



ASIC
Australian Securities &
Investments Commission

REGULATORY GUIDE 267

Oversight of the Australian Financial Complaints Authority

October 2026

About this guide

As the regulator with oversight of the Australian Financial Complaints Authority (AFCA), we have set out in this regulatory guide information explaining AFCA's role, governance and legislative requirements including our oversight functions and powers.

This guide should be read in conjunction with Regulatory Guide 271 *Internal dispute resolution* ([RG 271](#)).

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This draft guide was issued in October 2026 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 267, issued June 2018, updated July 2020 and reissued September 2021
- Consultation draft of Regulatory Guide 139 *Oversight of the Australian Financial Complaints Authority*, released with [Consultation Paper 298](#) *Oversight of the Australian Financial Complaints Authority: Update to RG 139*

Disclaimer

This guidance does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act, credit legislation and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guidance are purely for illustration, they are not exhaustive and are not intended to impose or imply particular terms of reference or requirements.

DRAFT

Contents

A	Overview	4
	About this guide	4
	About AFCA and the AFCA scheme	4
	What this guide covers	7
B	Oversight of AFCA.....	8
	Principles of the governance framework	8
	The AFCA Board	8
	ASIC's functions and powers.....	9
C	AFCA mandatory requirements and general considerations ...	11
	Mandatory requirements.....	11
	General considerations	11
D	AFCA reporting requirements	22
	Reporting matters to regulators	22
	Confidentiality requirements and other information sharing	29
	Statistical reporting requirements	29
	Key terms	32
	Related information.....	37

DRAFT

A Overview

Key points

The Australian Financial Complaints Authority scheme (AFCA scheme) is a free, fair and independent external dispute resolution (EDR) scheme for consumers and small businesses with complaints about financial firms.

It is also the EDR scheme for consumers and small businesses with scam-related complaints about entities that are subject to the Scams Prevention Framework (SPF), including telecommunication providers, digital platforms and banks.

The operator of the scheme is a not-for-profit company, Australian Financial Complaints Authority Limited, known as AFCA.

ASIC has a statutory oversight role over the AFCA scheme. However, AFCA remains responsible for its own internal processes and the management of complaints under the scheme.

About this guide

- RG 267.1 Given ASIC's oversight role of the AFCA scheme, this guide contains information about:
- (a) AFCA's legislative requirements and other aspects of its governance that are critical to its operation; and
 - (b) our powers as part of overseeing the scheme.
- RG 267.2 This guide is intended to assist AFCA to understand ASIC's role in relation to the AFCA scheme and how ASIC may exercise its regulatory and oversight functions. It is also intended to assist stakeholders, including AFCA members, consumers and regulatory bodies that interact with AFCA, to understand the legislative framework within which AFCA operates.
- RG 267.3 In this guide, we have referred to matters in AFCA's Constitution, Rules and Operational Guidelines (which are explained at RG 267.9) that we consider are key to the operation of the scheme and its ability to meet its obligations under the law.

About AFCA and the AFCA scheme

- RG 267.4 Dispute resolution frameworks commonly include both internal and external dispute resolution mechanisms. Internal dispute resolution (IDR) provides an opportunity for organisations to address complaints directly, while EDR

provides an independent avenue – for example, through the AFCA scheme – for resolution when a matter cannot be resolved internally.

RG 267.5 The AFCA scheme is a free, fair and independent EDR scheme that deals with complaints from consumers and small businesses about:

- (a) financial firms; and
- (b) scam-related matters involving entities subject to the SPF, including telecommunications providers, digital platforms and banks (SPF complaints).

Note: The requirements for compulsory AFCA membership may change over time and some firms may apply to join AFCA voluntarily.

RG 267.6 The framework for the AFCA scheme was established through the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* (AFCA Act). The AFCA Act introduced Pt 7.10A into the *Corporations Act 2001* (Corporations Act) (including mandatory requirements and general considerations for the scheme) and made amendments to other financial services and credit laws.

Note: In this guide, references to sections (s), chapters (Ch), divisions (Div), subdivisions (Subdiv) and parts (Pt) are to the Corporations Act, unless otherwise specified. References to regulations (reg) and schedules (Sch) are to the Corporations Regulations, unless otherwise specified.

RG 267.7 The scheme has been authorised by the Minister under s1050(1). It is operated by Australian Financial Complaints Authority Limited (AFCA), a not-for-profit company limited by guarantee, and governed by a board of directors.

Note: see [AFCA Scheme Authorisation 2018](#).

RG 267.8 The AFCA scheme has also been authorised or recognised as an EDR scheme under other legislative frameworks, including:

- (a) the SPF under s58DB(1) of the *Competition and Consumer Act 2010* (CCA);

Note: See [Competition and Consumer \(Scams Prevention Framework—External Dispute Resolution\) Authorisation 2026](#).

- (b) the Consumer Data Right under s56DA(1) of the CCA to enable it to handle complaints in relation to the operation of consumer data rules, or Part IVD of the CCA; and

Note: See [Competition and Consumer \(Consumer Data Right – Recognised External Dispute Resolution Schemes\) Instrument 2021](#).

- (c) s35A of the *Privacy Act 1988* (Privacy Act) to enable it to handle complaints about acts or practices of AFCA members that may interfere with the privacy of an individual.

Note: See the Office of the Australian Information Commissioner's (OAIC), [Notice of recognition of an EDR scheme](#) (PDF 749 KB).

- RG 267.9 AFCA and the scheme operate in accordance with legislative requirements and the following documents:
- (a) The Australian Financial Complaints Authority Limited Constitution (Constitution), which outlines the purpose and objectives of the company;
 - (b) The AFCA Complaint Resolution Scheme Rules (Rules), which set the jurisdiction, powers and processes for AFCA's complaint resolution. The Rules have two divisions, the Financial Firm Rules and the Scam Rules; and
 - (c) The AFCA Operational Guidelines to the Rules (Operational Guidelines), which explain how AFCA interprets and applies the AFCA Rules. The Operational Guidelines have two divisions, the Financial Firm Operational Guidelines and the Scam Operational Guidelines.

Note: These documents can be accessed on the [AFCA website](#).

ASIC's role

- RG 267.10 Under the Corporations Act, ASIC has a range of functions and powers to oversee the operation of the AFCA scheme.
- RG 267.11 ASIC approved the inaugural AFCA Rules on 6 September 2018 and since then has approved material changes to the Rules.
- RG 267.12 While ASIC has an oversight role over AFCA, the scheme remains independent and responsible for its own internal processes and the management of complaints. ASIC has no role in AFCA's complaints handling and will not intervene in the decision-making processes of the AFCA scheme.

Note: See paragraph 1.60 of the Revised Explanatory Memorandum to the Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Bill 2017 ([Revised Explanatory Memorandum](#)).

- RG 267.13 ASIC and AFCA also have a memorandum of understanding (MOU) setting out our agreed basis for engagement: see: the [ASIC-AFCA MOU](#) page on the ASIC website.

DRAFT

What this guide covers

Oversight of the AFCA scheme

- RG 267.14 Section B of this guide explains the AFCA scheme's governance framework, and ASIC's oversight powers, including the scope of those powers. The governance framework primarily comprises of Ministerial authorisation and oversight by the AFCA Board and ASIC.

