PDF should have been attached but potentially was not included.

I would be grateful if you could please review the previous email dated 5 March to clarify and to attach the PDF.

Thanks in advance

Kind Regards

Section 22

Specialist Team Leader – Regulatory Triage, Misconduct & Breach Reporting

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2000

Email: **Section 22** [@asic.gov.au](mailto:Section 22@asic.gov.au)



From: **Section 22** [@afca.org.au](mailto:Section 22@afca.org.au)>

Sent: Tuesday, March 5, 2024 3:40 PM

To: AFCA Notifications **Section 22** [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Cc: **Section 22** [@asic.gov.au](mailto:Section 22@asic.gov.au)>; **Section 22** [@asic.gov.au](mailto:Section 22@asic.gov.au)> **Section 22**

Subject: Possible Serious Contravention case **Section 47G**

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Dear team,

Please see attached AFCA's Possible Serious Contravention report to ASIC regarding AFCA member **Section 47G**

In short, AFCA have formed a reasonable belief that the insurer may have breached its duty to act with the utmost good faith in accordance with Section 13 of the Insurance Contracts Act 1984 when considering and actioning claims.

As noted in the attached report, AFCA has identified several instances where we believe the insurer may have failed in its duty.

We also note, AFCA is currently considering a Possible Systemic Issue in regards to this issue and are engaging with the insurer.

Regards,

Section 22

Senior Systemic Issues Specialist
Systemic Issues
T. Section 22 | Free Call 1800 931 678
www.afca.org.au



IMPORTANT The contents of this email (including any attachments) are confidential and may contain privileged information. Any unauthorised use of the contents is expressly prohibited. If you have received this email in error, please notify us immediately by Telephone: 1800 931 678 (local call) or by email and then destroy the email and any attachments or documents. Our privacy policy is available on our website.

Please consider the environment before printing this document.

Information collected by ASIC may contain personal information. Please refer to our [Privacy Policy](#) for information about how we handle your personal information, your rights to seek access to and correct your personal information, and how to complain about breaches of your privacy by ASIC.

This e-mail and any attachments are intended for the addressee(s) only and may be confidential. They may contain legally privileged, copyright material or personal and /or confidential information. You should not read, copy, use or disclose the content without authorisation. If you have received this email in error, please notify the sender as soon as possible, delete the email and destroy any copies. This notice should not be removed.

IMPORTANT The contents of this email (including any attachments) are confidential and may contain privileged information. Any unauthorised use of the contents is expressly prohibited. If you have received this email in error, please notify us immediately by Telephone: 1800 931 678 (local call) or by email and then destroy the email and any attachments or documents. Our privacy policy is available on our website.

Q	Item	Response
1	SI reference number	Section 47G
2	Notification type	Serious contravention of the law s1052E(1)(a) Corps Act
3	Financial firm name	Section 47G
4	ABN	Section 47G
5	Licence type	AFSL
6	Licence number	Section 47G
	AFCA membership status	
7	(If current go to Q8)	Current
7a	If ceased membership, date ceased	
8	Status	Closed, resolved
	If open, estimated date for next update to ASIC.	
	Estimated date allows for response from financial firm and consideration by AFCA. Indicative only.	
8a		
8b	If closed, date closed	Section 47G
9	Financial service/credit activities or product line	General insurance > Domestic insurance > Home building
	Product 2	
	Product 3	
10	Issue	General obligations > Claims handling
	Issue 2	
	Issue 3	
11	Date issue identified	Section 47G
12	Time period covered by issue	Section 47G
	Example: From 2018 to now	
13	Number of affected AFCA complaints	Section 47G
	Complaint reference number	Section 47G
14	Where multiple, can nominate a few examples and note there are more	
15	Estimated total number of customers/consumers that the situation affects or will likely affect	Unknown
16	Is remediation involved?	Unknown
	Has a reportable situation notification been submitted to ASIC by the member?	Unknown
17a	If yes, include date of lodgement and/or number, as known	
18	Has AFCA written to the financial firm about this issue?	
	If no go to Q19	No
18a	Attach copies of relevant correspondence when submitting this form	
	Form complete, item 19 is optional	
19	Where AFCA has not written to the financial firm, provide details of the issue that are not otherwise covered in this form	AFCA will advise the financial firm of this Possible Serious Contravention report to ASIC when we engage in a Possible Systemic Issue investigation of the matter under PSI case reference Section 47G

