

# Member forum

## Plenary

**Justin Untersteiner** - Chief  
Operating Officer

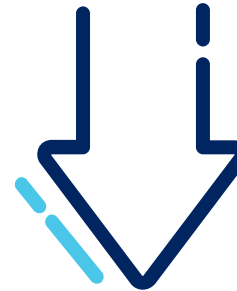
**Dr June Smith** - Deputy Chief  
Ombudsman

# Year at a glance

Between 1 July 2020 to 30 June 2021

Complaints received

**70,507**  
complaints received



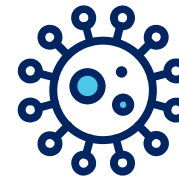
**12.3%**  
decrease in complaints  
compared to 2019-20



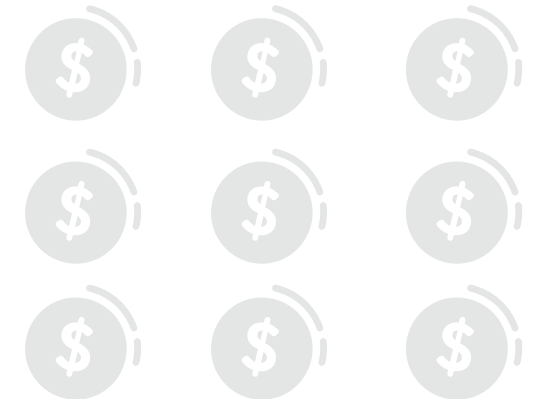
**76%**  
of complaints  
lodged online



**3,535**  
complaints from  
small businesses



**8,303**  
complaints related  
to COVID-19



**7.31%**  
complaints involved  
financial difficulty

## Products complained about



**42,261**  
Banking and  
finance



**16,912**  
General  
insurance



**5,246**  
Superannuation



**3,888**  
Investments and  
advice



**1,623**  
Life insurance



**Merit review pilot**



**Funding model review**



**CSLR**

# Merit Review Pilot

## What is AFCA doing?

We have run a pilot to better scrutinise certain complaints at the very early stages of our process where a complainant did not appear to have suffered a loss or the financial firm had not made an error.

Cases are properly investigated and not prematurely closed

Maintaining a streamlined Fast Track process

Avoiding additional cost and time to members where there is no merit



Ensuring fairness to both members and consumers

Vulnerable consumers

Delivering an excellent customer experience

# Merit Review Pilot

## Key outcomes



**102** cases were identified for review under the pilot

**106** were closed after assessment (88%)



Timeframe for these complaints were reduced by almost half  
**70 days to 39**

Average fee for these cases  
**\$890**  
As much as 75% less than comparable cases



# AFCA Funding Model

## What is AFCA doing?

Since AFCA commenced handling complaints it has been operating under an interim funding model that is a hybrid, based on aspects of the CIO and FOS scheme funding arrangements and the APRA levy model for superannuation trustees

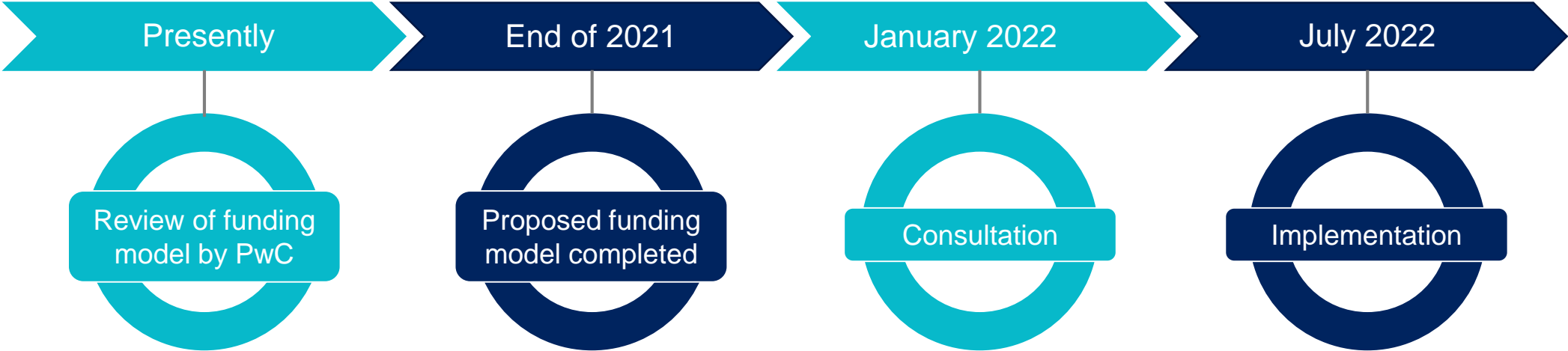
AFCA is currently undertaking a review of our funding model to ensure the model and fee structure is fit for purpose.

An evidence base of complaint volumes and complexity in an expanded jurisdiction has now been established to inform the review of the funding model.