AFCA mandatory requirements and general considerations

- RG 267.15 Section C of this guide outlines the mandatory requirements and the general considerations (i.e. principles) for the AFCA scheme, which are contained in the Corporations Act. It also describes the key ways in which they are reflected in AFCA's framework.
- RG 267.16 The general considerations are accessibility, fairness, efficiency, effectiveness, independence and accountability.

AFCA reporting requirements

- RG 267.17 Section D of this guide explains what AFCA must report and when. AFCA is required by law to report certain matters to certain regulators. This is so that the regulators may consider whether regulatory action is necessary.
- RG 267.18 Matters that AFCA must report include serious contraventions of any law, failures to give effect to determinations and systemic issues.

B Oversight of AFCA

Key points

The AFCA scheme's governance framework primarily comprises Ministerial authorisation and oversight by AFCA's Board and ASIC.

ASIC's oversight powers include issuing regulatory requirements, giving directions and approving material changes to the scheme.

Principles of the governance framework

- RG 267.19 Stakeholder confidence in the independent and effective operation of the AFCA scheme is supported by a robust and transparent governance framework.
- RG 267.20 This framework comprises Ministerial authorisation and oversight by the AFCA Board and ASIC. It is also supported by:
- (a) a forward-looking, responsive and independent organisational culture;
 - (b) a public commitment to continuous learning and improvement; and
 - (c) systems and reporting arrangements that create trust and confidence in AFCA: see Section D.
- RG 267.21 ASIC approaches its oversight responsibilities in a way that:
- (a) ensures compliance with the mandatory requirements;
 - (b) is consistent with the Ministerial authorisation and conditions;
 - (c) respects the operational independence of AFCA; and
 - (d) supports AFCA to deliver independent, timely and fair decisions for consumers and members.

The AFCA Board

- RG 267.22 AFCA is governed by the AFCA Board. The board is comprised of an independent Chair and up to ten other directors: see s1051(3)(da) and the Constitution. There must be the same number of directors with industry experience as directors with experience representing consumers: see s1051(3)(d).
- RG 267.23 The AFCA Board must ensure that AFCA complies with the mandatory requirements in the Corporations Act on an ongoing basis: see s1052. This

includes complying with any conditions specified by the Minister relating to its authorisation and any ASIC regulatory requirements or directions.

- RG 267.24 The AFCA Board is also responsible for appointing decision makers, the independent assessor and commissioning independent reviews of the scheme's operations and procedures: see s1051(3)(a) and the Constitution.

Note: For further information, see the [AFCA website](#).

ASIC's functions and powers

- RG 267.25 ASIC has a range of oversight powers in relation to the AFCA scheme. These also apply for the purposes of the scheme's authorisation or recognition under other legislative frameworks, including under the SPF.
- RG 267.26 Where appropriate, ASIC will consult with the Australian Competition and Consumer Commission (ACCC) as the SPF's general regulator and the relevant SPF sector regulator(s), before exercising powers that could have an impact on the AFCA scheme's SPF jurisdiction.

Regulatory requirements

- RG 267.27 ASIC has the power to issue regulatory requirements under s1052A, by legislative instrument, relating to:
- (a) compliance with the mandatory requirements under s1051; or
 - (b) any of the general considerations for the scheme under s1051A.

Note: We have provided more information about the general considerations in Section C.

Directions

- RG 267.28 ASIC has the power to issue:
- (a) general directions to AFCA if we consider that AFCA has not done all things reasonably practicable to ensure compliance with the relevant mandatory requirements, condition of authorisation imposed by the Minister or our regulatory requirements: see s1052C;
 - (b) specific directions to AFCA to:
 - (i) increase limits on the value of claims that may be made or the value of remedies that may be determined under the scheme: see s1052B; and
 - (ii) take measures to ensure that the operations of AFCA are sufficiently financed: see s1052BA.

Note: ASIC will give AFCA adequate notice of any intention to issue a direction.

RG 267.29 There is no mechanism under the Corporations Act for complainants, members of AFCA, or other persons or entities to apply to ASIC and request a direction be issued to AFCA.

RG 267.30 ASIC's general direction power is aimed at ensuring compliance with the overall conditions and regulatory requirements of the AFCA scheme, including for the collective interests of those for whom the scheme operates. The power does not permit ASIC to make a direction to AFCA about:

- (a) how it deals with specific complaints or makes decisions under its Rules; or
- (b) how it deals with specific systemic issues or the identification and investigation of those issues.

Note: See *Hermes and O'Brien and Australian Securities & Investments Commission* [2023] AATA 286 (22 February 2023), [94]–[99].

RG 267.31 ASIC will only use the directions powers as a last resort.

Note: See paragraph 1.67, 1.75 and 1.82 of the [Revised Explanatory Memorandum](#).

Approving material changes to the AFCA scheme

RG 267.32 AFCA must not make material changes to the AFCA scheme without prior approval of ASIC: see s1052D and s1051(5)(b). In considering whether to approve the change, ASIC must take into account:

- (a) the mandatory requirements under s1051;
- (b) the general considerations under s1051A;
- (c) any conditions imposed by the Minister on the authorisation of the scheme under s1050(5)(b); and
- (d) any regulatory requirements under s1052A.

RG 267.33 Changes that may require ASIC approval include changes to the Rules and could extend to matters dealt with in Operational Guidelines or other documents, if these have a material impact on the scheme.

RG 267.34 AFCA should generally consult publicly about material changes it is proposing to the scheme, ahead of seeking ASIC's approval.

DRAFT

C AFCA mandatory requirements and general considerations

Key points

AFCA must comply with mandatory requirements set out in the legislation.

Further, in resolving complaints and carrying out its operations, the general considerations for the AFCA scheme are the principles of:

- accessibility;
- fairness;
- efficiency;
- effectiveness;
- independence; and
- accountability.

This section describes some of the key ways in which these principles are reflected in AFCA's framework and applied in practice.

Mandatory requirements

RG 267.35 The mandatory requirements in s1051 are grouped in four categories:

- (a) organisational requirements;
- (b) operator requirements;
- (c) operational requirements; and
- (d) compliance requirements.

Note: For an exhaustive list of all of the mandatory requirements: see s1051.

RG 267.36 AFCA must ensure that the mandatory requirements for the AFCA scheme in s1051 are complied with on an ongoing basis: see s1052.

General considerations

RG 267.37 The general considerations for the AFCA scheme are: accessibility, fairness, efficiency, effectiveness, independence and accountability of the scheme: see s1051A. ASIC can issue regulatory requirements relating to compliance with these general considerations.

Note: ASIC must take these general considerations into account when considering whether to approve material changes to the scheme: see Section B.

- RG 267.38 This section describes some of the key ways in which the general considerations are reflected in AFCA's framework and applied in practice. It is not intended to be an exhaustive account of all matters relevant to those considerations.

Accessibility

- RG 267.39 Accessibility is a general consideration for the scheme and is also relevant to several mandatory requirements.
- RG 267.40 The AFCA scheme must be appropriately accessible to persons dissatisfied with members of the scheme and be free of charge for complainants: see s1051(4)(a) and s1051(2)(d). AFCA should also:
- (a) communicate who is eligible to complain and the complaints it can and cannot deal with;
 - (b) promote awareness of and access to the scheme including by using clear communications, undertaking outreach and ensuring scheme processes are easy to use; and
 - (c) set out in the Rules how and when legal proceedings may be brought in relation to a complaint that has already been lodged with the scheme.

