



Australian Government
The Treasury

TSY/AU

Review of the Australian Financial Complaints Authority

Terms of Reference and guidance for submissions
19 February 2021



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Consultation Process

Request for feedback and comments

Closing date for submissions: 26 March 2021

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Terms of Reference

Section 4 of the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* (the Act) requires the Minister to establish an independent review of the operation of the amendments made by the Act. The Act also requires the Minister to table the review report in the Parliament within 15 sitting days after receiving the report.

The Treasury is to undertake this review and is to report to the Minister for Superannuation, Financial Services and the Digital Economy by no later than 30 June 2021.

The review provides an opportunity for feedback on the operation of the Australian Financial Complaints Authority (AFCA) since its establishment and to consider whether further enhancements should be made to ensure the external dispute resolution (EDR) scheme is appropriately calibrated and operating effectively.

Legislation requires the review to consider whether AFCA has been effective in resolving complaints in a way that is fair, efficient, timely and independent. In doing so, the review will take account of feedback provided by consumers and small businesses and by financial firms.

Legislation also requires the review to examine the appropriateness of the monetary limits on claims that may be made to, and remedies that may be determined by, AFCA in relation to disputes about credit facilities provided to primary production businesses, including agriculture, fisheries and forestry businesses.

The increased internal dispute resolution (IDR) transparency changes made by the Act will not be considered by the review as these are currently being implemented, with time being provided to affected financial firms to make necessary system changes to collect standardised IDR data and the Australian Securities and Investments Commission to consult on and determine IDR reporting requirements.

Guidance for Submissions

Submissions are due by Friday, 26 March 2021. Submissions should address the following:

Delivering against statutory objectives

1. Is AFCA meeting its statutory objective of resolving complaints in a way that is fair, efficient, timely and independent?
 - 1.1. Is AFCA's dispute resolution approach and capability producing consistent, predictable and quality outcomes?
 - 1.2. Are AFCA's processes for the identification and appropriate response to systemic issues arising from complaints effective?
 - 1.3. Do AFCA's funding and fee structures impact competition? Are there enhancements to the funding model that should be considered by AFCA to alleviate any impacts on competition while balancing the need for a sustainable fee-for-service model?

Please provide specific examples or case studies to support your responses. These may be provided to Treasury confidentially with any personal details of complainants and case references numbers omitted.

Monetary jurisdiction in relation to primary production businesses

2. Do the monetary limits on claims that may be made to, and remedies that may be determined by, AFCA in relation to disputes about credit facilities provided to primary production businesses, including agriculture, fisheries and forestry businesses remain adequate?

Internal review mechanism

3. AFCA's Independent Assessor has the ability to review complaints about the standard of service provided by AFCA in resolving complaints. The Independent Assessor does not have the power to review the merits or substance of an AFCA decision.

Is the scope, remit and operation of AFCA's Independent Assessor function appropriate and effective?

4. Is there a need for AFCA to have an internal mechanism where the substance of its decision can be reviewed? How should any such mechanism operate to ensure that consumers and small businesses have access to timely decisions by AFCA?