

Systemic Issues Insights Report

Quarters 3 and 4
Financial year 2023–24

Edition 5



Contents

About this report	3
Summary of outcomes delivered	4
Reporting to regulators	5
Systemic issue in spotlight	6
Common systemic issues across industry sectors	8
Banking and finance	9
General insurance	15
Life insurance	18
Investments and advice	20
Superannuation	22
Small business	23
Any questions?	23

About this report

Regulatory Guide 267 *Oversight of the Australian Financial Complaints Authority* requires AFCA to identify, refer and report systemic issues arising from complaints to the regulators. AFCA must also report any serious contraventions of the law and other reportable matters listed in *section 1052E of the Corporations Act 2001 (Cth)*.

AFCA's role in identifying and reporting systemic issues benefits consumers who have not lodged a complaint with AFCA but who may, nonetheless, have been impacted by a systemic issue. The early identification and resolution of systemic issues can reduce consumer complaints and helps to minimise consumer harm.

Our work also supports financial firms to identify systemic issues and sits alongside a financial firm's own obligations to manage systemic issues identified through consumer complaints, as outlined in the Australian Securities and Investments Commission (ASIC) Regulatory Guide 271 (RG 271).

While AFCA is not a regulator, we operate within the broader regulatory framework by providing information to regulators in accordance with our obligations. Our reports to regulators ensure they are promptly informed of issues within the industry and can take action as they deem appropriate.

By continuing to engage with financial firms on systemic issues once we have identified and reported them, AFCA helps financial firms to address systemic issues early, minimise complaints flowing through to external dispute resolution and improve industry practice.

In this report AFCA shares case studies, findings and key insights from a range of recent systemic issues cases across the industry.

We encourage financial firms to use these case studies and insights to continuously improve their own practices and customer experience.

Summary of outcomes delivered



Identified, investigated and resolved systemic issues that had impacted

20,040 consumers



Conducted **114** detailed systemic issues investigations (with some investigations being ongoing)



Resolved **35** systemic issues with financial firms



Outcomes for impacted customers included:

- **\$4,303,645.19** in refunds made to consumers
- reinstatement of incorrectly cancelled insurance cover
- update and correction of credit reporting information held by Credit Reporting Bodies (CRBs)
- reassessed insurance claims made for cancellation of trips post-COVID; and
- forgiveness of debts.



Reporting to regulators



141 matters reported in the second half of the 2023-24 financial year



48 systemic issues reported



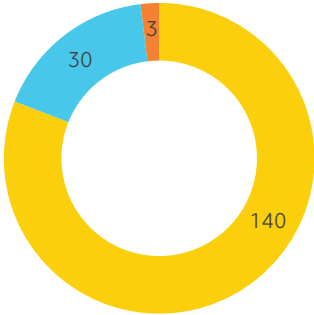
93 other matters reported (referrable under *section 1052E of the Corporations Act 2001 (Cth)*) including:

- **2** serious contraventions of the law
- **89** refusals or failures by firms to give effect to an AFCA determination (65 of which relate to complaints that may fall within the scope of the Compensation Scheme of Last Resort)
- **0** contravention of the rules of a regulated superannuation fund; and
- **2** settlements that may require investigation.

Total reports to regulators across the financial year

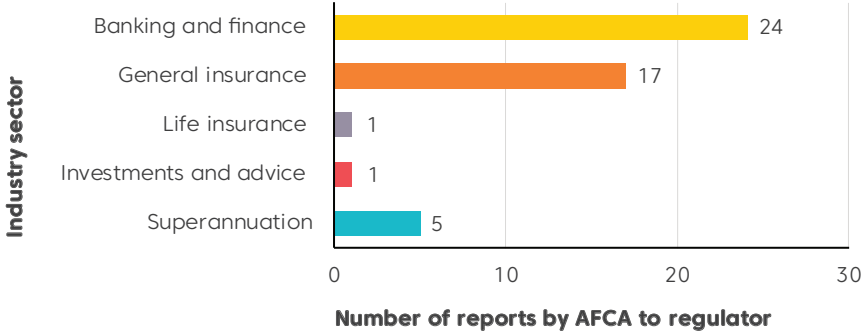
The total number of reports made in the second half of the financial year including systemic issues and other matters reported, noting some reports provided to more than one regulator.