Complaints AFCA can and cannot deal with

- RG 267.41 The AFCA scheme's jurisdiction—who is eligible to complain and what complaints it can and cannot deal with—is primarily set out in legislation and the Rules.
- RG 267.42 The AFCA scheme can consider complaints from consumers and small businesses about its members. This includes complaints about financial firms and SPF complaints about entities subject to the SPF, including banks, telecommunication providers and digital platforms.
- RG 267.43 The Corporations Act includes specific provisions for the resolution of superannuation complaints, including what complaints can be made and how they are determined: see s1053–1055D.
- RG 267.44 AFCA can also accept complaints referred from a financial firm, where the firm has the complainant's consent to do so. For further information, see Section C Links between the IDR process and AFCA in [RG 271](#).
- RG 267.45 The scheme's jurisdiction may be amended from time to time, for example, to reflect changes in the law, a Ministerial authorisation condition or ASIC regulatory requirement.

Exclusions

- RG 267.46 Complaints that are outside of the scheme's jurisdiction are set out in the Rules. These reflect statutory exclusions or well-established exclusions carried over from predecessor EDR schemes. For example, non-superannuation complaints may be excluded if the claim exceeds the scheme's monetary limits.
- RG 267.47 Despite these limits, the Rules set out that AFCA may agree to accept certain complaints outside its jurisdiction where all parties to the complaint consent in writing.
- RG 267.48 The Rules also allow AFCA to exercise its discretion to exclude a complaint where there are compelling reasons. For example, where a complaint is frivolous, vexatious, misconceived or lacking in substance.
- RG 267.49 AFCA should collect data about the type and numbers of complaints that it has excluded. This data can inform future reviews of whether certain limits on the scheme's jurisdiction should be retained, reviewed or extended.

Expulsion or withdrawal of AFCA membership

- RG 267.50 It is a mandatory requirement that membership of the AFCA scheme is open to every entity that is required to be a member of the scheme: s1051(2)(a). AFCA can only accept complaints about its members.
- RG 267.51 AFCA's Constitution gives the AFCA Board discretion to expel a member in certain circumstances, such as when a member ceases to have a licence, fails to pay AFCA fees and/or becomes insolvent.
- RG 267.52 In exercising this discretion, AFCA may take into account complainants' interests and the availability of any other mechanism to achieve compensation (such as the [Compensation Scheme of Last Resort](#)). Before a member is expelled, AFCA will give the relevant member notice in accordance with processes set out in its Constitution.
- RG 267.53 An AFCA member may choose to withdraw its membership by giving at least 12 months' written notice (subject to any waivers).

Clear communications and easy to use processes

- RG 267.54 AFCA should adopt clear, timely and appropriate communication strategies for consumers, members and other stakeholders, with a focus on promoting understanding of AFCA's role, processes and decision making. AFCA should undertake promotional and outreach activities, to ensure that vulnerable or under-represented groups are identified and effectively targeted.

RG 267.55 Communications should support the varied access needs of different complainant types. It should be easy to lodge a complaint, engage with AFCA staff and seek help at any stage of the complaint resolution process. Communications should be provided at key stages of the process, including providing clear reasons to consumers where a complaint is excluded.

RG 267.56 AFCA should review and assess the effectiveness of its communications and the scheme's service. This may include reviewing feedback from the independent assessor or other quality assurance processes.

Legal proceedings and other action by AFCA members

RG 267.57 Commencing or continuing legal proceedings (including debt recovery) in relation to an AFCA complaint risks undermining the EDR process and may result in the same complaint being dealt with in competing forums, wasting time and resources.

RG 267.58 To support accessibility, the Rules set out certain restrictions on members while AFCA is considering a complaint, including:

- (a) commencing legal proceedings about any aspect of the subject matter of the complaint;
- (b) seeking judgment or taking other action to pursue debt recovery legal proceedings that the firm began before the complaint was submitted to AFCA; and
- (c) listing a default on a complainant's credit file.

RG 267.59 The Rules contain some limited circumstances where AFCA may consent to proceedings to allow members to preserve their legal rights. For example, where the legal limitations period is about to expire or the complaint is to be treated as a 'test case' to be decided in court proceedings.

Note: Test cases may occur where a complaint involves a novel or important question of law and are explained in more detail in the Rules and Operational Guidelines.

Fairness

RG 267.60 Fairness is a general consideration for the scheme and is also relevant to several mandatory requirements, such as the operational requirement that complaints against members of the scheme are resolved in a way that is fair, efficient, timely and independent: s1051(4)(b).

RG 267.61 The fairness consideration is also reflected in the Rules, which require that AFCA must consider complaints in a way that is fair and accords with the principle of procedural fairness.

DRAFT

Decision-making approach

- RG 267.62 When determining superannuation complaints, AFCA must apply the decision-making approach specified in s1055. This requires AFCA to be satisfied that the decision to which the complaint relates, or the conduct, was fair and reasonable in all the circumstances.
- RG 267.63 For superannuation complaints, AFCA may, on its own initiative or on the request of a party to the complaint, refer a question of law arising in relation to the making of a determination relating to the complaint to the Federal Court for decision: s1054C.
- RG 267.64 When determining any other complaints, the Rules provide that it must do what it considers fair in all the circumstances having regard to legal principles, applicable industry codes or guidance, good industry practice and previous relevant determinations of AFCA or predecessor schemes.

Gathering and sharing information relevant to a complaint

- RG 267.65 The Rules and Operational Guidelines set out AFCA's approach to requesting from, and sharing information with, parties to a complaint. This includes giving parties access to relevant information and an opportunity to make submissions before making a determination.
- RG 267.66 For superannuation complaints, AFCA has specific statutory powers under the Corporations Act, including powers to obtain information and documents, require attendance at conciliation conferences and give directions prohibiting or restricting the disclosure of documents or information relating to the complaint: see s1054A–BA.
- RG 267.67 If a party to a complaint, without reasonable excuse, fails to provide information or comply with a specific request within the set timeframe, the Rules provide AFCA may take whatever steps it considers reasonable in the circumstances. This may include drawing an adverse inference from a party's failure to provide material information requested.
- RG 267.68 A failure to give reasonable assistance to and cooperate with AFCA may result in matters being reported to regulators: see Section D.

Efficiency and effectiveness

- RG 267.69 Efficiency and effectiveness are general considerations for the scheme and are also relevant to several mandatory requirements.
- RG 267.70 To meet the requirements for efficiency and effectiveness, AFCA will need to respond appropriately to changes in its operating environment, such as:
- (a) changes in financial services and credit markets and/or consumer behaviour;

- (b) law reform or other changes to regulatory settings or standards adopted in industry codes;
- (c) recommendations made by the independent assessor or arising from an independent scheme review; and
- (d) exceptional circumstances or events (e.g. leading to significant increases in complaint numbers).

RG 267.71 AFCA should also ensure that its arrangements:

- (a) support timely decision making;
- (b) remain appropriate to its jurisdiction and remedies over time;
- (c) promote compliance by complaint parties with scheme procedures, timeframes and decisions;
- (d) support effective scheme communications and processes; and
- (e) incorporate feedback from stakeholders, including members.

AFCA approach documents

RG 267.72 AFCA publishes documents about its approach to certain types of complaints and how it reaches decisions. These documents provide practical information on how AFCA will assess and determine complaints and enhance AFCA's transparency, consistency and efficiency: see the [Publications](#) page on the AFCA website.

Available remedies

RG 267.73 We expect AFCA to, at a minimum, award compensation for any direct loss or damage caused by a member's breach of any obligation the firm owed the consumer when providing a financial or credit product or service or obligation applicable under the SPF.

