

Establishment of the Australian Financial Complaints Authority ('AFCA')

Response to Consultation Paper – November 2017

Submission by Credit Corp Group Limited ('Credit Corp')

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Executive Summary

It is critical that AFCA serves the needs of industry users as well as consumers. Industry users need predictable decisions and cost efficiency to promote the wide availability of financial services at the lowest prices.

Moving to a single private scheme substantially dilutes accountability to industry. To restore necessary balance Credit Corp recommends the following measures:

- A more structured and predictable approach to decision making complimented by statistical reporting to assess certainty
- Enhanced controls to limit the impact of complaints lacking substance
- More efficient approaches to resolving disputes
- Independent review of the scheme's cost efficiency
- A board comprised of representative stakeholders
- Strong board accountability for performance, complimented by more extensive and transparent reporting
- A more aligned and transparent fee model

Company Profile

Credit Corp is Australia's largest provider of sustainable financial services to the credit impaired consumer segment. The company has been listed on the Australian Securities Exchange since 2000 and forms part of the S&P ASX 200. Credit Corp employs 1,000 Australians and the face value of its total receivables is \$6 billion across 850,000 consumers.

Credit Corp has a proven track record of promoting financial inclusion.

In our core business of debt purchasing we work with consumers who have, for various reasons, found themselves in default of their credit obligations. We agree affordable repayment plans with our customers and improve their credit standing over several years as a pathway to financial inclusion. We maintain the most successful hardship program in the industry with a current portfolio of \$1.3 billion of defaulted consumer credit obligations, restructured into sustainable repayment arrangements across 160,000 individual customer accounts.

In our consumer lending business we provide the cheapest and most sustainable loan products to consumers with limited borrowing alternatives. All of Credit Corp's products feature interest and fee rates below the caps applicable to mainstream consumer lending. To date, Credit Corp has helped

150,000 Australians avoid higher cost and unsustainable products through its market leading alternatives.

Credit Corp has an impeccable compliance record. Despite being the largest and longest-established debt purchaser in Australia, we have never been the subject of a regulatory order or undertaking. We have one of the lowest rates of external dispute resolution complaints in the industry. We work cooperatively with consumer advocacy groups on matters of industry concern and have a long term partnership with Kildonan Uniting Care.

The case for controls to ensure accountability to industry

A single private industry scheme is inherently less accountable to industry users than multiple schemes. The knowledge that industry users will not be able to switch to an alternative scheme means that a single monopoly scheme will not be as motivated to deliver predictable decisions and cost efficiency.

To promote predictable decisions and cost efficiency in the context of a single scheme it will be necessary to deviate from some of the decision making, governance and funding approaches adopted by the Financial Ombudsman Service ('FOS') and the Credit and Investments Ombudsman ('CIO').

There has been no suggestion that FOS and CIO were not effective in resolving disputes in accordance with their respective remits. This has been publicly acknowledged by consumer advocates, ASIC, the independent reviews conducted in relation to each scheme, and the Ramsay Review itself.

The key concern behind the creation of a single ombudsman is the theory that competition between schemes is inappropriate because it is the financial service provider, rather than the customer, who chooses the scheme. The theory is that a provider will choose the cheapest scheme, which best serves its interests and that this may result in poor outcomes for the customer.

Other concerns include the potential for consumer confusion and an inconsistent experience across different schemes.

A single private industry ombudsman scheme will, without the need for additional controls, address the concerns. In the context of the effective consumer outcomes already delivered by FOS and CIO, there is not a strong case for incorporating additional consumer protection measures to the single scheme.

Notwithstanding this, AFCA will feature new consumer protection measures, including more regular independent reviews, an independent assessor and expanded powers of direction for ASIC.

There is a risk that the combination of limited accountability to industry users and new consumer protection controls will marginalise the interests of industry within the External Dispute Resolution (EDR) framework.

If ombudsman management are not motivated to consider industry's interests, predictable decision making and cost efficiency will be diluted. This might deliver windfall outcomes to the small proportion of consumers interacting with EDR at the expense of other consumers who suffer increased prices and more limited availability of financial products as a consequence.