From: Section 22
To: Section 22
Cc: Section 22; Section 22
Subject: FW: RACQ Insurance Limited - Statement of claim [SEC=OFFICIAL:Sensitive]
Date: Monday, 26 September 2022 12:00:13 PM
Attachments: Section 37(2)(b), 45, 47E(d)

FYI

Section 22

Analyst — Insurers

Financial Services & Wealth

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2001

Tel: Section 22

[@asic.gov.au](mailto:Section 22@asic.gov.au)



ASIC

Section 22, 37(2)(b), 45

From: Section 22
 To: Section 22
 Subject: RE: RAC Section 37(2)(b), 45 [SEC=OFFICIAL]
 Date: Monday, 26 September 2022 10:50:21 AM
 Attachments: [image003.png](#)

Hi Section 22,

I understand that you received a copy of the Mark Baxter statement of claim – would you be able to share a copy of that for the Insurers team to review?

Many thanks

Section 22

Section 22

Analyst — Insurers
 Financial Services & Wealth

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2001

Tel: Section 22

Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)



ASIC

From: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>
 Sent: Monday, 26 September 2022 10:17 AM
 To: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>
 Subject: RE: RAC Section 37(2)(b), 45

[SEC=OFFICIAL]

Thanks Section 22.

Regards,

Section 22

Senior Investigator, Financial Services Enforcement
 Office of Enforcement

Australian Securities and Investments Commission

Level 20, 240 Queen Street, Brisbane, QLD 4000

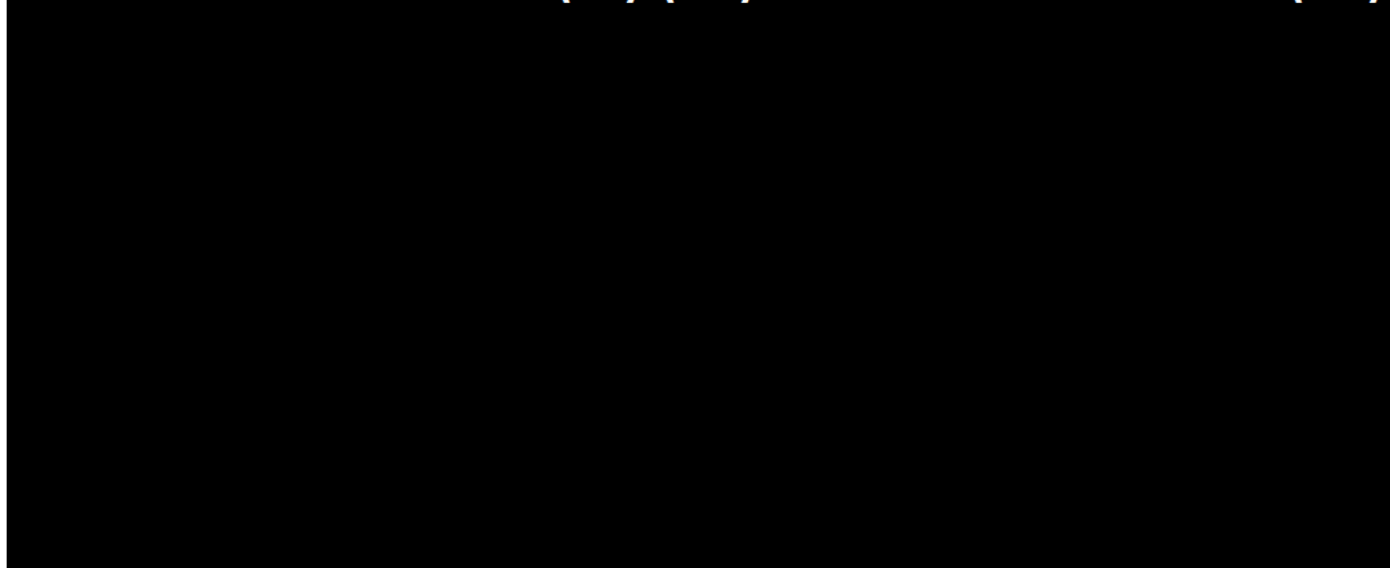
Tel: Section 22

Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)