RG 267.74 AFCA is not a regulator or a court, and cannot award punitive, exemplary or aggravated damages. The Rules allow AFCA to, where appropriate:

- (a) award compensation for indirect financial loss and non-financial loss;
- (b) make non-monetary orders requiring a member to take (or not take) a particular course of action, such as reinstatement, variation, rectification, or setting aside of a contract or forgiveness or variation of a debt; and
- (c) award interest on the compensation payment.

RG 267.75 For superannuation complaints, AFCA must determine a complaint (including providing any remedies) in accordance with s1055.

Monetary limits and compensation caps

RG 267.76 For superannuation complaints there are no limits on the value of claims that may be made under the scheme or value of remedies that may be determined: see s1051(4)(f).

RG 267.77 For all other complaints, AFCA applies monetary limits and compensation caps that are set out in the Rules and indexed every three years.

Note 1: The monetary limits and compensation caps for financial firms were initially announced by the Government on the passage of the legislation that established AFCA and formed part of the Minister's authorisation decision.

Note 2: In determining whether the relevant limit is reached for small business lending complaints, AFCA applies the limit to the small business credit facility that is the subject of the lending complaint. This means that the value of linked credit facilities cannot be taken into account when applying the limit.

RG 267.78 AFCA may make an award that is higher than the compensation cap if the member agrees.

RG 267.79 In addition to the regular indexation required by AFCA's Rules, we expect AFCA to periodically consider (such as through independent reviews) whether the monetary limits and compensation caps are effective and remain fit for purpose. When making this assessment, the following principles are relevant:

- (a) accessibility and coverage: the substantial majority of consumer disputes—and an appropriate range of small business disputes—should be able to be resolved by the EDR body;
- (b) economic relevance: the monetary limits and compensation caps should reflect general economic indicators and the current values of financial products held by consumers;
- (c) market impact: the impact on competition of increasing the compensation cap, including how that might affect the ability of smaller financial firms to obtain professional indemnity insurance and therefore to enter or remain in the market; and
- (d) clarity: the monetary limits and compensation caps should be easy for consumers to understand and for the EDR body to apply.

Note: These principles are based on those considered as part of the Ramsay Review: see [*Final report: Review of the financial system external dispute resolution and complaints framework*](#), May 2017, p. 155.

Time limits for lodging complaints with AFCA

RG 267.80 The Rules set out the time limits for lodging complaints, some of which reflect legislative requirements.

DRAFT

- RG 267.81 Time limits for some superannuation complaints are set out in the Corporations Act: see s1056. Other than in limited circumstances (see s1056(3)), AFCA has no discretion to extend these time limits.
- RG 267.82 The Rules prescribe specific time limits for complaints under the National Credit Code, including complaints related to a variation of credit contract as a result of financial hardship, an unjust transaction or unconscionable interest and other charges.
- RG 267.83 For all other complaints, the Rules require a complaint to be lodged with AFCA by the earlier of:
- (a) six years from the date that the consumer first became aware (or should reasonably have become aware) that they suffered the loss; and
 - (b) two years from when an IDR response is given.

Effect of AFCA determinations

- RG 267.84 Determinations are binding on members of the scheme but not binding on complainants under the scheme: see s1051(4)(e). However, this is subject to additional provisions relating to determinations for superannuation complaints.
- RG 267.85 For most complaints, under the Rules, AFCA's decisions are binding upon parties if the complainant accepts the determination within 30 days of its receipt. In these circumstances, the member may ask the complainant to accept the AFCA outcome as full and final satisfaction of their claim (i.e. the balance of the claim cannot be pursued in court).
- RG 267.86 If a complainant does not accept the AFCA determination, parties to the complaint are not bound by the decision and the consumer may pursue their complaint in another forum, such as a court.
- RG 267.87 For superannuation complaints, a determination by AFCA comes into operation immediately upon the making of the determination, unless a later date is specified in the determination: see s1055B(1)–(2). If AFCA's determination is to vary or substitute another person's (e.g. trustee) decision, the AFCA determination is taken to have had effect on and from the day on which the original decision has or had effect, unless otherwise ordered: see s1055B(3).
- RG 267.88 Each party to a superannuation complaint has the right to appeal to the Federal Court on a question of law in AFCA's determination of the complaint. An appeal must be instituted within 28 days after the day when a copy of the determination has been given to the party (unless the Federal Court allows a further period): see s1057.
- RG 267.89 The Rules and Operational Guidelines set out the circumstances and process by which a party to a complaint may seek the correction of a clerical error or

mistake in an AFCA determination arising from an accidental slip or omission (e.g. arithmetical error). This is not a mechanism to re-open a determination for substantive revision.

- RG 267.90 Under s1051(4)(d), AFCA must take reasonable steps to ensure members of the scheme comply with its determinations. Non-compliance with an AFCA determination is reportable to regulators: see Section D.

Referring complaints back to the member

- RG 267.91 AFCA generally refers complaints it receives back to the member's IDR process to give the member and the complainant the opportunity to resolve the complaint before AFCA begins its consideration.
- RG 267.92 The Rules and Operational Guidelines set out the approach for these refer back arrangements, including applicable timeframes. Refer backs occur where:
- (a) the complaint has not previously been through IDR or where the relevant IDR timeframe has not elapsed (known as 'IDR refer-backs'); and
 - (b) the outcome at IDR has not resolved the complaint, or the relevant maximum IDR timeframe has elapsed (known as 'Post IDR refer-backs').
- RG 267.93 Refer back arrangements do not apply to death benefit superannuation complaints, or to other complaints AFCA considers appropriate to progress immediately within EDR (such as remediation-related complaints that have already been through IDR: see Section G of Regulatory Guide 277 *Consumer remediation* ([RG 277](#))).

Independence

- RG 267.94 Independence is a general consideration for the scheme and is also relevant to several mandatory requirements including:
- (a) the scheme has an independent assessor: see s1051(2)(c);
 - (b) the operator of the scheme commissions the conducting of independent reviews of the scheme's operations and procedures: see s1051(3)(a);
 - (c) the operator of the scheme is a company limited by guarantee: see s1051(3)(b);
 - (d) the operator's constitution provides that the operator must not be operated for profit: see s1051(3)(c);
 - (e) the operator's constitution provides that it must have equal number of directors with experience in the kinds of businesses operated by members and representing consumers: see s1051(3)(d);

- (f) the operator's constitution provides that the Chair of the AFCA Board must be an independent person: see s1051(3)(da); and
- (g) that complaints against members of the scheme are resolved (including by making determinations relating to such complaints) in a way that is fair, efficient, timely and independent: s1051(4)(b).

Resources available to AFCA

- RG 267.95 It is also a mandatory requirement that the operations of the scheme are financed through contributions made by members of the scheme: see s1051(2)(b).
- RG 267.96 AFCA should adopt a funding model and funding arrangements that will ensure it is sufficiently financed. The model and arrangements should:
- (a) be adequate, fair and efficient;
 - (b) be transparently developed, reviewed and amended in consultation with members and other stakeholders, including by reference to the statutory criteria and external operating context;
 - (c) take into account its current and forecast caseloads;
 - (d) be capable of responding to external events such as unexpected volatility in caseload;
 - (e) minimise cross-sectoral subsidisation to the extent practicable; and
 - (f) be able to raise additional funds to support scheme operations, if required.
- RG 267.97 AFCA must report to the responsible Minister annually on any decisions to vary the amount of member levies or the scale of complaint fees payable by AFCA members within 30 days of the commencement of each financial year: see s6 of [AFCA Scheme Authorisation 2018](#).