The financial services system is critically important to the welfare of all Australians. Any uncertainty, inefficiency or dysfunction in the operation of the ombudsman scheme has the potential to adversely affect the welfare of all Australians.

To address this risk a degree of accountability to industry users must be restored through appropriate decision making, governance and funding controls.

Guiding Principles

The proposed guiding principles do not reflect the substantial reduction in accountability to industry users which arises from the move from multiple schemes to the single AFCA. The Minister has responded to industry concerns in this regard by specifically undertaking to ensure that certainty in decision making and cost efficiency are key principles in the design of AFCA. These concepts should be incorporated in the guiding principles.

Question 1: Are there any other principles that should be included in the guiding principles for AFCA's establishment ?

Predictable decision making – AFCA should provide users with certainty and predictability

Cost efficiency – AFCA should operate in a least cost and financially transparent manner

Predictable decision making

The Minister has undertaken to address industry concerns about the importance of certainty in ombudsman decision-making. The Minister has stated that it is *'critical that AFCA has a robust and consistent approach to decision-making to ensure that it provides fair outcomes for consumers and financial firms'*.

Credit Corp recognises that decisions of an ombudsman scheme must not be unfair in all the circumstances. At the same time, however, certainty can only be achieved if the starting point for any decision is the law and any applicable code of practice. Once the legal position is established the outcome can be evaluated against good industry practice and fairness to the extent considered necessary to achieve a result which is fair to the parties. This approach ensures that:

- the law is properly articulated and applied;
- any unfairness arising from application of the law is identified;
- the approach to the application of fairness is articulated; and
- it is possible to statistically track the basis used for decisions as a measure of the extent to which decisions are predictable.

This provides for a structured approach to decisions which will promote increased understanding by industry, while facilitating enhanced accountability for certainty and consistency by AFCA.

This approach to decision-making is consistent with the Minister's conception of the role of fairness in ombudsman decisions. The minister has said:

As a non-legal body, it is reasonable that AFCA should make decisions that are fair in all the circumstances, as opposed to decisions, that while adhering to the law, nonetheless result in unfair or very unreasonable outcomes for consumers.

Questions 5 – 7: What measures may assist in ensuring AFCA’s decision making processes promote consistency and to what extent should these be reflected in the Terms of Reference ?

The following hierarchical approach to decision making should be adopted in the AFCA Terms of Reference.

The decision making process must afford procedural fairness to all parties.

In the first instance, a decision must be reached by application of the law and any applicable industry code to which the provider has agreed to be bound.

To the extent that the application of the law and any applicable industry code produces an unfair outcome, established good industry practice may be applied.

To the extent that the outcome is still unfair, fairness in all the circumstances may be applied.

All decisions must be written and specifically identify the relevant law or code provision and detail how such provisions apply to the facts of the dispute.

Where good industry practice is applied the written decision must detail why the outcome produced by application of the law and any applicable code produced an unfair outcome.

The written decision must reference an authority in support of any asserted good industry practice. The concept of good industry practice must take into account variations in product, pricing and risk when identifying a relevant practice benchmark. (Example 1. Consumers may opt for a low-cost offering with explicitly limited services and it would not be appropriate to hold the provider to the standards of an offering with expanded services. Example 2. An individual or group of providers may seek to differentiate themselves in the marketplace by adopting a code incorporating high standards of conduct and it may not be appropriate to hold other providers to the same standards.)

Where fairness in all the circumstances is applied the written decision must detail why the outcome produced by application of the law, any applicable code and good industry practice produced an unfair outcome. The written decision must provide authorities for the principles of fairness applied.

The Terms of Reference should recognise the importance of accountability for decision making certainty. AFCA should categorise the basis for each decision and provide aggregated statistical reporting.

