

RG 271 webinar

Diana Ennis

AFCA Executive General Manager –
Operational Delivery

Sarah Edmondson

ASIC Senior Executive Leader -
Behavioural Research and Policy

Tim Goss

AFCA Head of Operational Delivery

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Welcome

Agenda

- Introduction
- ASIC: About RG 271
- AFCA: Changes to our processes
- More information
- Q&A

Visit
afca.org.au/members/rg271





ASIC
Australian Securities &
Investments Commission

Regulatory Guide 271 Internal Dispute Resolution

Sarah Edmondson

Senior Executive Leader

Behavioural Research and Policy Unit

Internal Dispute Resolution

Background





Background leading to RG 271

- Role of IDR in the broader financial services dispute resolution framework
- Lead up to issue of RG 271: Ramsay Report, Productivity Commission reports, Financial Services Royal Commission
- What informed the changes:
 - Australian Standard [**AS/NZS 10002:2014**] *Guidelines for complaint management in organisations*
 - ASIC's consumer research
 - ASIC's Close and Continuous Monitoring IDR onsite program
 - Feedback from consultation on IDR changes in 2019



Key topics

- IDR timeframes
- Requirements for IDR Responses
- Recording all complaints and IDR data requirements
- ASIC's observations from onsite supervisory visits
- Focus areas for surveillance
- Enforceability and breach reporting

Timeframes





Reduced timeframes for different types of complaints

- Evidence in ASIC Report 603 suggested that IDR timeframes were leading to reduced satisfaction and increased drop out rates.
- Timeframes for responding to complaints have been reduced across the industry in RG 271:
 - **30 days** for most complaints
 - **45 days** for Superannuation complaints (except death benefits)
 - **21 days** for credit complaints involving hardship notices or requests to postpone enforcement action (unchanged from RG 165)
- Timeframes begin when the firm receives the complaint, **not** when it is escalated to a centralised IDR team.



Exceptions to IDR timeframes

- Financial firms may take longer than the IDR timeframes if there is no reasonable opportunity for the financial firm to provide the IDR response within the relevant maximum IDR timeframe because:
 - resolution of the individual complaint is particularly complex and/or
 - circumstances beyond the financial firm's control are causing complaint management delays.
- However, when applying the exception above, the firm must communicate the reasons for the delay and the complainant's right to go to AFCA.

IDR responses





Requirements where the complaint is accepted

The IDR response must include:

- the final outcome of their complaint at IDR;
- The complainant's right to take the complaint to AFCA if they are not satisfied with the IDR response; and
- the contact details for AFCA



Requirements where the complaint is rejected

- **The IDR response must clearly set out the reasons for the decision by:**
 - identifying and addressing the issues raised in the complaint;
 - setting out the financial firm's findings on material questions of fact and referring to the information that supports those findings; and
 - providing enough detail for the complainant to understand the basis of the decision and to be fully informed when deciding whether to escalate the matter to AFCA or another forum.



When IDR responses do not need to be provided

Complaints closed within five business days do not require an IDR response where the financial firm has:

- resolved the complaint to the complainant's satisfaction, or
- given the complainant an explanation and/or apology when the firm can take no further action to reasonably address the complaint.

However, this exception does not apply if the complainant requests a response, or if the complaint is about:

- hardship;
- a declined insurance claim;
- the value of an insurance claim, or
- for any decision of a superannuation trustee (or failure by the trustee to make a decision) relating to a complaint.

Enforceability and breach reporting



Enforceability

- ASIC [Regulatory Guide 271](#) Internal dispute resolution
- ASIC Corporations, Credit and Superannuation (Internal Dispute Resolution) [Instrument 2020/98](#)
 - references parts of RG 271 making them enforceable
 - takes effect for complaints received on or after 5 October 2021
 - modifies the Corporations Act (ss912A(1)(g) and 1017G(1)) to impose an additional obligation for **firms to comply with their internal dispute resolution procedures**
- Breaches:
 - civil penalty consequences: (s912A(1)(g) Corps Act)
 - an offence (s101 SIS Act)

Enforceable requirements cover:





Breach reporting and recent changes

- Individual breaches of RG 271 do not necessarily need to be breach reported to ASIC.
- Breaches of RG 271 will still be reportable to ASIC if they meet the normal significance test at 912D.
- We have recently made some minor and clarifying changes to RG 271. There is a summary of these changes on the Report 665 page on ASIC's website:
 - Clarifying when the clock starts ticking
 - Hardship complaints and unauthorised transactions
 - Superannuation written reasons

**Recording all
complaints and IDR
data requirements**





When RG 271 commences on 5 October

- Financial firms must record all complaints received.
- Until the final data reporting requirements are released, there is no precise template that needs to be used.
- However, firms must record enough information to manage the complaint and be confident of compliance with RG 271.
- ASIC has released a version of the data dictionary that we will soon be piloting. This data dictionary is indicative of the final data dictionary.