Accountability

- RG 267.98 Accountability is a general consideration for the scheme and is also relevant to several mandatory requirements.

Independent assessor

- RG 267.99 It is a mandatory requirement that AFCA has an independent assessor: see s1051(2)(c).
- RG 267.100 The independent assessor plays an important part in AFCA's quality assurance and accountability framework.
- RG 267.101 The role of the independent assessor is to consider and respond to service complaints about AFCA, identify, address and report on issues affecting

AFCA's complaint handling processes and performance and make any recommendations in response to those issues. It is not the role of the independent assessor to review the merits or substance of an AFCA decision on a complaint.

RG 267.102 The Rules and Operational Guidelines set out information about the independent assessor's role and how a matter can be referred to the independent assessor.

RG 267.103 The independent assessor is governed by a separate terms of reference set by the AFCA Board.

Note: The terms of reference can be found on the [AFCA website](#).

Independent periodic reviews

RG 267.104 It is a mandatory requirement that AFCA commission independent reviews of the scheme's operations and procedures: see s1051(3)(a).

RG 267.105 ASIC expects AFCA to commission a comprehensive independent review at least every five years.

Note: As a last resort, we may use our general directions power to require AFCA to commission a comprehensive or more targeted independent review within the five-year period.

RG 267.106 In commissioning an independent review, AFCA is expected to consult with ASIC about the intended review including its scope and timeframe.

RG 267.107 The AFCA Board should publish the final report of any independent review and publicly respond to each recommendation. AFCA's public response to an independent review should include its implementation response and timetable.

Informal and formal review mechanisms

RG 267.108 AFCA has informal and formal review mechanisms that provide stakeholders an avenue to raise concerns about AFCA's approach to an issue in a determination. These mechanisms are explained in the Operational Guidelines.

RG 267.109 Because of the final and binding nature of determinations (see RG 267.84–RG 267.89), these reviews are not a mechanism to re-open an individual determination or change its outcome.

RG 267.110 If, as a result of a review, AFCA resolves to change its approach, this will be for future complaints only.

D AFCA reporting requirements

Key points

AFCA must report certain matters to relevant regulators, including serious contraventions of any law, failures to give effect to determinations and systemic issues.

AFCA also publicly reports information about its complaints resolution.

Reporting matters to regulators

RG 267.111 Under the Corporations Act, the CCA and the Privacy Act and its Constitution, AFCA is required to report certain matters to certain regulators. This is so that the regulators may consider whether regulatory action is necessary.

Reportable matters

RG 267.112 AFCA must give particulars to the relevant regulators if it becomes aware, in connection with a complaint under the AFCA scheme, that:

- (a) a serious contravention of any law may have occurred: see s1052E(1)(a) of the Corporations Act and s58DD(1)(a) of the CCA;
- (b) a party to the complaint may have refused or failed to give effect to a determination made by AFCA: see s1052E(1)(d) of the Corporations Act and s58DD(1)(b) of the CCA;
- (c) there is a systemic issue arising from the considerations of complaints: see s1052E(4) of the Corporations Act and s58DD(1)(c) of the CCA;
- (d) a contravention of the governing rules of a regulated superannuation fund, an AFCA regulated superannuation fund, or an approved deposit fund may have occurred: see s1052E(1)(b);
- (e) a breach of the terms and conditions relating to an annuity policy, a life policy or a retirement savings account may have occurred: see s1052E(1)(c); or
- (f) serious or repeated interferences with privacy or systemic issues relating to privacy-related complaints may have occurred: see Part 4 of [Guidelines for recognising external dispute resolution schemes](#) on the OAIC website.

Note: Section 1052E(2) relates to the requirements for reporting serious contraventions where the complaint relates to the scheme provided for by the *Australian Defence Force Cover Act 2015*. This guidance does not address these requirements.

- RG 267.113 In addition, AFCA may give particulars of a settlement of a complaint under the AFCA scheme if AFCA thinks the settlement may require investigation: see s1052E(3) of the Corporations Act and s58DD(2) of the CCA.
- RG 267.114 Under the Constitution, when an AFCA membership has ceased (whether voluntarily or by expulsion) or if a member gives notice of their withdrawal, AFCA must notify ASIC and any other relevant regulatory body or person, as the AFCA Board considers appropriate. Other appropriate regulatory bodies may include the ACCC as the SPF general regulator and SPF sector regulators.

Regulators that receive reports from AFCA

- RG 267.115 If the matter relates to financial firms and AFCA is reporting matters at RG 267.112–RG 267.113, it will report to one or more of ASIC, the Australian Prudential Regulation Authority (APRA) or the Commissioner of Taxation (referred to in this guide as ‘the ATO’). AFCA must report matters at RG 267.112(f) relating to privacy, including credit reporting, to the OAIC.
- RG 267.116 If the matter relates to SPF complaints and AFCA is reporting matters at RG 267.112 (a)–(c) and RG 267.113, it will report to both the ACCC as the SPF general regulator as well as the relevant SPF sector regulator. In practice, this means reports relating to the:
- (a) banking sector are made to ASIC and the ACCC;
 - (b) telecommunications sector are made to the Australian Communications and Media Authority (ACMA) and the ACCC; and
 - (c) digital platforms sector are made to the ACCC.

Note: For the avoidance of doubt, matters relating to telecommunications and digital platforms sectors are not to be reported to ASIC.

Details AFCA should provide to regulators

- RG 267.117 The *particulars* for matters reportable to the regulators should include at least the name of the financial firm, SPF-regulated entity, licensee, representative or employee involved (as appropriate and necessary). If and where a report relates to the conduct of a specific and identified individual or individuals, the report should include the name of the individual(s).

Note: For the purposes of reporting under the SPF, AFCA must de-identify any SPF personal information unless AFCA reasonably believes that doing so would not achieve the object of the SPF: see s58DD(3) of the CCA.

- RG 267.118 Under its Rules, AFCA may also provide information obtained from parties to a complaint to other bodies, such as a regulated securities exchange, an insolvency practitioner, an industry code compliance committee or other EDR scheme.

Timing of the reports

- RG 267.119 We expect all reports to be made to regulators within 15 days after AFCA considers a reportable matter has arisen. To facilitate efficient reporting processes, the regulators and AFCA may vary this timeframe by agreement.
- RG 267.120 Where conduct suggests ongoing harm or a continuing risk of consumer loss, AFCA should report serious contraventions and systemic issues as soon as practicable. This means AFCA should not necessarily wait until a complaint has been finalised before reporting.

Referring serious contraventions

- RG 267.121 If AFCA becomes aware, in connection with a complaint under the AFCA scheme, that a serious contravention of any law may have occurred, it must report it to one or more regulators. We consider that a contravention will be a *serious contravention* and therefore reportable by AFCA to the appropriate regulators, if:
- (a) there are sufficient facts or information to found an objectively reasonable belief that it is serious; or
- Note: A reasonable belief will be formed if a reasonable person would expect AFCA to report the matter to a regulator.
- (b) AFCA in good faith forms the view that a serious contravention of the law may have occurred.
- RG 267.122 The serious contravention could be by an SPF-regulated entity or financial firm, including a licensee, representative or employee of the firm. It will generally relate to laws relevant to the subject matter and circumstances of a complaint made to AFCA and the complaint handling processes, rather than necessarily to a contravention of any law.
- Note: See paragraph 1.95 of the [Revised Explanatory Memorandum](#).
- RG 267.123 AFCA does not need to notify a firm before reporting a serious contravention to a regulator.
- RG 267.124 Table 1 sets out examples of the types of serious contraventions that we consider AFCA should report to regulators, in accordance with legislative requirements.
- RG 267.125 AFCA should consult with the appropriate regulator if it is unsure about whether or not to refer a particular matter.