AFCA should be required to categorise and report on the decision-making basis for each complaint. This should identify whether the decision was made:

- Solely in accordance with the law
- Solely In accordance with the law and/or an industry code to which the provider has agreed to be bound
- Applying any concept or standard of good industry practice
- Applying any concept or standard of fairness in all the circumstances

There should be statistical reporting of the number of disputes decided in accordance with each of the above categorisations.

Independent cost efficiency review

In the context a single monopoly scheme a periodic assessment of the cost efficiency of AFCA should be undertaken. This was not critical when providers had the ability to switch to an alternative scheme.

Question 11: Apart from the review of the impact of the higher compensation cap, are there other aspects of AFCA's operations that should be subject to independent review within the first three years of its commencement ?

AFCA should be subject to regular reviews of its cost efficiency

The Ramsay Review identified that cost savings by eliminating duplication and realising economies of scale would be delivered through the formation of a single scheme. AFCA should be tasked with reducing costs in accordance with normal commercial benchmarks. Within the first three years the independent reviewer should conclude on the extent which cost savings have been achieved and the overall cost efficiency of AFCA.

On an ongoing basis AFCA should be reviewed to ensure that it is delivering a cost efficient service to industry users. This should include benchmarking against schemes in other jurisdictions. The review should conclude as to the efficiency of processes adopted by AFCA and the adequacy and effectiveness of controls to contain costs and prevent abuse of the 'free to consumer' nature of the scheme.

Complaints lacking substance

AFCA requires appropriate controls to limit abuse of scheme resources through complaints which are frivolous, vexatious or otherwise lacking in substance. AFCA is free to the consumer and some consumers and their representatives will seek to exploit the complaint fee model of the scheme to obtain an unmerited advantage.

While both FOS and CIO Terms of Reference contain some provisions to address this concern, they have proven ineffective. Providers are being required to deal with an increasing number of vexatious complaints. An improved formulation is required.

Question 20: Is there more that could be done so that complaints lacking in substance are excluded from being dealt with by AFCA ?

The Terms of Reference should impose an obligation on AFCA to determine whether a complaint is lacking in substance and AFCA should be required to exclude such complaints

AFCA should be required to form a reasonably held view as to whether a complaint is frivolous, lacking in substance or is being pursued for an improper purpose. If AFCA forms such a view it will not deal with the complaint.

This includes circumstances where a complainant is represented or assisted by an agent who may receive remuneration for this service and AFCA must decline to accept the dispute if:

- the agent is engaging in inappropriate conduct, which may include the lodgement of claims

without a reasonable belief that each element of the claim has a reasonable prospect of success;

- the agent is engaging in conduct which is not in the best interest of the complainant;
- the dispute is not accompanied with information required by AFCA; or
- AFCA is of the reasonably held view that the complaint is designed to leverage an unmerited commercial settlement from the provider in order to avoid complaint fees and administrative costs.

More efficient remedies

Mediated outcomes

Both FOS and CIO follow a process of gathering information and reviewing the merits of a complaint while encouraging the parties to reach an agreed, or mediated, outcome. The majority of disputes are resolved on agreed basis and this is a great strength of the schemes, because agreed settlements minimise costs and the utilisation of scheme resources.

As far as possible, consumers should be encouraged to accept adequate settlement offers, particularly in circumstances where the terms offered are more favourable than will likely be achieved should the complaint escalate to a formal decision.

CIO's rules allow for a complaint to be closed if a provider makes a reasonable settlement offer, having regard to the likely range of outcomes, and it is rejected by the complainant. This rule should be incorporated in the AFCA Terms of Reference.

Complaints should be closed at the earliest stage possible of the dispute resolution process

By comparison to international benchmarks both FOS and CIO exhibit relatively high proportions of disputes which are classified as having been resolved in the consumer's favour. Credit Corp believes that this is because case managers are reluctant to close cases at an early stage if the outcome would be a finding against the consumer. This tendency combines with an escalating dispute fee model to produce unmerited settlements and degraded cost-efficiency.

Case managers should be empowered to close cases, even in circumstances where the decision will be against the consumer.