# Guiding Principles - Funding Model

- > Be such that the AFCA Board can be confident that AFCA will consistently raise the revenue necessary to meet the costs of effective operation and ongoing enhancements of a service that satisfies the relevant external dispute resolution (EDR) benchmarks
- > Provide a fair allocation of annual membership levies to AFCA members according to their size, incorporates incentives to resolve complaints early, and, as appropriate, reflects attributes of a user-pays approach
- > Seek to minimise direct sectorial cross-subsidisation to the extent practicable
- > Support an efficient and reliable system for the collection of revenue
- > Be funded by industry through a transparent process
- > Be free for consumers
- > Provide funding for community engagement, including outreach activities to raise awareness amongst consumers (in particular vulnerable consumers) and financial firms
- > Ensure sufficient funding, including maintaining adequate reserves, to allow AFCA to deal with unforeseen events
- > Help minimise complaints coming to AFCA by members resolving them at IDR, and encourage the early resolution of complaints by driving the right behaviours from members and avoiding unintended consequences of a possible disconnect between complaint volumes and fees payable to AFCA

# Funding Model Timeline





# CSLR

## What is AFCA doing?

The Federal Government has released for public consultation exposure draft legislation to establish the Compensation Scheme of Last Resort (CSLR). The draft legislation is open for consultation until 13 August 2021.

AFCA welcomes the announcement and reconfirms its support for the creation of a CSLR.