- Reports to Australian Securities & Investments Commission (ASIC)
- Reports to the Australian Prudential Regulation Authority (APRA)
- Reports to other regulators (such as the Office of the Australian Information Commissioner (OAIC))



Systemic issues across industry sectors

The number of systemic issues identified and confirmed across industry sectors.



Systemic issue in spotlight

Uplifting processes to preserve important consumer protections

Rule A.7.1 of AFCA's Rules prohibits a financial firm from engaging in recovery action while AFCA is considering a complaint. This is an important protection to ensure that debt collection activity is paused so that complainants have a fair opportunity to have their complaint heard through the dispute resolution process at AFCA.

Despite the AFCA Rules, we commonly see firms continuing with collections activity while there is an open AFCA complaint. This can arise where there are manual components to internal debt collection processes creating the risk of human

error occurring. It also arises when debt recovery processes involve multiple parties, some of which are external to a firm. Often issues arise where there is a failure of communication between parties where a complaint has been lodged by the customer and the firm does not pass this information on to external agents.

Firms should ensure they have appropriate processes and systems in place to prevent collection activity once a complaint has been lodged, and rigorous oversight mechanisms of external agents where debt collection is outsourced.



Case study: Debt recovery during open AFCA complaint

AFCA first identified the issue from a complaint in which the Sheriff, under instruction from the financial firm and its legal provider, issued a complainant a Notice to Vacate while there was an open AFCA complaint. The financial firm said that the issue occurred due to human error resulting in miscommunication between multiple parties. Upon further review, the financial firm identified three other instances where process failures occurred, leading to the continuation of recovery action during open AFCA complaints. Human error was the reason in each of these instances.

Through the investigation process, the firm shared with AFCA an overview of the processes it has in place to stop collection and recovery action when on notice of an AFCA complaint. The processes involved multiple action points and different areas of the business, as well as external legal service providers. The process required staff to action a “stamp” on the customer’s profile and communicate with each other to ensure that the correct business area is aware of the AFCA complaint. For late-stage recovery action where legal services providers were already involved, the process also extended to notifying them of the open AFCA complaint.

For the complaints lodged with AFCA, the error in process occurred where staff failed to either place the “stamp” on the customer’s profile or to appropriately communicate to all relevant parties that collections activity needed to be stopped.

It was AFCA’s view that the firm did not have sufficient controls in place to ensure its processes were adhered to, and this represented a systemic issue. Without adequate controls to quickly identify where important steps in the process had been missed, it was likely that further errors would continue to occur.

To resolve the issue, the financial firm took action to strengthen its controls. This included implementing an automated exception report which identifies customers for which collections activity have not been suspended following an AFCA complaint being lodged. The report runs daily and reviews all open AFCA complaints in the financial firm’s complaints database against customer profiles in the firm’s collections system and identifies where there has not been a “stamp”

placed on the customer profile. This enables the firm to immediately place an indicator on the customer profile to stop all collections and recovery action.

The firm also uplifted its process where legal services providers are involved by introducing a process step for the firm’s hardship staff to make a telephone call and speak with someone, as well as email in writing a request for all recovery action to be cancelled.

In this case, the financial firm demonstrated good practice in cooperatively engaging with AFCA about the systemic issue once it had been identified, and acted quickly to identify the root cause and implement fixes that would minimise the risk of the issue recurring.



Common systemic issues across industry sectors

Below are some case studies involving systemic issues across different areas of the financial services industry that we investigated between 1 January and 30 June 2024. They impacted groups of consumers who had not lodged a complaint with AFCA.

Some systemic issues impacted large numbers of consumers while others impacted a small group. No matter the size of impacted consumers, in most cases financial firms worked to ensure that consumers were remediated fairly and appropriately. In cases where a financial firm did not engage with AFCA or take steps to resolve the systemic issue, we referred the matter to the appropriate regulator to take action as necessary.