Consequential and non-financial loss

It is beyond the scope of the activities of an ombudsman scheme to make substantial awards for consequential and non-financial losses. While the existing schemes provide for appropriate caps on compensation for such losses, the schemes have tended to treat each communication or action by a provider as giving rise to a separate claim, leading to excessive awards for such losses. This has undermined the integrity of the caps. Measures should be put in place to address this.

Costs in pursuing a complaint

AFCA will be designed to be accessible without representation and consumers should be discouraged from incurring expenditure on representation. The provider is already bearing all the costs of AFCA to handle unrepresented complainants and it is a duplicate burden to also meet the unnecessary costs a complainant has chosen to incur.

Awarding costs encourages for-profit success fee based representatives. These have the potential to exploit the AFCA complaint fee model to obtain an inappropriate benefit.

AFCA's Terms of Reference should specifically exclude any award of costs incurred by a complainant in lodging and managing a complaint.

Systemic issues and serious misconduct

AFCA's role in systemic issues should be limited to an obligation to monitor complaints to identify potential systemic issues and bring them to the attention of the provider and the regulator. AFCA's objective is to provide an alternative to the courts for the resolution of disputes which is both free and readily accessible to consumers. As part of undertaking its activities AFCA should be tasked with identifying potential systemic issues, but it is not a regulator and should not be involved in investigation and enforcement.

Both schemes (FOS and CIO) are devoting substantial resources to the investigation, quantification and remediation of systemic issues. This has now gone substantially beyond the scope of an ombudsman scheme and is a regulatory function, which is best undertaken by ASIC. In many instances, where there is a substantiated systemic issue ASIC may also perform its own investigation and enforcement, resulting in duplication. Now that industry is directly funding ASIC it is effectively funding two bodies to perform the same function.

The existing schemes are investigating large numbers of possible systemic issues. After thorough investigation a smaller proportion are confirmed as definite systemic issues. The schemes need to determine appropriate remediation, including quantification of consumer loss, and then negotiate the remediation with the provider. The schemes must then monitor adherence with the proposed remediation. In some instances ASIC will also separately investigate matters and arrive at a different remediation and consider penalties or other enforcement, resulting in a form of double jeopardy for the provider.

Substantial resources are being expended by the existing schemes on this activity. The schemes have introduced special fees to recoup costs, but typically only levy these once an issue is confirmed as definite.

The systemic issues activity of the schemes has vastly exceeded original intentions and is best handled by ASIC. AFCA should do no more than identify potential issues and request an initial response as an incident of day-to-day dispute resolution activities. AFCA will not have the powers of ASIC to properly investigate matters and compel compliance. All regulatory and enforcement activities should reside within ASIC.

A similar approach should be adopted for serious misconduct matters which do not amount to a breach of AFCA's Terms of Reference.

Questions 23 and 24: What other matters should be addressed in the AFCA Terms of Reference ?

AFCA should be empowered to impose mediated outcomes

Where AFCA reasonably considers that an offer made by a provider is reasonable having regard to the information provided it should, in writing with reasons including consideration of the likely range of outcomes for the complaint, recommend to the complainant that it accept the offer. If the

complainant does not accept the offer AFCA should close the complaint.

Case managers should be empowered to close complaints at the earliest stage possible

Case managers should be encouraged to close complaints at an early stage, even in circumstances where the decision is against the consumer.

Effective limitations on consequential and non-financial loss

Compensation for both consequential loss and non-financial loss should be limited to \$3,000 for each dispute in total, not each individual claim forming part of a dispute. Reasons should be stated, citing appropriate authorities, for the type and quantum of any award.

Consumers should be discouraged from incurring costs to pursue complaints

There should be no award for a complainant's costs in pursuing a matter.

The systemic issues and serious misconduct jurisdictions should be limited

The systemic issues function of the schemes should be limited to the identification of possible systemic issues and a request for a response from the provider. AFCA should then simply pass all the material pertaining to the possible issue to ASIC for further investigation, enforcement or otherwise. AFCA should then take no further part in the issue. There should be no charge or fee for this very limited incidental activity.

