

About AFCA

In April 2016, the Federal Government commissioned the Ramsay Review of the financial system's external dispute resolution (EDR) and complaints framework. The Review recognised that access to effective dispute resolution is critical to ensuring consumers are treated fairly and to promoting confidence in the financial system.

AFCA Ltd, an independent, not-for-profit company, was subsequently authorised by the government to be the operator of the EDR scheme for the financial services sector. Its EDR scheme began operation on 1 November 2018.

AFCA considers complaints about

- credit, finance and loans
- insurance
- banking deposits and payments
- investments and financial advice
- superannuation.

AFCA is required by legislation to operate in a way that is accessible, independent, fair, accountable, efficient and effective.

AFCA is not a government department or agency, and it is not a regulator – though it is required to report certain matters to financial regulators.

Dispute resolution

AFCA's role is to assist consumers and small businesses to reach agreement with financial firms about how to resolve their complaints.

AFCA is impartial and independent. It does not act for either party to advocate their position. Its service is offered as an alternative to tribunals and courts. But complainants retain the right to go to court or another forum.

AFCA uses informal and formal methods to resolve complaints. Informal methods include negotiation and conciliation. If informal methods don't work AFCA will use formal methods to resolve complaints. This can involve a preliminary assessment and/or a determination (also referred to as a decision).

Financial firm members

Financial firms are required to be a member of an approved industry ombudsman scheme to hold a financial service or credit licence. Other firms join AFCA voluntarily. AFCA can only receive complaints about firms that are members.

Independent board

AFCA is governed by a board that includes equal numbers of industry and consumer directors. The Chair, appointed by the board, must be an independent person.

The AFCA Rules

AFCA's operations are governed by a company constitution, the AFCA Rules and the Operational Guidelines. The AFCA Rules form part of a contract between AFCA, firms and complainants. The Rules include what complaints AFCA can consider, procedures it can use to resolve complaints, remedies it can provide and related matters such as reporting obligations. The Rules are approved by ASIC.

Time limits

Typically, AFCA can only consider a complaint if it is made within six years from the time the complainant first became aware, or should reasonably have become aware, that they suffered a loss. Further, if the complainant has already complained to their firm through its internal dispute resolution (IDR) process, they need to lodge a complaint with AFCA within two years of receiving an IDR response from the firm.

Binding decisions

For non-superannuation complaints, the determinations AFCA makes are binding on members (if accepted by the complainant), but not binding on complainants. Complainants retain their rights to take other, private action where they don't accept a decision. For superannuation complaints, determinations are binding on both parties.

Compensation

AFCA can award compensation for losses suffered because of a financial firm's error or inappropriate conduct. AFCA does not, however, impose fines or award compensation to punish financial firms. In superannuation complaints, AFCA doesn't award compensation as such, but determines a remedy to place the complainant as nearly as practicable in a position such that any unfairness or unreasonableness no longer exists – with no limit on the value of the remedy AFCA may determine.

AFCA can only consider complaints where the amount claimed by individual complainants does not exceed \$1,085,000. The monetary cap is \$5,425,000 for a credit facility provided to a small business or primary producer. In addition, there are limits on the compensation AFCA can award that depend on the product or service.

See afca.org.au/news/latest-news/afca-complaint-monetary-limits-updated

Breaches

If a financial firm fails to comply with an AFCA determination, AFCA may revoke the firm's membership. This would mean the firm is in breach of its licence obligations. Depending on the circumstances, a failure by a financial firm to comply with the AFCA Rules can result in expulsion as an AFCA member and reporting to ASIC.