Banking and finance



Common systemic issues

- Compliance with responsible lending obligations
- Compliance with AFCA Rules
- Privacy & credit reporting
- Financial Difficulty

Compliance with responsible lending obligations

Provision of unsuitable credit limits

A financial firm was setting credit card limits that were too high and not in line with its responsible lending obligations to ensure that card limits meet the customer's requirements and objectives.

AFCA received several complaints raising the issue. Through the online application process, customers had selected the option "assign the maximum limit" rather than entering a nominated credit limit. When the financial firm approved a credit limit, it had failed to make reasonable inquiries into the maximum credit limit that the customer required before approving the credit limit.

To resolve the issue, the financial firm proposed changes to its webpages to ensure the minimum and maximum credit limits applicable to the credit card product are made clear to customers throughout the online application journey.

AFCA considered the proposed changes would improve disclosures made to the customer during the application process but continues to engage with the firm about how it could further improve its processes for making inquiries that the approved limit meets the customers' requirements.

Failure to roll over short-term interest only (IO) loans to principal and interest

A financial firm provided customers with home loans that required IO repayments over a short term. At the end of the IO term, the loans were not automatically rolling over to principal and interest and a longer loan term, even where the customer had expressly requested this in their initial loan application. Instead, the loan expired and needed to be renegotiated as a new loan, triggering a re-assessment of the customer's financial position, re-finance or repayment in full.

The root cause was a system limitation which prevented automatic rollover of the loan terms. This impacted approximately 11,887 loans.

AFCA reviewed the complaints lodged raising this issue and formed the view that by offering consumers short term IO loans, secured by a customer's principal place of residence, the financial firm failed to



Take note

Guidance is provided on our **website** about Our Approach to Responsible Lending. The document outlines how AFCA considers responsible lending complaints about different credit products and how we assess a financial firm's compliance with responsible lending obligations. Firms should ensure they are familiar with AFCA's approach.



Banking and finance (continued)

meet its responsible lending obligations, and consumers had suffered financial harm due to the short-term IO nature of the loans. The financial firm disagrees with AFCA's view.

This issue is not yet finalised. AFCA continues to work with the firm and seeks to work through the firm's differing views about its responsible lending obligations and the suitability of the loans. In the meantime, the firm has:

- implemented a system fix addressing the underlying limitation so loans with an IO repayment period will automatically rollover to principal and interest repayments
- agreed to work with the remaining 1,857 customers with loans on foot to renegotiate their loans as they reach maturity; and
- agreed to waive loan renegotiation fees for all impacted customers.

The total value of remediation for the renegotiation fees amounts to approx. \$1,429,500.

Red flags not identified during credit card application process

A financial firm was not complying with its obligations under the National Consumer Credit Protection Act 2009 (the NCCP Act) when assessing applications for credit cards.

The firm did not have adequate review mechanisms in place to identify red flags of financial hardship in its unsuitability assessments, for example, it failed to identify or question multiple dishonours and overdrawn bank fees on the complainant's bank statements, multiple small amount credit contract loans, discrepancies between declared and actual expenses, and frequent missing pay periods on the complainant's bank statements.

Despite close engagement on this, and AFCA identifying multiple complaints raising similar issues, the firm disagreed with AFCA's view that there was a systemic issue, instead maintaining that the errors were one-off, a result of human error and instances where the individual assessing officer had acted outside the firm's credit policy. The financial firm made some changes to its processes, however because it disagreed with AFCA's view that there was a systemic issue, it declined to remediate any impacted customers.

As AFCA and the firm could not reach agreement, AFCA closed its file as unresolved and referred the matter to the regulator to take action as it deems appropriate.

Take note

Several instances of one-off human errors can indicate that a firm does not have effective controls and adequate processes in place. Good governance and ensuring team members are clear on processes is key to avoiding issues that impact a broader group of customers.



Banking and finance (continued)

Compliance with AFCA Rules

Large influx of internal dispute resolution (IDR) complaints impacts a firm's ability to respond to external dispute resolution (EDR) complaints on time

A financial firm was failing to respond to AFCA within timeframes and provide requested information through the EDR process in line with its obligations. The issue was caused by inadequate resourcing in the firm's complaints team. The team had been impacted by a sudden large increase of complaints and there had also been a loss of senior staff which impacted the relevant team's ability to meet timeframes.