Serious misconduct investigations should be limited to breaches of obligations under the terms of reference. As recommended for systemic issues the scheme should not seek to investigate any other matters of serious misconduct, which may include fraud, gross negligence or wilful breach of applicable law. In such matters AFCA's activity should be limited to the identification of possible serious misconduct and a request for a response from the provider. AFCA should then simply pass the material to ASIC and take no further part in the issue.

Representative Directors

In moving to a single scheme it is critical that there are appropriate measures in place to ensure accountability for predictable decision making and cost efficiency. This cannot be achieved if industry directors are not representatives of industry.

Only industry directors who have effective "skin in the game" as members of AFCA will be sufficiently motivated and aware to promote these outcomes. Retired executives, industry association staffers and consultants will come to the board with an entirely different set of motivations and will not have access to current data and insights necessary to drive improvement and ensure that AFCA management is accountable.

It is critical that industry members have confidence that the scheme will be responsive to their interests as users and exclusive funders of the scheme. Only directors who are active in the industry can deliver this confidence and operate as an effective conduit of feedback to the board.

Both FOS and CIO have functioned very successfully with representative industry and consumer directors and there is not a case to abandon this formulation. The Ramsay Review did not identify

any shortcoming in this aspect of the governance arrangements for FOS and CIO. Both schemes have well-developed and proven processes and controls to adequately deal with the potential for actual conflicts.

The proposed formulation of non-representative directors seems to be one which has typically been adopted by statutory schemes, rather than private industry schemes such as AFCA. The non-representative model might work in the context of statutory schemes which feature additional accountability through the appointment of the directors by government, approval of budgets by government and enhanced rights of appeal. Statutory accountability for the scheme might obviate the need for representative directors but that will not be the case for AFCA.

Processes and controls to prevent actual conflicts have been operating effectively within the existing schemes. Directors play no part in the resolution of individual complaints and their role in complaint handling is limited to matters of policy. Policy documents relating to complaint handling are subject to wider consultation, review by the regulator and are published.

The governance structure comprising equal numbers of industry and consumer directors with an independent chair is an effective control. Industry directors alone cannot account for a majority and consumer directors with active and current knowledge are in an excellent position to hold industry directors to account.

In addition to the existing controls AFCA will feature more regular independent reviews, the appointment of an independent assessor and enhanced powers of direction for ASIC. The Ramsay Review positions each of these measures as consumer, rather than industry, protections. Moving to a single scheme is also positioned as an enhanced consumer protection.

In light of the additional focus on ensuring great outcomes for those consumers with disputes in the EDR system, there is a risk that industry's interests will be ignored and the system will not be "fair" to industry users. If ombudsman management are not motivated to consider industry's interests predictable decision making and cost efficiency may not figure in the ombudsman's conduct. It is important to note that while only a small proportion of consumers interact with the EDR system, its decisions affect cost and availability of financial services to all consumers. In this context, it is critical that industry directors remain as representatives of industry.

Questions 28 to 30 and 33: What is the right formulation for directors and what supporting governance arrangements should be established ?

Directors should be representatives of industry and consumer groups

The present formulation for FOS and CIO, involving equal numbers of industry and consumer representative directors and an independent Chair should be adopted for AFCA. All industry directors should be current officers or employees of industry participants.

Credit Corp notes that at least four submissions on the draft AFCA Bill advocated that each industry director be elected by discrete segments of industry and should be subject to regular re-election.

No director should hold a staff position with AFCA nor provide any other services to AFCA.

Directors should remain independent of AFCA management

No director, including the independent chairman should serve for more than six years.

No director should hold a staff position with AFCA nor provide any other services to AFCA.

Existing FOS and CIO processes for managing conflict should be adopted

No director or the board should be involved in the resolution or management of any individual dispute.

While directors may express a view on classes of disputes, only the board may make directions on matters of policy.

