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**From:** Milton Wilde

**Sent:** Friday, March 26, 2021 5:33 PM

**To:** 'AFCAreview@treasury.gov.au' <AFCAreview@treasury.gov.au>

**Cc:** 'josh.frydenberg.mp@aph.gov.au' <josh.frydenberg.mp@aph.gov.au>; Sukkar, Michael (MP) <Michael.Sukkar.MP@aph.gov.au>

**Subject:** Review of the Australian Financial Complaints Authority \_ Submission

**Importance:** High

**Review of the Australian Financial Complaints Authority  
Submission: Milton Wilde**

Sir/Madam:

Contrary to **Mr David Locke's** numerous public commitments, AFCA has continued all of FOS's bad practices which were exposed by **Mr Kenneth Hayne** during the 2018 FSRC.

**AFCA Issues:**

- **AFCA** reword Claims in their 'understanding' to better suit their requirements.
- **AFCA** claim limits are too low, and need revising.
- **AFCA** forces complainants to combine/merge files in order to reduce Claim limits.
- **AFCA** 'cherry pick' their preferred matters from the points raised and then leave many others out of their summary and their subsequent investigation. When these matters are again raised, there is no response from AFCA. Having been raised numerous times they are consistently ignored and when the issues are resubmitted as part of a

new complaint AFCA's response is that they have already been dealt with in an earlier file/complaint, when they have in fact been ignored.

- **AFCA** can take many months (sometimes 18 months) to look at a complaint and then they require that we respond within 14 days, or often less (7 days is not unusual) with the threat that the file/s will be closed if the response is not forthcoming.
- **AFCA** frequently change staff members who are handling a file/s during the course of their review, which disrupts continuity and creates unnecessary confusion.
- **AFCA** have an unacceptable expectation that complainants will have legal expertise and be able to present their case to AFCA in a manner suited to a court of law including citing case law and precedent. This is wholly unreasonable.
- **AFCA** do not adhere to any Laws, or Legislative requirements and have incorrectly stated that they have no requirement to do so.
- **AFCA** disregard their Fiduciary Duties and Obligations.
- If a question is raised with AFCA, or an explanation requested regarding an interpretation/practice, or wording; it is deemed as a rejection of the determination with no opportunity for discussion. It is then supposedly escalated for an Independent Assessment/Review of the practice/procedure only, as determinations are not reviewed.
- **AFCA's "Independent"** assessor is not independent, being an AFCA staff member, or a panel of AFCA staff members.
- Having clearly communicated in writing that I would be away over Christmas 2020, AFCA sent me no less than seventeen (17) communications demanding my responses during my absence. Two possible conclusions can be drawn from this;
  1. **AFCA** do not read all communications. (please see **attached** written confirmation of this), or in the alternative
  2. **AFCA** deliberately manufacture deadlines which they know cannot be met, in order to force the closure of files/cases.
- **AFCA** ignore all requests for production of documents from the FSP, including but not limited to those which must be provided by law and/or under the **COBP**.

#### **Required corrections within AFCA:**

- Claims must **not** be reworded by AFCA, save for an effort to seek

clarification from the complainant.

- **Claim limits must be increased.**
- Complaints ought not be merged without agreement from **all** parties to the Tripartite Agreement (Complainant, FSP and AFCA).
- **All** matters raised in a complaint must be dealt with and not simply dismissed, or ignored.
- **All** deadlines must be reasonable and not unrealistic.
- Once an AFCA member commences work on a file they must remain on said file (save illness, or other legitimate reason).
- Given that most in AFCA are legally trained, or qualified and the FSP's rely on internal legal counsel; where a complainant does not have legal expertise, AFCA must assist by drilling down to the issues at hand, and then helping the complainant with their submission.
- AFCA must follow all legal precedent, regulatory and legislative requirements.
- AFCA must honour their Fiduciary Obligation and Duties to us as the public beneficiaries.
- A complainant (party to the Tripartite Agreement) **must** be allowed to challenge, question, or ask for clarification of all AFCA Reviews and Determinations, without the threat of their files being closed. Such challenges/questions must be treated seriously, fairly and without bias.
- In the event that the above challenge/question cannot be resolved amicably, then all matters must be able to be referred to a genuinely "**Independent**" person/panel for review and not an FSP banking member/affiliate, or AFCA member or staff.
- **All** communications must be read by AFCA and dealt with appropriately.
- **All AFCA** staff/management and all carryover **FOS** staff/management (the majority of AFCA staff/management) must be retrained, then scrutinised and supervised to weed out their systemic bad practices and biases.

Regards

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