The firm confirmed several actions to resolve the issue had been implemented. These included appointing a new Head of (who oversees EDR processes), increasing its full-time employees in its Fraud Investigation team, IDR and EDR teams and implementing improvements to its internal processes and controls.

While AFCA did not consider that the issue had been resolved, it accepted that the firm had taken steps to change its performance handling EDR complaints. AFCA reported the matter to the relevant regulators and closed its file but will continue to monitor the firm's performance at EDR.

Take note

Issues in complaints handling can arise where financial firms have not adequately invested in or resourced their teams to effectively manage complaints at both IDR and EDR stages.

Immature complaints handling systems and processes can also lead to issues that impact multiple consumers who have made a complaint with a financial firm.

Having robust processes and systems and adequately resourced complaint handling teams are essential to ensure that complaints are properly managed in IDR and consumers do not have to escalate to EDR. Firms should ensure they have strong governance frameworks with appropriate escalation and inbuilt flexibility and agility to enable them to manage large inflows of complaints at IDR.





Banking and finance (continued)

Privacy & Credit reporting

4,000 customers' credit files impacted by system errors

A financial firm had several system errors that caused Repayment History Information (RHI) and default listings to be incorrectly reported on customers' credit files. The financial firm had identified the system errors earlier but had not yet completed remediation due to the 'complexity' of the issue.

AFCA received many complaints (at least 40 individual complaints) raising errors in credit reporting because of the system errors.

The financial firm advised that the system error relating to RHI impacted 3,182 customers and the system error relating to default listings impacted 701 customers. Through engagement with AFCA, the firm identified more impacted customers than had originally been in scope of its remediation program.

In relation to the incorrect RHI error, the issue had been caused by a logic error in the financial firm's system to filter and identify customers. The financial firm implemented a system fix to address this issue which would ensure the error would not continue to occur. The firm also remediated all impacted customers by conducting a bulk correction of RHI. AFCA considered this issue to be satisfactorily resolved by the financial firm.

The error causing incorrectly listed defaults was also caused by a logic issue, where the default was not updated from 'outstanding' to 'paid'. The financial firm corrected the logic issue. Since the implementation of this change, no further instances of the issue occurred. AFCA considered the financial firm's actions to have satisfactorily resolved the systemic issues.

Take note

Consumer complaints can be a key indicator of a possible systemic issue within a financial firm. Firms should proactively monitor, and track complaints lodged with them at IDR and EDR.

Identifying issues early at IDR through the proactive monitoring of complaints data enables a firm to identify, investigate and remediate issues early and may prevent complaints flowing through to EDR.



Banking and finance (continued)

Financial difficulty

Inadequate processes for managing hardship requests

A financial firm was not complying with section 72 of the National Credit Code (NCC) when customers requested financial hardship assistance from the financial firm's employees and agents. Requests for assistance were either not recognised or not assessed appropriately, and requests for extensions to hardship arrangements were not considered.

The financial firm co-operated with AFCA and provided information outlining its financial hardship processes and policies. The root cause of the issue was identified as human error where staff did not follow appropriate steps to identify, assess or give genuine consideration, to assist customers seeking financial hardship assistance.

The financial firm has implemented changes to improve its financial difficulty policies and procedures and uplift its response to customer requests for hardship assistance. Some of the changes include:

- Increasing accessibility for customers to information about hardship assistance
- Improving the hardship assessment process
- Enhancing the collection and use of information at the time customers seek hardship assistance
- Reviewing customer-facing training programs for their staff.

AFCA continues to engage with the financial firm to ensure the firm's response will resolve the issue.

Take note

Increasing numbers of Australians are struggling with cost-of-living pressures and are reaching out to their lenders for financial hardship assistance.

When assessing hardship requests, firms should avoid the use of 'blanket' or 'one-size-fits-all' approaches, and onerous assessment and approval processes.

Instead, firms should take a customer-centric approach, with processes and systems that provide vulnerable customers with dedicated focus, prioritisation and care. They should consider each customer's unique situation in their approach to financial hardship and provide solutions tailored for the individual.