Board Responsibilities

The primary responsibility of the board is to ensure that AFCA performs in accordance with its objective. In essence, AFCA's objective is to provide an alternative to the courts for dispute resolution which is free and accessible to consumers, fair to all parties and cost efficient.

While governance principles may be important in determining how the board conducts itself, the primary role of the board is to ensure performance against AFCA's objective. The starting point for performance is clarity of purpose.

AFCA's operations need to be limited to the prompt and efficient resolution of disputes. AFCA is not a financial counselling body, a consumer legal centre, industry association or a regulator. It should not seek to perform such functions and does not need to expend resources on promotion, education and sponsorship activities. It need not be concerned with the advancement of industry practices and various government agendas. It is no more than an alternative to the courts which is supervised by the regulator and its objects must be appropriately limited.

The various tangential objects contained in the existing industry scheme constitutions are a legacy from periods of voluntary industry membership and contemplate multiple schemes. They have no place in AFCA.

Advertising, promotion and outreach activities are unnecessary. All service providers are required to promote the schemes in all their customer communication. Financial counsellors and consumer legal centres are specifically funded to assist vulnerable and disadvantaged individuals and communities. These professionals regularly interact with the schemes and are familiar with their processes.

High standards of operational and financial disclosure should be provided by AFCA. The Ramsay Review highlighted the limited nature of existing financial reporting. In the context of a single scheme and mandatory industry membership the highest standards of disclosure should be met by AFCA.

The scheme should provide operational reporting to a very high standard. This should include reporting on the timeliness of dispute resolution, the stage at which disputes are resolved and the decision making basis for the outcome achieved. Such regular reporting will provide ongoing benchmarking from which to assess the predictability of decisions and cost efficiency of the scheme.

The scheme should provide financial and remuneration reporting to the standard of an ASX listed company.

Credit Corp recommends voting by industry members on the remuneration and other reports, with the application of the “two strikes” rule in accordance with the requirements for an ASX listed public company.

Questions 31 and 32: What are the accountabilities of the AFCA board ?

The board must be accountable for performing against clear and purposeful objectives for AFCA

The objects of AFCA should be limited to establishing and maintaining a dispute resolution scheme which is free and accessible to consumers, fair to all parties, produces predictable outcomes and is cost efficient in its operations.

High standards of operational and financial reporting should be required from AFCA

Operational reporting on the timeliness of dispute resolution, the stage at which disputes are resolved and the decision making basis for outcomes achieved should be provided (refer response to questions 5 -7). Benchmarks to international schemes and schemes in other industries should be provided.

Financial reporting requirements should be equivalent to those required for a publicly listed company. This will include a detailed remuneration report disclosing all aspects of the remuneration of directors and key management personnel.

Additional financial reporting requirements detailing expenses by expenditure category, with a focus on those expenses not directly related to the business of resolving disputes. In particular, detailed disclosure of overhead, administration, marketing, promotion, outreach and sponsorship expenditure should be required. Such reporting should include comparisons of efficiency metrics such as cost per dispute against international benchmark schemes.

Remuneration accountability should be equivalent to an ASX listed company

Annual member votes on the financial statement, remuneration report and expenditure report with a 75% majority voting requirement should be undertaken. If such a majority is not achieved in two successive annual votes a motion to spill all directors will be put to the members.

Funding Considerations

It is not possible to separate funding from the scope and cost efficiency of AFCA’s operations. As a single monopoly scheme, AFCA’s funding model will essentially be a cost recovery. Without an alternative scheme for industry members there will be no motivation for the scheme to limit its scope and strive for cost efficiency.

In accordance with earlier sections of this submission the scheme should be required to demonstrate that it is committed to operating in a cost efficient manner. This should comprise of appropriate governance/reporting controls (responses to questions 28 to 30, 33, 31 and 32, above) and measures to limit abuse of scheme resources together with efficient operational protocols (responses to questions 20, 23 and 24).

The Ramsay Review identified that cost savings should be achieved under AFCA. The scheme should provide an initial budget showing lower total costs.