ASIC

Section 22, 37(2)(b), 45, 47C, 47E(d)



Section 22, 37(2)(b), 45, 47C, 47E(d)

From: Section 22 [redacted] <[\[redacted\]@asic.gov.au](mailto:[redacted]@asic.gov.au)>
Sent: Friday, 23 September 2022 1:59 PM
To: Section 22 [redacted] <[\[redacted\]@asic.gov.au](mailto:[redacted]@asic.gov.au)>
Cc: Section 22 [redacted] <[\[redacted\]@asic.gov.au](mailto:[redacted]@asic.gov.au)>; Section 22 [redacted] <[\[redacted\]@asic.gov.au](mailto:[redacted]@asic.gov.au)>;
Section 22 [redacted] <[\[redacted\]@asic.gov.au](mailto:[redacted]@asic.gov.au)>
Subject: RE: RACC Section 37(2), 45 [redacted]

[SEC=OFFICIAL]

Hi [redacted],

Will do. I am meeting with the team on Monday morning next week to further discuss.

[redacted] – would you have some time early next week to catch up and discuss?

Kind regards,

[redacted]

Section 22

Senior Manager – Insurers

Financial Services and Wealth

Australian Securities and Investments Commission

Section 22 [redacted]

Section 22 <[\[redacted\]@asic.gov.au](mailto:[redacted]@asic.gov.au)>



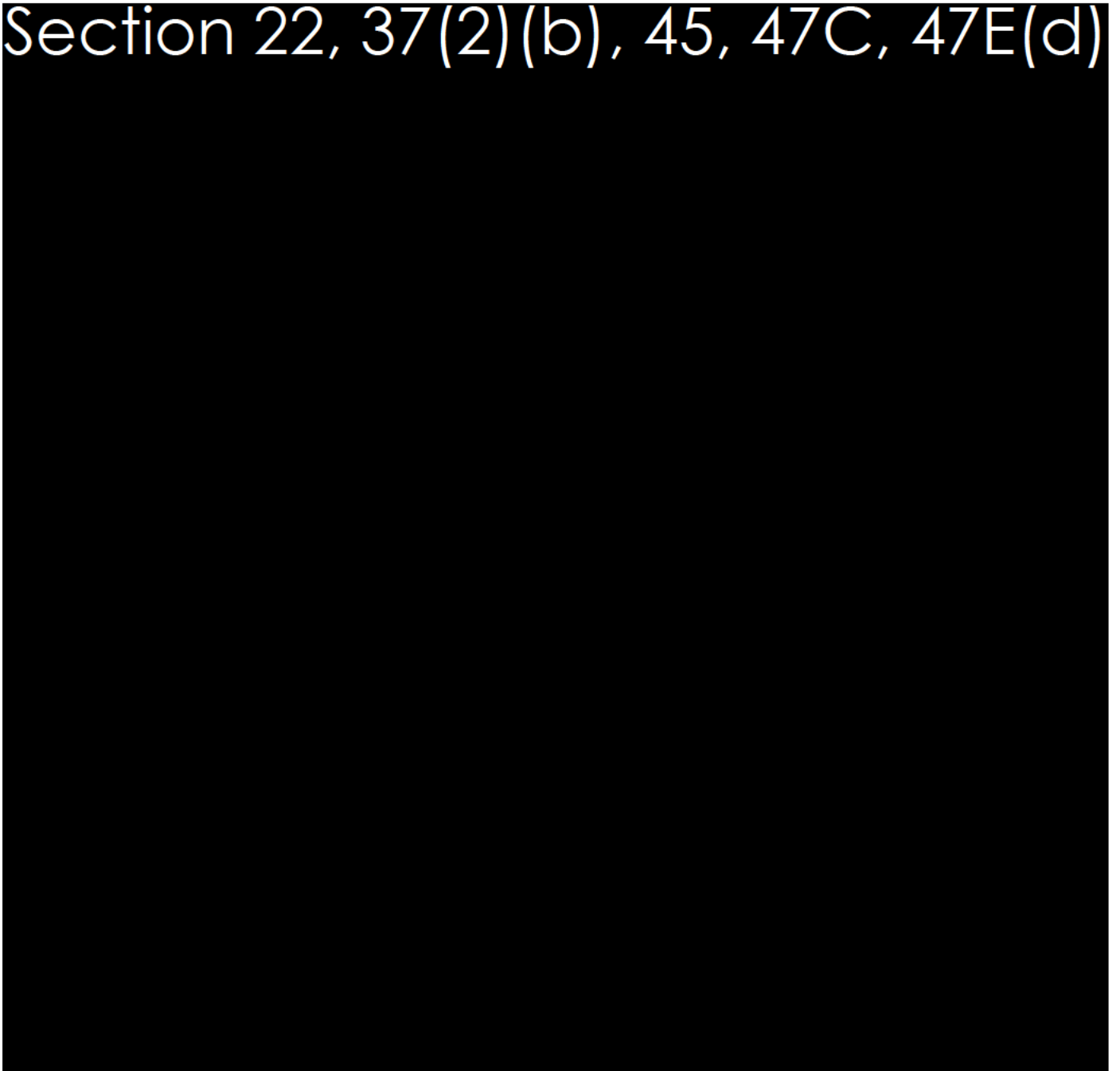
ASIC

ASIC's



MONEYSMART

Section 22, 37(2)(b), 45, 47C, 47E(d)



ASIC

ASIC acknowledges the Traditional Owners of the lands and waters on which we live and work.

We pay respect to Elders past and present as the custodians of the world's oldest continuing cultures.



Section 22

Section 22

FOI 185-2024

Section 22

FOI 185-2024

From: Section 22
To: Section 22; Section 22; Section 22; Section 22; Section 22
Cc: Section 22; Section 22
Subject: FW: RAC Section 37(2)(b), 45
Date: Wednesday, 20 July 2022 6:13:00 PM
Attachments: [image001.png](#)
[image003.png](#)

Good Evening All,
Please see the copy of Mark Baxter's SOC in the link below [Section 45](#)

[Redacted]

Regards,

Section 22
Senior Investigator, Financial Services Enforcement
Office of Enforcement
Australian Securities and Investments Commission
Level 20, 240 Queen Street, Brisbane, QLD 4000
Tel: **Section 22**
Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)

[Redacted]

Section 22

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

FOI 185-2024

From: Section 22
To: Section 22; Section 22
Cc: Section 22; Section 22
Subject: RE: Pricing promises review update [SEC=OFFICIAL]
Date: Wednesday, 6 July 2022 2:20:43 PM
Attachments: [image010.png](#)
[image012.png](#)
[image013.png](#)
[image015.png](#)

Thanks Section 22.

Regards,

Section 22

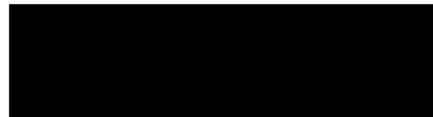
Senior Investigator, Financial Services Enforcement
Office of Enforcement

Australian Securities and Investments Commission

Level 20, 240 Queen Street, Brisbane, QLD 4000

Tel: Section 22

Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)



From: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>
Sent: Wednesday, 6 July 2022 1:08 PM
To: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22
Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>
Cc: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>
Subject: RE: Pricing promises review update [SEC=OFFICIAL]

I don't think we've seen a statement of claim if that's what you're asking. We have just seen the media coverage around the events.

Section 22

Analyst | Insurers | Financial Services & Wealth

Australian Securities and Investments Commission

Level 20, 240 Queen Street, Brisbane, 4000

Tel: Section 22 | Mob: Section 22 | Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)



From: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>
Sent: Wednesday, 6 July 2022 12:39 PM
To: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>
Cc: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22
Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>
Subject: RE: Pricing promises review update [SEC=OFFICIAL]

Thanks Section 22

On another matter, are you and the team aware of the statement of claim that Mark Baxter filed in his Federal Court proceedings in May 2021 for unfair dismissal from RACQ?