**Observations from
onsite supervisory
visits**





Background

Over the past 2 years we have conducted intensive supervisory visits to 6 major financial institutions.

These visits included:

- Focus on IDR and Breach Reporting.
- Interviews with staff from frontline to executive level.
- Extensive document review and systems analysis.



Key insights (noting scalability)

Better performing firms:

- Are clear about complaints handling responsibility
- Welcome complaints and resolve them fairly
- Harness complaints data typically through single fit for purpose systems
- Put themselves in consumers' shoes, particularly when it comes to communication
- Have effective QA processes: not a tick-a-box – include fair and consistent outcomes
- Have systems and capability to deal with systemic issues
- Have appropriate Executive level oversight and effective reporting



Key insights (noting scalability)

Worse performing firms:

- Permit barriers or frictions to making complaints
- Have multiple complaints management systems
- Have diffuse accountability frameworks
- Approach complaints in an adversarial or combative manner
- Have limited or ineffective delegations for resolving complaints – directly impacting timeframes
- Have no systemic issues flags
- Don't have trickle-down learning (e.g. from escalated teams, AFCA)
- Have not invested adequately in capability building - across the complaints journey
- Weak Executive level commitment and oversight of IDR

**Areas of focus for
surveillance**

A large, light blue arrow pointing to the right, with the text 'Areas of focus for surveillance' inside it. The arrow is composed of two lines that meet at a point on the right side, forming a wide, open arrow shape. The text is centered within the arrow's path.



General areas of focus

- Capturing of all complaints
- Quality of IDR Responses
- Timeliness
- Identification and resolution of systemic issues.



Industry specific areas of focus

- Credit and Banking
- Insurance
- Superannuation
- Investments and advice



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Changes to AFCA's processes

While RG 271 focuses on expectations for financial firm's IDR, AFCA is updating some processes to align with RG 271's new timelines and requirements as set out in Regulatory Guide 267 for IDR referrals only. There are no changes for Post IDR referrals or financial difficulty complaints.

New maximum IDR timeframes

Some complaints lodged with AFCA which have not been through the financial firm's internal dispute process are referred back to the firm with updated timeframes. The timeframe commences from the calendar day after you receive notification from AFCA.

Extension of IDR refer back time

RG 271 allows financial firms to exceed the maximum IDR timeframe in certain circumstances. AFCA has updated its IDR extension policy, having regard to RG 271.

AFCA will closely monitor the impacts of RG 271 in the coming months. Where financial firm performance impacts fair, timely and effective dispute resolution, we may review our approach to the extension process.

Updated timeframes

Timeframes are being updated for complaints that have not been through the financial firm's IDR previously. These timeframes vary depending on the product or issue complained about.

Product/Issue	Current timeframe	New timeframe
Standard complaints	45 days	30 days
Superannuation* or traditional trustees <small>*except death benefit distribution complaints.</small>	90 days	45 days

IDR referral complaint volumes

Industry	Percentage IDR referral	Percentage post-IDR
Banking and finance	51%	49%
General Insurance	50%	50%
Life insurance	50%	50%
Superannuation	59%	41%
Investments	51%	49%
Data period 01/01/21 – 30/06/21	51.1%	48.9%

Transitional arrangements

Complaints
received by
AFCA **prior** to 5
October 2021



Complaints
received by
AFCA **on or
after** 5 October
2021

Maximum IDR timeframes outlined
in RG 165 will continue to be applied

New maximum IDR timeframes
outlined in RG 271 will apply

If you receive a complaint referred from AFCA on or after 5 October 2021, which you first received prior to 5 October 2021, you should contact AFCA to ensure the RG 165 timeframe is applied

Extension of IDR refer back time at AFCA



- > RG 271 allows financial firms to exceed the maximum IDR timeframe in certain circumstances.
- > When AFCA receives a complaint that has not completed IDR, AFCA will refer the complaint back to the financial firm for the balance of the maximum IDR timeframe.
- > If the complaint is particularly complex, or there are circumstances beyond the financial firm's control (as defined in RG 271), the firm may request a time extension.
- > AFCA will grant one 14-day extension.
- > If the complainant does not agree to the extension, the original due date will apply.

Requesting extensions

Before making an extension request to AFCA:

- > If a financial firm determines that a complaint is particularly complex, or there are circumstances beyond its control, it can make a request to AFCA for an extension to the IDR response due date.
- > RG 271 requires the financial firm to send an IDR delay notification to the complainant to explain the reasons for the delay. **AFCA expects financial firms to send the notification to the complainant prior to sending an extension request to AFCA.**
- > A complainant is entitled to progress their complaint to AFCA if they don't agree.
- > Upon making the extension request to AFCA, the financial firm is not required to provide AFCA the IDR delay notification or any other documentation for an extension to be granted.



Best practice

Extension requests should be submitted via the Member Portal no later than 5 days before the original IDR response due date.