Banking and finance (continued)

Hardship assistance requests incorrectly rejected

A financial firm was not complying with section 72 of the NCC. This included failures to identify hardship requests, failures to properly assess hardship requests and failures to issue notices in accordance with section 72 of the NCC. The failures were due to inadequate processes setting out how to appropriately address and respond to consumer's hardship requests.

After engaging with AFCA, the financial firm took several steps to resolve the issues and prevent their recurrence. This included:

- uplifting its templated letters to include additional details to meet the standards set out in section 72(4) of the NCC
- implementing a daily control to monitor where it had rejected hardship requests to override incorrect decisions and ensure hardship notices are managed correctly
- implementing a technology fix to limit permissions for hardship rejection decisions; and
- developing and delivering updated staff training.

The financial firm also identified impacted customers and undertook steps to remediate those customers. AFCA considered the issue to be satisfactorily resolved, closed its file and notified ASIC and OAIC of the outcome of the systemic issue.

Take note

In its Report 783 Hardship, hard to get help: Lenders fall short in financial hardship support, released in May 2024, ASIC provided suggestions for how lenders can enhance outcomes for customers in hardship. These include:

- providing more tailored solutions to customers
- improving customer communications
- making the process easier for customers; and
- improving staff capability.



General insurance



Common systemic issues

- Dealing with third party representatives
- Dispute resolution
- Policy cancellation
- Add-on insurance

Dealing with third party representatives

Inflexible processes for accepting third party representatives

An insurer's process for recognising and authorising representatives to act on behalf of complainants was creating unnecessary barriers and delays for consumers. For example, the insurer refused to accept the consumer's signed authority form, instead requiring the insurer's own approved form to be completed. In one case lodged with AFCA, the insurer refused to accept the letter of appointment provided by the consumer's representative (a financial counsellor) and requested its approved form to be completed.

AFCA engaged with the insurer regarding its process for authorising a third-party representative and identified that there were gaps and inconsistencies in the process. The process applied broadly to all customer advocates and lacked flexibility to meet the individual circumstances of consumers. This was preventing consumers from being able to appoint financial counsellors and other unpaid representatives to represent them in relation to claim lodgement and management.

Following engagement with AFCA, the insurer acknowledged the gaps and updated its internal process documents to clearly outline the different types of representatives and the steps to be taken for authorising paid and unpaid representatives. Further, the insurer completed a refresher training for its front-line staff using the updated training material.



Take note

Consumers can appoint a third party to act on their behalf on a complaint. Where a consumer nominates a third-party representative to act on their behalf, financial firms should ensure their processes do not create unnecessary barriers.

Consumers represented by consumer advocates, such as financial counsellors and community workers, are often experiencing vulnerability. Firms should ensure they provide additional help and support to consumers experiencing vulnerability and ensure their services are easy to access and use.



General insurance (continued)

Dispute resolution

Failure to respond to EDR complaints on time

An insurer was not providing information to AFCA within the required timeframes. Based on complaints data for a period of 12 months, the insurer provided information outside of timeframes 92 times and requested additional time to respond to AFCA 48 times. AFCA contacted the insurer about the increased overdue responses and overall timeliness of responses. The insurer acknowledged its performance at AFCA was not in line with expectations.

The insurer confirmed that there was a correlation between an increase of complaint volumes in FY2022-23 and staff resourcing, leading to oversight issues and delays in resolving complaints. Other contributing factors included increased travel activity (after COVID-19) which increased the volume of complaints relating to travel insurance policies, staffing and resourcing challenges and gaps in monitoring.

Since AFCA's engagement, the insurer has proactively worked on tightening the controls and brought in a daily tracking procedure to ensure timeframes and due dates for AFCA requests are closely monitored. Further, the insurer has employed additional staff and implemented an onboarding and training process for staff members. AFCA has observed that the measures taken by the insurer have helped to reduce overdue responses, and will continue to monitor the insurer's performance of managing complaints at EDR.

Take note

Increasing volumes of consumer complaints at IDR and flowing through to AFCA is a good indicator that there are issues within a firm that are adversely affecting customers.

AFCA transparently makes complaints data available to firms to monitor their own performance and compare this against their peers within industry. This data, coupled with a firm's internal IDR data, should be used to measure patterns and identify where performance is outside acceptable parameters. The early identification of these issues, and intervention where appropriate, should be an embedded practice within firms.