Table 1: Examples of serious contraventions reportable to regulators

Area	Example
Mortgage broking	A mortgage broker has engaged in misleading and deceptive, and possibly fraudulent, conduct in the preparation of loan applications. AFCA reports the issue to ASIC.
General insurance	A firm may have engaged in unconscionable conduct when selling insurance products to consumers by selling them cover they do not need or would be unable to make a claim on. AFCA reports the issue to ASIC and APRA.
Life insurance	An insurer may have engaged in misleading and deceptive conduct in the sale and promotion of life insurance policies. AFCA reports the issue to ASIC and APRA.
Stock broking	A firm failed to ensure that client money was deposited into client trust accounts in accordance with the client money requirements in the Corporations Act. AFCA reports the issue to ASIC.
Managed discretionary account (MDA)	A firm has serious compliance failures by acting outside the scope of its authorisation in providing MDA services to clients. AFCA reports the issue to ASIC.
Illegal early release of superannuation	An authorised representative of an AFCA member is promoting or facilitating the illegal early release of superannuation benefits. AFCA reports the issue to ASIC and the ATO.
Financial advice	A financial adviser, who acted as an authorised representative of an AFCA member, misappropriated client funds and used them for personal gain. AFCA reports the issue to ASIC.
SPF	An SPF regulated entity fails to have an accessible mechanism for consumers to easily report activities that are or may be scams. AFCA reports the issue to the ACCC and the relevant SPF sector regulator.

Referring systemic issues

- RG 267.126 If AFCA considers that there is a systemic issue arising from the consideration of complaints, it must report this issue to one or more regulators.
- RG 267.127 AFCA should have an appropriate ‘systemic focus’ to help it consider whether there are systemic issues arising from its consideration of complaints. This includes collecting and recording information in a manner that enables the identification of trends and patterns in complaints and enabling and encouraging AFCA staff dealing with complaints to identify and escalate possible systemic issues.
- RG 267.128 AFCA should have the infrastructure to support effective case management and have systems and processes to:
- identify* systemic issues that arise from its consideration of complaints;
 - refer* these matters to the member for response and action; and

- (c) *report* systemic issues to regulators.

Note: AFCA's website contains further information on their systemic issues role including how AFCA works with members to address them: see the [AFCA website](#).

RG 267.129 AFCA may identify a systemic issue arising from its consideration of an individual or a series of complaints. In considering whether an issue is systemic, AFCA may consider if it:

- (a) affects, or has the potential to affect, more than one complainant or other person—for example, where there is a mistake in how interest is calculated or in how a fee is applied;
- (b) involves many complaints that are similar in nature;
- (c) affects all current or potential complainants at a particular firm—for example, where a firm's IDR complaints handling processes are poor or inadequate; or
- (d) relates to general industry practices or affects more than one firm.

RG 267.130 AFCA may identify a possible systemic issue in the course of resolving a complaint that, after investigation, AFCA decides is not systemic and therefore not reportable.

RG 267.131 AFCA's systemic issues role is a critical and proactive part of the complaints resolution process and can help to:

- (a) efficiently deal with multiple complaints about a single issue or problem;
- (b) remedy consumer harm or loss suffered by consumers (not all of whom may have complained about the conduct or problem);
- (c) prevent foreseeable loss to consumers and, more generally, ensure that 'high-risk' issues might be effectively dealt with before problems develop;
- (d) minimise the risk of the conduct or problem recurring;
- (e) improve industry practice and communication; and
- (f) send a signal to the market about what constitutes acceptable market behaviour.

RG 267.132 Table 2 sets out illustrative examples of the types of systemic issues that we consider AFCA should report to regulators, in accordance with legislative requirements.

Table 2: Examples of systemic issues reportable to regulators

Area	Example
Claims handling by superannuation funds	AFCA identifies a systemic issue involving widespread delays in the processing of death benefit and total and permanent disability insurance claims. AFCA reports the issue to ASIC and APRA.

Area	Example
Poor hardship processes	AFCA identifies a systemic issue involving a lender failing to have sufficient systems and processes to assist customers with financial hardship applications, or to comply with its hardship obligations. AFCA reports the issue to ASIC, and to APRA if the lender is an authorised deposit-taking institution (ADI).
Inappropriate advice	AFCA identifies a systemic issue involving financial advisers who provided templated, “cookie-cutter” advice and failed to take into account each client’s individual circumstances and objectives. AFCA reports the issue to ASIC.
Responsible lending	AFCA identifies a systemic issue involving a lender’s failure to meet responsible lending obligations, including failures to make reasonable inquiries into borrowers’ financial situations. AFCA reports the issue to ASIC, and to APRA if the lender is an ADI.
Credit reporting errors	AFCA identifies a systemic issue involving errors in credit reporting processes, leading to incorrect default listings being made to a credit reporting body. AFCA reports the issue to the OAIC and to ASIC.
Poor IDR and EDR procedures	AFCA identifies a systemic issue involving significant delays in complaints handling at IDR and EDR, with the firm failing to provide information to AFCA within set timeframes. This example is relevant for both financial services (AFCA reports the issue to ASIC) and SPF complaints (AFCA reports the issue to the ACCC and the relevant SPF sector regulator).

Interaction between AFCA and regulators’ roles

- RG 267.133 Regulators and AFCA have distinct but complementary roles.
- RG 267.134 Regulators such as ASIC focus on regulatory and enforcement action for areas of significant harm and broader public benefit. ASIC will consider whether further action in response to AFCA reports is appropriate, having regard to our current priorities and enforcement criteria. For further information on our general approach to selecting matters for formal investigation and enforcement action: see Information Sheet 151 *ASIC’s approach to enforcement* ([INFO 151](#)).
- RG 267.135 Reports from AFCA are also a useful source of intelligence for ASIC and are considered alongside other intelligence to inform our work.
- RG 267.136 While there may be overlap between matters reported to ASIC by AFCA and matters reported by licensees such as reportable situations, these requirements, operating together, enhance the effective and timely identification and reporting of issues.

Note: Australian financial services (AFS) licensees and credit licensees are also required to report to ASIC a range of conduct described as ‘reportable situations’: see s912DAA of the Corporations Act and s50B of the National Credit Act. Reportable situations include certain significant breaches (or likely breaches) of ‘core obligations’. For guidance on these obligations: see Regulatory Guide 78 *Breach reporting by AFS licensees and credit licensees* ([RG 78](#)).

- RG 267.137 As agreed in the [ASIC-AFCA MOU](#), in areas of common interest, AFCA and ASIC seek to improve the efficiency and effectiveness of interaction with industry participants. Where financial firms receive a request for similar information from ASIC and AFCA, financial firms should raise this with AFCA and/or ASIC.
- RG 267.138 Where AFCA and regulators (such as ASIC) are engaging with a firm about the same systemic issue, they may be doing so for different purposes and outcomes. For example, AFCA may be focused on the remediation of the systemic issue and guiding process improvements to help avoid recurrence, while the regulator may be taking enforcement action, such as civil penalty proceedings for the purpose of broader deterrence. However, if regulators are directly taking action on the same systemic issue and seeking the same outcome, for example, remedial action for consumers, AFCA will discontinue its investigation.