## More information

> <https://treasury.gov.au/consultation/c2021-186669>



**Fairness Jurisdiction**



**Engagement Charter**



**RG 271 preparation**



**Systemic issues**

**AFCA Decisions team**

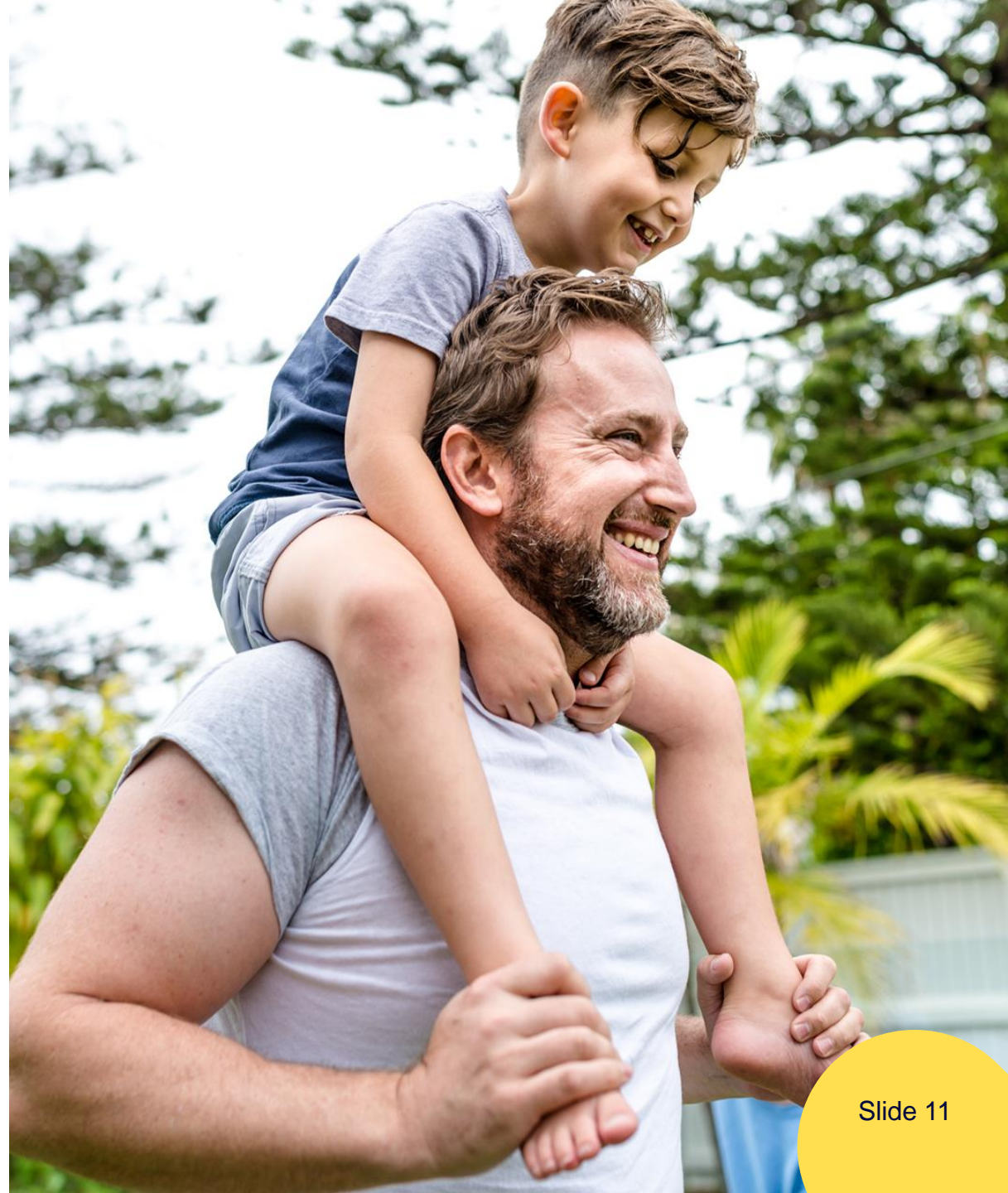
# AFCA's decision making jurisdiction

Is not new and recent court cases have confirmed the scope of our jurisdiction

Previous EDR schemes have had a similar jurisdiction

The objective of the Fairness Project is:

- > to clearly articulate what we are already doing
- > to obtain feedback from our key stakeholders to improve how we work



# The IEL decision and AFCA's general jurisdiction

AFCA's determination was reasonable and open to it on the facts

The principles set out in the case law about the Financial Ombudsman Service are equally applicable to AFCA

AFCA's primary duty is to do what is fair in all of the circumstances

It is possible that having had regard to legal principles, the decision maker decides not to apply them because their strict application would lead to an outcome which is unfair

# AFCA Fairness Framework overview

	Framework component
Jurisdiction	1 AFCA's fairness jurisdiction
Assess	2 The fairness tests
	3 The fairness tool
	4 The approach roadmap
	5 Fair remediation
Decision making	6 The process map
	7 Ensuring procedural fairness
	8 Engagement charter
Ensuring fair outcomes	9 Addressing unfair engagement
	10 Capturing fair outcomes

# Where are we up to?

The public release of our formal consultation paper is currently on hold due to the COVID-19 challenges

AFCA has already undertaken extensive informal consultation and stakeholder roundtables with peak bodies, members, consumer advocates and regulators

The feedback received indicates strong support for AFCA's work and the development of the engagement charter



# Where are we up to: procedural fairness



# Engagement Charter

## What is it?

The AFCA Engagement Charter shares AFCA's values and outlines the behaviour we expect from financial firms, complainants and AFCA employees when resolving disputes.

It is a living document that makes the roles, responsibilities and expectations of each party more explicit so that our stakeholders have a shared understanding of good conduct.

## Where to find it

[www.afca.org.au/about-afca/engagement-charter](http://www.afca.org.au/about-afca/engagement-charter)

**Engagement Charter**

**Purpose**

AFCA's Engagement Charter outlines AFCA's expectations about how people using our service will engage with us and each other during our complaint resolution process. It also describes the service standards others can expect from AFCA.

It is a living document, based on core principles and designed to respond to an ever-changing financial landscape. We may amend and expand on the principles set out in this document from time to time.

**AFCA's role**

AFCA's purpose is to provide fair, independent and effective solutions for individuals and small businesses who have a complaint about a financial product or service.

AFCA has a specific and important role assisting individuals and small businesses to resolve complaints about financial services and products. We are:

- impartial and independent – we do not advocate for either party or their position.
- fair and focussed on dispute resolution outcomes – if everyone cannot come to an agreement, it is our role to decide an appropriate outcome.

AFCA's vision is to be a world class ombudsman service, by:

- raising standards and minimising complaints
- meeting diverse community needs; and
- being trusted by all.

**AFCA's jurisdiction**

Our **Rules** set out the complaints we can consider, the procedures we use to resolve complaints and the remedies we provide. Our **Operational Guidelines** and **Transitional Superannuation Guidelines** set out how we interpret and apply our Rules.

We can consider a broad range of financial complaints, including:

- errors in banking transactions and credit listings
- difficulty repaying loans, credit cards and short-term finance
- denial of an insurance claim (such as car, home and contents, pets, travel, income protection and trauma)
- investment and financial advice
- a trustee's decision in relation to the administration of a superannuation account including distribution of a death benefit.

Purpose Engagement charter 1



# RG271

## What is it?

ASIC released its regulatory guide (RG) 271 on 30 July 2020.

## In summary, RG 271:

- > updates the Standard Australia definition of a complaint
- > updates the maximum IDR timeframes and
- > enhances IDR response requirements.

## Key timings

- > The new guide RG271, Internal Dispute Resolution, comes into effect on 5 October 2021 and will replace the current regulatory guide RG 165.

**Member webinar:** September 2021.

# Systemic issues

## How we aim to improve our service

- > be world class leaders in the identification and investigation of systemic issues
- > want the role to be recognised and clearly understood
- > want our engagement with regulators, consumer advocates and members to be proactive
- > will be more transparent about our work and approach
- > aim for our people have the right tools, resources and capability to apply judgment and critical thinking to resolve systemic issues supporting an enhanced experience for our members and stakeholders.



**Thank you**