General insurance (continued)

Failing to meet timelines at IDR and EDR

An insurer was failing to comply with its obligations under RG 271 timeframes and the AFCA Rules to provide requested information on time. At least 7,336 customers were impacted by this.

AFCA engaged with the insurer and the insurer agreed it had failed in its obligations. The root cause of the issue was pressure on its complaints handling team due to increasing volumes of complaints at IDR related to catastrophe and non-catastrophe events, lack of adequate resourcing and lack of adequate training and reporting.

To resolve the issue, the insurer took steps including introducing new reporting and dashboards for transparency across teams and leadership to manage workflows, cross training its IDR staff, using external contractors to manage administration tasks, creating new additional roles to support frontline staff as well as additional temporary resources to be deployed to areas of concern.

Based on the actions by the insurer, AFCA closed its file and reported the matter to the relevant regulators but will continue to monitor the insurer's performance.

AFCA incorrectly listed as relevant EDR option

An insurer wasn't providing correct information about EDR options for commercial vessel insurance policies. It incorrectly listed AFCA as the relevant EDR body in both the PDS and the complaint brochure. While the complaint lodged with AFCA was outside jurisdiction because AFCA cannot handle complaints falling under the *Marine Insurance Act*, the issue was still identified and considered as a systemic issue.

To resolve the issue, the insurer agreed to improve its communication and update the PDS and complaint brochures to clearly list the correct EDR options, including the right for customers to take legal action through the court system. Additionally, the insurer informed affected policyholders about these changes through an updated PDS.

Take note

Financial firms should regularly review their policies to ensure they meet their obligations. Ineffective compliance and risk management can lead to systemic issues affecting customers. Providing clear information about financial products, including where to complain, is key to informed decision-making by consumers.



General insurance (continued)

Policy cancellation

Cancelled policies incorrectly renewed due to system issue

An insurer was incorrectly renewing cancelled policies and deducting premiums without the policyholder's authority. This impacted 108 cancelled policies that had been incorrectly flagged for renewal and impacted 16 impacted customers requiring \$14,570.53 in remediation.

The root cause of the issue was a limitation related to two non-integrated systems. Following our engagement, the insurer took several actions such as training its staff, documenting detailed processes, and deploying a new integrated system to eliminate the root cause. Based on the remediation and the corrective actions taken by the insurer, AFCA was satisfied the systemic issue was resolved.

Add-on insurance

Add-on insurance policy sold without appropriate personal advice

A financial firm's sale process was not in accordance with obligations set out under *sections 945A and 945B of the Corporations Act 2001*, which were applicable at the time of the sale of the product. The policy was sold without appropriate personal advice, and did not consider the consumer's personal circumstances and requirements.

The firm is currently working with AFCA in relation to identifying the impacted consumers and the appropriate next steps to remediate those impacted by the issue.

Take note

Firms should regularly review and monitor their systems to ensure they are working as intended, and not creating unintended adverse consequences for their customers, such as charging premiums for cancelled products.

Take note

Firms should ensure they have appropriate processes in place when distributing products to ensure that any advice provided is appropriate and compliant with regulatory requirements.



Life insurance



Common systemic issues

- Policy cancellation

Policy cancellation

Delay in sending cancellation notices due to Christmas shutdown period

A life insurer failed to provide the correct notice of a policy cancellation as required under *section 210(5) of the Life Insurance Act 1995* (the Act). The issue impacted 145 policies.

The root cause of the issue was a mail processing delay during the Christmas shutdown period. The insurer failed to process and send a batch of letters to its mail house, which then also delayed mail out of the correspondence. The delay meant that the letters were not served within the 28-day timeframe specified in the Act.

To resolve the matter, the insurer implemented additional controls to ensure the incident would not recur. These included:

- ensuring the back office is appropriately staffed
- updated process documentation and training
- implemented additional communication and improved arrangements with the external mail-house provider; and
- increased quality assurance and compliance oversight of client correspondence.



Take note

When departing from or varying usual processes firms should ensure there are no unintended consequences, such as non-compliance with legislated timeframes that will affect their disclosure obligations, and reduce consumer protections.