AFCA should look to implement a fee model which incentivises the cost efficient operation of the scheme and facilitates external oversight. The Minister has indicated that AFCA will be required to report any changes in fees annually. It is not clear that the fee model utilised by FOS and CIO provides the right incentives and is sufficiently transparent to facilitate the oversight contemplated by the Minister.

Both FOS and CIO apply a combination of annual membership fees and complaint fees. A more significant proportion of total income is derived from complaint fees for FOS. Both schemes apply escalating complaint fees where a higher fee is charged at each stage of the dispute.

The Ramsay Review expressed a preference for a higher proportion of complaint fees as this was perceived as providing incentives to minimise disputes entering External Dispute Resolution ('EDR'). An escalating complaint fee model, however, does not necessarily promote resolution at Internal Dispute Resolution (IDR) because the initial dispute fee will be payable even where the dispute is resolved at IDR in circumstances where the customer first lodged the complaint with EDR. More correctly, the complaint fee model adopted by FOS and CIO encourages providers to resolve disputes for an amount below the fee applicable to the next stage. This can lead to some consumers receiving unmerited settlements.

From the scheme's perspective escalating complaint fees set up a situation where a proportion of complaints must escalate each year for the scheme to achieve its budgeted funding. This has the potential to create a misaligned incentive.

Escalating complaint fees also makes oversight of fee changes problematic. Total fees charged by a scheme may increase significantly in circumstances where individual fee rates are unchanged. This can arise if an increased proportion of disputes escalate to higher levels for resolution.

Australia's escalating complaint fee model may be an outlier on the international landscape. For example, FOS UK (a single statutory ombudsman scheme) has an annual membership fee which ranges up to £300,000 for a major bank (plus a group account fee for the largest institutions) and a single, non-escalating, complaint fee of £550 per dispute with 25 free disputes incorporated in the annual fee. This produces far more balanced outcomes between consumers and providers. FOS UK produces outcomes in favour of the consumer 51% of the time and this percentage is in line with other international schemes. Whereas CIO produces outcomes in favour of the consumer 61% of the time and FOS Australia produces outcomes in favour of the consumer 70% of the time.

Questions 34, 35, 39, 40 and 41: What additional funding, accountability and fee control principles and measures should be reflected in AFCA ?

AFCA should demonstrate the capacity to operate efficiently

AFCA should demonstrate governance arrangements which show a commitment to operating efficiently through the appointment of industry directors with the motivation to promote efficiency (responses questions 28 to 30 and 33).

AFCA must assume accountability for performing against clear and purposeful objectives. AFCA must adopt high standards of operational and financial reporting. Accountability for remuneration should be equivalent to an ASX listed company (responses to questions 31 and 32).

AFCA should have efficient operational protocols

AFCA should have an obligation to determine whether a complaint is lacking in substance and exclude such complaints (response to question 20).

AFCA should have the power to impose mediated outcomes in certain circumstances. Case managers should close complaints at the earliest stage possible. The systemic issues and serious misconduct jurisdictions should be appropriately limited (response to questions 23 and 24).

Total cost savings should be identified

The scheme should be required to submit a budget for the first two years of operation, which demonstrates a significant cost saving over the total combined costs for the three existing schemes for the financial year to 30 June 2018.

Aligned and transparent fee model

In order to align with the objective of prompt and efficient dispute resolution capable of effective oversight Credit Corp recommends that consideration should be given to a model comprising of an annual membership fee and a single complaint fee regardless of how far the complaint escalates within AFCA.

The annual membership fee should incorporate 25 free complaints. The single complaint fee should only be triggered once IDR is exhausted. The complaint fee should be the same single amount regardless of whether the dispute settles prior to recommendation or escalates all the way to a panel determination. There should be no other charges or costs, regardless of AFCA's choice to appoint a panel, adjudicator or enlist the services of an expert.

There is a case for the single complaint fee to vary by the type of provider against whom the complaint has been lodged. This will address variations in the quantum and complexity of matters.