Referring refusal or failure to give effect to AFCA determinations

- RG 267.139 If AFCA becomes aware that a party to the complaint may have refused or failed to give effect to an AFCA determination, AFCA must refer the refusal or failure to the appropriate regulators.
- RG 267.140 Under the Rules, AFCA has a discretion to publicise, on its website, or through other means, details of a member's failure to comply with an AFCA determination.

Referring settled complaints

- RG 267.141 If the parties to a complaint made under the AFCA scheme agree to a settlement of the complaint and AFCA thinks the settlement may require investigation, AFCA may give particulars of the settlement to one or more of the regulators.
- RG 267.142 To the extent it is practical to do so, we expect AFCA to oversee settlement arrangements to ensure that they are:
- (a) limited to the subject matter of the complaint;
 - (b) not drafted so broadly that they preclude a consumer lodging a further complaint or taking other action in relation to matters that are not the subject of the complaint;
 - (c) not drafted to preclude a consumer referring a complaint to a regulator;
 - (d) not offered on onerous or unjust terms, or in circumstances designed to avoid the scrutiny of AFCA; and
 - (e) not being entered into as a result of duress or misrepresentation.

Note: For its approach to terms of settlement, see the [AFCA website](#).

- RG 267.143 The factors above may be relevant to AFCA when deciding whether a settlement agreement requires investigation.

Confidentiality requirements and other information sharing

- RG 267.144 AFCA reports made to regulators in accordance with the legislative requirements are subject to each regulator's confidentiality requirements.
- RG 267.145 In ASIC's case, information reported by AFCA to ASIC is protected information obtained while ASIC is exercising its powers or functions (see s127 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act)). This means that we are generally precluded from publishing or releasing the name of the firm or individual identified in a report from AFCA.
- RG 267.146 Regulators may also disclose information to AFCA to assist it to perform its functions. The relevant regulator may impose conditions on the release of that information.

Note 1: See s56(5)(aa) of the *Australian Prudential Regulation Authority Act 1998*, s127(4)(aa)(i) of the ASIC Act, s355–65(3) in Sch 1 to the *Taxation Administration Act 1953*, s58DE of the CCA, s59DB of the *Australian Communications and Media Authority Act 2005*, and s33A of the Privacy Act.

Note 2: For the purposes of disclosing information under the SPF, the SPF regulator must de-identify any SPF personal information unless it reasonably believes that doing so would not achieve the object of the SPF: see s58DE(3) of the CCA.

- RG 267.147 AFCA should ensure it has appropriate processes for the receipt and management of information shared by the regulators in accordance with these provisions.

Statistical reporting requirements

- RG 267.148 Under its Rules, AFCA must collect and record comprehensive information about its complaint resolution. We expect this information to include:
- (a) the number of complaints received;
 - (b) the demographics of consumers that lodge complaints;
 - (c) the number of complaints that fall outside the Rules (with reasons);
 - (d) the scheme's current caseload, including the age and status of open cases;
 - (e) the time taken to resolve complaints;
 - (f) the profile of complaints to enable identification of:

- (i) the type of product or service involved;
- (ii) the product or service provider;
- (iii) the nature of the complaint; and
- (iv) any systemic issues or other trends;
- (g) the number of complaints closed, and an indication of the outcome of each closed dispute;
- (h) the stage of AFCA's process where the complaint closed; and
- (i) if applicable, firms' performance in resolving complaints at the refer back stage.

RG 267.149 AFCA provides regular reports to ASIC in respect of its operations. This includes:

- (a) statistical information about complaints as set out above; and

Note: where appropriate, AFCA may also provide reporting about complaints to other regulators.

- (b) information about complaints received about AFCA's standard of service, including those that are escalated to and dealt with by the independent assessor.

RG 267.150 ASIC may, in consultation with AFCA, develop additional reporting requirements—including for how information is to be provided to ASIC. We will seek to harmonise and streamline data collection and reporting with other relevant data sets, such as firm-level IDR data: see [Internal dispute resolution data reporting](#) on the ASIC website.

Public reporting of AFCA complaint data

RG 267.151 Under its Rules, AFCA must publicly report a comprehensive summary and analysis of the data it has collected at least every 12 months. To support transparency, we expect public reporting to include:

- (a) an annual report;
- (b) comparative reporting about complaints received and closed, with an indication of the outcome, against each scheme member. This data supports transparency and comparability between members that operate similar businesses; and

Note: AFCA may exercise discretion not to publish information about members whose level of complaints fall below a certain threshold, for example, data may not be displayed for firms with less than four complaints.

- (c) information about AFCA's systemic issues function including outcomes delivered.

RG 267.152 We expect AFCA to:

- (a) be transparent about its publication methodology;
- (b) ensure this information is accurate; and
- (c) present the information in the appropriate context—for example, by categorising information according to industry sector and/or size of business.

Key terms

Term	Meaning in this document
ACCC	Australian Competition and Consumer Commission
ACMA	Australian Communications and Media Authority
ADI	An authorised deposit-taking institution—a corporation that is authorised under the <i>Banking Act 1959</i> . ADIs include: • banks • building societies; and • credit unions
AFCA	Australian Financial Complaints Authority—means the operator of the AFCA scheme Note: This is a definition contained in s761A of the Corporations Act.
AFCA Act	<i>The Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018</i>
AFCA member or member	means a person who is a member of AFCA as defined in AFCA's Constitution
AFCA scheme	Means the EDR scheme for which an authorisation under Pt 7.10A of the Corporations Act is in force Note: This is a definition in s761A.
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
APRA	Australian Prudential Regulation Authority
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ATO	Australian Taxation Office
Australian Financial Complaints Authority Limited	A company limited by guarantee, operated on a not-for-profit basis, authorised by the Minister as the operator of the AFCA scheme

DRAFT

Term	Meaning in this document
banks or banking sector	Entities within the 'covered banking services' designated as a regulated sector of the Australian economy under the <i>Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2026</i> (subject to any exceptions in the SPF Rules)
CCA	<i>Competition and Consumer Act 2010</i> , including regulations made for the purposes of that Act
compensation caps	The maximum amount per claim that may be awarded by AFCA, as set out in the Rules
complaint	An expression of dissatisfaction made to or about an organisation—related to its products, services, staff or the handling of a complaint—where a response or resolution is explicitly or implicitly expected or legally required Note: This is the definition given in AS/NZS 10002:2014.
Constitution	The Constitution for Australian Financial Complaints Authority Limited which outlines the purpose and objectives of the company
consumer or complainant	A person or small business eligible to make a complaint to AFCA. It includes, at a minimum: - an individual consumer or guarantor; - a superannuation fund member or third-party beneficiary eligible to make a complaint under s1053, or taken to be a member of a regulated superannuation fund or approved deposit fund, or a holder of a RSA, as provided for by s1053A; - for complaints about financial firms, a small business with less than 100 employees, including a primary production business (as defined in the <i>Income Tax Assessment Act 1997</i>); and - for SPF complaints, a natural person or small business with less than 100 employees and annual turnover during the last financial year of less than \$10 million and has a principal place of business in Australia (as defined in s58AH of the CCA and subject to any exceptions in the SPF Rules)
Consumer Data Right	Means the Consumer Data Right regulatory framework, including Part IVD of the CCA and the Competition and Consumer (Consumer Data Right) Rules 2020
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
credit	Credit to which the National Credit Code applies Note: See s3 and 5–6 of the National Credit Code.
credit contract	Has the meaning in s4 of the National Credit Code