Regards,

Section 22

Senior Investigator, Financial Services Enforcement
Office of Enforcement

Australian Securities and Investments Commission

Level 20, 240 Queen Street, Brisbane, QLD 4000

Section 22, 37(2)(b), 47C, 47E(d)

FOI 185-2024

Section 22

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

Section 22

FOI 185-2024

From: Section 22
To: Section 22
Subject: RE: RACQ Insurance Limited - Section 37(2)(b), 45
Date: Wednesday, 6 July 2022 9:46:00 AM

Thanks Section 22, working on it today.
 Regards,

Section 22
 Senior Investigator, Financial Services Enforcement
 Office of Enforcement
Australian Securities and Investments Commission
 Level 20, 240 Queen Street, Brisbane, QLD 4000
 Tel: Section 22
 Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)



From: Section 22 @asic.gov.au>
Sent: Wednesday, 6 July 2022 9:31 AM
To: Section 22 @asic.gov.au>; Section 22 @asic.gov.au>;
 Section 22 @asic.gov.au>; Section 22 @asic.gov.au>; Section 22 @asic.gov.au>;
 @asic.gov.au>; Section 22 @asic.gov.au>
Cc: Section 22 @asic.gov.au>
Subject: RE: RACQ Insurance Limited - Section 37(2)(b), 45

Thanks Section 22 – it would be good to get a copy of the SOC. You are probably already onto it!

Section 22, 37(2)(b), 45

FOI 185-2024

From: Section 22
To: Section 22; Section 22
Cc: Section 22
Subject: RE: Request for access to RACQ articles [SEC=OFFICIAL]
Date: Tuesday, 5 July 2022 10:33:53 AM
Attachments: [image004.png](#)

Thanks Section 22.

Regards,

Section 22

Senior Investigator, Financial Services Enforcement
Office of Enforcement

Australian Securities and Investments Commission

Level 20, 240 Queen Street, Brisbane, QLD 4000

Tel: Section 22

Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)



ASIC

From: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Sent: Tuesday, 5 July 2022 10:13 AM

To: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Cc: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Subject: FW: Request for access to RACQ articles [SEC=OFFICIAL]

Hi Section 22 and Section 22,

Please find below the news articles regarding Mark Baxter that we just discussed in the meeting.

Kind regards

Section 22

Section 22

Analyst — Insurers

Financial Services & Wealth

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2001

Tel: Section 22

Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)



ASIC

From: IRC Research Queries Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Sent: Friday, 27 May 2022 3:04 PM

To: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Cc: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22 w

Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Subject: RE: Request for access to RACQ articles [SEC=OFFICIAL]

Hi Section 22

As requested please see the links below to the full text articles:

[PDF RACQ settles with former executive who claimed unfair dismissal - The Courier Mail.pdf](#)

[PDF Chief Risk Officer Mark Baxter sues RACQ after he was fired - The Courier Mail.pdf](#)

Kind regards

Section 22

Research Librarian, IRC Library & Research

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2001

Tel: Section 22 | Mob: Section 22

Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)



From: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Sent: Friday, 27 May 2022 11:04 AM

To: IRC Research Queries Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Cc: Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>; Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)>

Subject: Request for access to RACQ articles [SEC=OFFICIAL]

Hi IRC,

Can you please provide access to the below articles that were published in the Courier Mail.

Article title: Ex-RACQ exec claims: I was 'sacked over whistleblowing fears'

Couriermail.com.au | [Subscribe to The Courier Mail for exclusive stories](#)

Article title: 'Hostility, dysfunction': Bombshell claims of RACQ's would-be whistleblower

Couriermail.com.au | [Subscribe to The Courier Mail for exclusive stories](#)

Many thanks.

Kind regards

Section 22

Section 22

Analyst — Insurers

Financial Services & Wealth

Australian Securities and Investments Commission

Level 5, 100 Market Street, Sydney, 2001

Tel: Section 22

Section 22 [@asic.gov.au](mailto:Section 22@asic.gov.au)