In pursuit of best practice, AFCA expects financial firms to:

- > Contact the complainant to obtain their agreement prior to requesting an extension at AFCA.
- > Request an extension as early as possible during the refer back period.

Once AFCA receives the request, an extension of 14 days will be granted, unless;

- > The request is received within five days of the original due date
- > A request has already been granted
- > The complainant does not agree to the extension and requests the complaint progress on the original due date.

AFCA will not make an assessment on whether a complaint is complex or there are circumstances beyond the financial firm's control.

Case actions

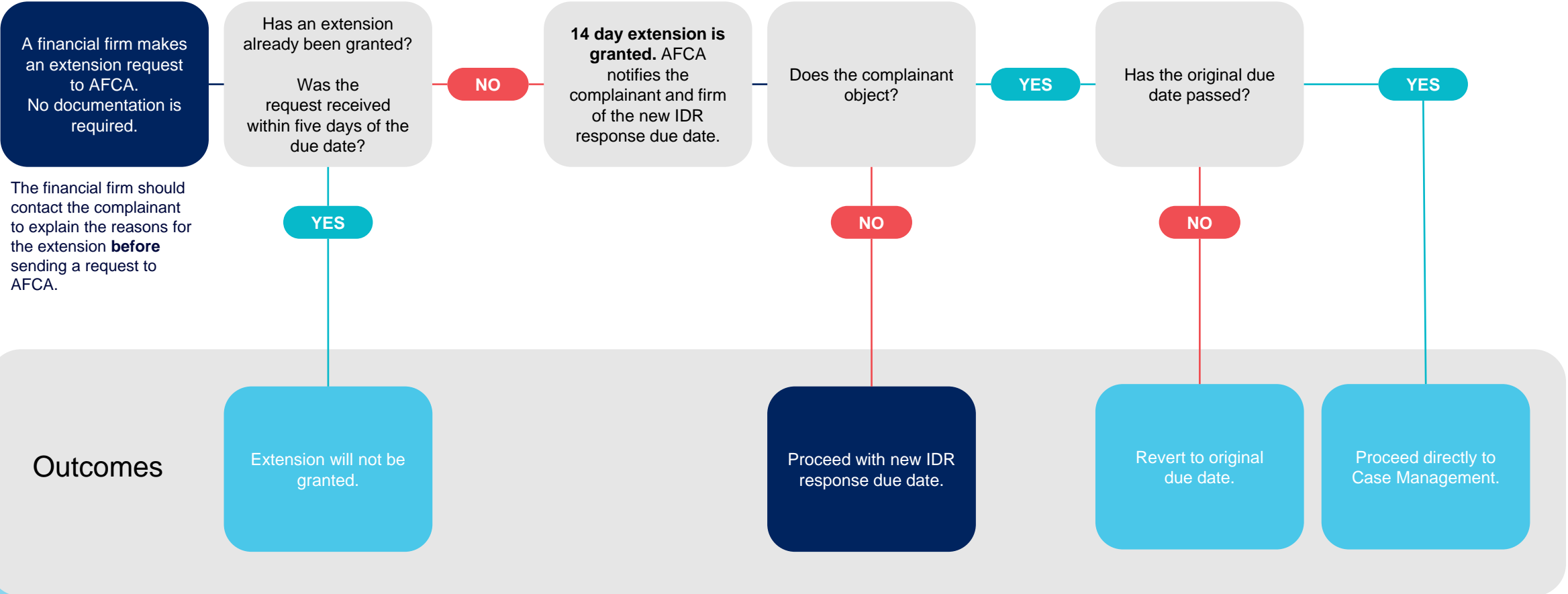
The case action names which will be actionable by members on the Member Portal are:

- > Request extension – complex complaint
- > Request extension – circumstances beyond financial firm control



The screenshot shows a web form titled "Send New Correspondence". It features a dropdown menu for "Action" with the text "Select an action" and a downward arrow. Below this is a large text area for "Comment". Underneath the comment area, it says "1000 remaining". At the bottom, there is a section for "Files" with a "Select files..." button.

Extension request process map



Where an extension will not be provided

An extension will not be provided:

- > where the complainant does not agree to the extension notification.
- > where the complaint is about financial difficulty.
- > where Rule A.5 applies an exception:
 - where a financial firm requests we exclude the complaint
 - if the complaint is urgent
 - for superannuation complaints relating to payment of a death benefit distribution
 - for a complaint about a Traditional Trustee Company Service involving other affected parties.
- > where the complaint is received post IDR the existing extension process will apply.

Reporting to ASIC

AFCA is required to report data to ASIC about a firms' performance in resolving complaints at the refer-back stage (RG 267.74)

AFCA will report data to ASIC on complaints received on or after 5 October 2021 which includes:

1. Resolution rates for IDR referrals.
2. How often individual financial firms are requesting extensions.
3. How often complainants are objecting to the extensions.
4. Non-response rate for IDR referrals.



More information



Email
info@afca.org.au

Visit
afca.org.au/members/rg271

Thank you