Term	Meaning in this document
credit licence	An Australian credit licence under s35 of the National Credit Act that authorises a licensee to engage in particular credit activities
credit licensee	A person who holds an Australian credit licence under s35 of the National Credit Act
credit representative	A person authorised to engage in specified credit activities on behalf of a credit licensee under s64(2) or s65(2) of the National Credit Act
digital platforms or digital platforms sector	Entities within the 'covered digital platform services' designated as a regulated sector of the Australian economy under the <i>Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2026</i> (subject to any exceptions in the SPF Rules)
dispute	Has the same meaning as complaint
EDR	External dispute resolution
EDR Benchmarks	The benchmarks for Industry-Based Customer Dispute Resolution, updated and reissued by Treasury in 2015
financial firms	Has the meaning given by the Financial Firm Rules. Financial firms are generally firms that operate in the financial services and/or credit industries such as: • AFS licensees; • credit licensees; • credit representatives; • exempt special purpose funding entity (SPFEs); • regulated superannuation funds (other than a self-managed superannuation fund); • approved deposit funds; and • retirement savings accounts providers Note: Many of these firms are required to be members of AFCA, however, financial firms can also include firms that the AFCA board has accepted as eligible members to the scheme in accordance with its Constitution
Financial Firm Rules	The division of the Rules that specify how AFCA deals with a complaint about a financial firm
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act
IDR	Internal dispute resolution
IDR procedures (or IDR processes)	Procedures for resolving complaints through internal dispute resolution Note: The applicable IDR procedures may differ between entities and complaint types. For example, some entities may be subject to procedures in RG 271, while others may be subject to internal dispute resolution requirements under the SPF.

Term	Meaning in this document
IDR response	A written response to a complaint, which must be given to the complainant in accordance with RG 271.53–RG 271.54
independent assessor	A person appointed by the AFCA Board to identify, address and report on issues affecting AFCA's complaints handling service or performance
independent review	A periodic review of scheme operations and performance commissioned by the AFCA Board
INFO 151 (for example)	An ASIC information sheet (in this example numbered 151)
licensee	An AFS licensee or a credit licensee
monetary limits	The monetary restriction on AFCA's jurisdiction per claim, as set out in the Rules
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
National Credit Code	National Credit Code at Sch 1 of the National Credit Act
Operational Guidelines	The AFCA Operational Guidelines to the Rules (Operational Guidelines) which explain how AFCA interprets and applies the Rules
predecessor scheme (or schemes)	Financial Ombudsman Service, Credit and Investments Ombudsman and the Superannuation Complaints Tribunal
Ramsay Review	Review of the financial system external dispute resolution and complaints framework
regulators	APRA, ASIC, ATO, ACCC, ACMA and OAIC
refer back arrangements	A process set out in the AFCA Rules to refer complaints back to the financial firm for a final opportunity to resolve at IDR
RG 271 (for example)	An ASIC regulatory guide (in this example numbered 271)
Retirement savings accounts	A retirement savings account as defined in the <i>Retirement Savings Accounts Act 1997</i>
Rules	AFCA Complaint Resolution Scheme Rules which set the jurisdiction, powers and processes for AFCA's complaint resolution, to which members are contractually bound
s1051 (for example)	A section of the Corporations Act (in this example numbered 1051), unless otherwise specified
Scam Rules	The division of the Rules that specify how AFCA deals with a SPF Complaint about a SPF regulated entity

Term	Meaning in this document
small business	A small business with less than 100 employees, including a primary production business (as defined in the <i>Income Tax Assessment Act 1997</i>) A small business for the purposes of the SPF means a small business operator (as defined in s58AH(5) of the CCA) with less than 100 employees and annual turnover during the last financial year of less than \$10 million and has a principal place of business in Australia
SPF	Scams Prevention Framework, as legislated under the Pt IVF of the CCA
SPF complaint	Has the meaning given by the Scam Rules
SPF general regulator	The regulator that is responsible for monitoring, investigating and enforcing compliance with the SPF provisions, other than sector specific codes. Under s58EB of the CCA, ACCC is the SPF general regulator
SPF regulated entity	Means a regulated entity as that term is defined under the CCA
SPF Rules	<i>Competition and Consumer (Scams Prevention Framework) Rules 2026</i>
SPF sector regulator	The regulators that enforce sector-specific codes: ASIC (banking sector); ACMA (telecommunications sector); and the ACCC (digital platforms sector)
Telecommunication providers or telecommunications sector	Entities within the 'covered telecommunications services' designated as a regulated sector of the Australian economy under the <i>Competition and Consumer (Scams Prevention Framework—Regulated Sectors) Designation 2026</i> (subject to any exceptions in the SPF Rules)

Related information

Headnotes

AFCA, AFS licensees, compensation caps, complaints, credit licensees, credit representatives, digital platforms, dispute resolution, EDR Benchmarks, EDR scheme, external dispute resolution (EDR), financial firms, financial services, internal dispute resolution (IDR), lenders, monetary limits, oversight, scams, Scams Prevention Framework (SPF), SPF regulated entities, superannuation funds, systemic issues, telecommunication providers

Regulatory guides

[RG 78](#) *Breach reporting by AFS licensees and credit licensees*

[RG 271](#) *Internal dispute resolution*

[RG 277](#) *Consumer remediation*

Information sheets

[INFO 151](#) *ASIC's approach to enforcement*

Legislative instruments

[AFCA Scheme Authorisation 2018](#)

[Competition and Consumer \(Consumer Data Right –Recognised External Dispute Resolution Schemes\) Instrument 2021](#)

[Competition and Consumer \(Scams Prevention Framework—External Dispute Resolution\) Authorisation 2026](#)

Legislation

Australian Communications and Media Authority Act 2005, s59DB

Australian Defence Force Cover Act 2015

Australian Prudential Regulation Authority Act 1998, s56

Banking Act 1959, s9

CCA, s56DA, s58DB, s58DD, s58DE, s58BZD, s58BZG, s58EB

Corporations Act, Ch 7, Pt 7.10A, 761A, 912DAA, 1050, 1051, 1051A, 1052, 1052A, 1052B, 1052BA, 1052C, 1052D, 1052E, 1053, 1053A, 1054–1054C, 1055–1055D, 1056, 1057

Income Tax Assessment Act 1997

National Credit Act, s35, 47, 50B, 64, 65; National Credit Code, s4, 3, 5, 6

Privacy Act 1988, s33A, s35A

Retirement Savings Accounts Act 1997

Revised Explanatory Memorandum to the Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Bill 2017

Taxation Administration Act 1953, Sch 1; s355–65

The Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018

Cases

Hermes and O'Brien and Australian Securities & Investments Commission [2023] AATA 286

Other documents

[ASIC-AFCA MOU](#)

OAIC, [Guidelines for recognising external dispute resolution schemes](#), September 2024

OAIC, [Notice of recognition of an EDR scheme](#) (PDF 749 KB), October 2018

Ramsay Review, [Final report: Review of the financial system external dispute resolution and complaints framework](#), May 2017

Treasury, [EDR Benchmarks](#), March 2015

DRAFT