Investments and advice



Common systemic issues

- AFCA approach to terms of settlement

AFCA approach to terms of settlement

Settlement agreement was inconsistent with AFCA's approach

A financial firm was using a deed of release to settle AFCA complaints. The terms of the deed appeared to be unfair because they were unreasonably wide and beyond the scope of the AFCA complaints.

AFCA reported the concerns to ASIC in line with our obligations and investigated the matter further engaging with the financial firm.

Although the financial firm was not seeking to release its liability beyond the issues raised in the AFCA complaints, it acknowledged and accepted AFCA's view that the deed did not clearly outline the financial firm's intentions and/or fully reflect AFCA's approach to terms of settlement. The financial firm was quick to act upon the matter and changed the wording of the template used to draft deeds.

Take note

AFCA is required by section 1052E of the Corporations Act and ASIC Regulatory Guide 267 to report concerns about terms of settlement to relevant regulators.

Guidance is provided on our website about appropriate terms of settlement. Financial firms should ensure they are aligned with **AFCA's approach**. Terms in settlement agreements should not be unfair or too broadly drafted, and the scope should be limited to the complaint at hand.





Superannuation



Common systemic issues

- System error
- Non-compliance with Protecting Your Super (PYS) legislation

System error

Trading platform error incorrectly allowed shares to be traded causing consumer loss

A superannuation fund allows members to hold direct shares through a self-investment platform controlled by the trustee. The platform permits shares to be traded on the ASX.

The platform configuration was designed to prevent members from placing 'At Market' orders when the ASX was closed. Due to an error, the platform accepted members' 'At Market' orders on a certain date when the ASX was closed. The date was a public holiday in New South Wales, but not in Queensland.

Upon engagement with the firm, it was found that the platform's configuration did not account for variation in public holidays between states. This was the cause of the error which permitted the At Market trade to be accepted.

There were 82 members affected by this issue. Of these, 89 trades by 52 members resulted in losses totalling \$54,823.47. The firm remediated the impacted members in full and co-operated fully with AFCA in the systemic issue investigation.

Non-compliance with PYS legislation

Failure to notify members that insurance would be cancelled

A superannuation fund failed to prove that it had sent required notices to its members. Under PYS legislation, a trustee is required to notify members who have inactive accounts that their insurance will be cancelled unless they 'opt in' to keep their cover. Members who do not receive a notice may not be aware of the action they need to take to retain their insurance. The loss of insurance cover could have adverse outcomes. The trustee had engaged an external mail house to send the letters and the external provider was unable to provide individual records of despatch proving that the notices had been sent.

In response to AFCA's concerns, the trustee enhanced its record keeping processes and conducted a review of members whose insurance had been cancelled as a result of failure to meet the PYS opt in provisions. Impacted members, where there was no proof of the appropriate notice being sent, were offered a reinstatement of insurances lost with premiums backdated to the date of cancellation.

Take note

Keeping accurate client records and providing for efficient access to client records are an integral aspect of customer care that's expected of every financial firm.



Superannuation (continued)

Failure to correctly cancel insurance

A superannuation fund failed to cancel insurance for members on the day it should have been cancelled, as required by PYS legislation for accounts inactive for 16 continuous months where the member had not elected to keep the cover.

The issue stemmed from an implementation error in the fund's PYS insurance warning and cancellation process, which affected over 377 members. As a result, some members did not receive warning letters, some received letters but their insurance remained active, and others received letters with incorrect lapse dates.

To resolve the issue, the fund identified all impacted members and remediated their accounts, restoring them to the correct positions as if the error had not occurred. Affected members received compensation of \$4,400.





Small business



Common systemic issues

- Delays in claims handling

Delays in claims handling

Unreasonable delays and gaps with reporting of written-off heavy motor vehicles

An insurer had inadequate processes for the recording of the total loss assessment in the Written-off Heavy Vehicles Register (WOHVR) that was causing delays. In New South Wales (NSW), to comply with section 104J of the *Road Transport Act 2013*, an assessor (including an insurer) must provide Transport NSW the details of a heavy vehicle deemed a total loss, and this notification must be completed within 7 days after the assessment and before the vehicle is sold or otherwise disposed of.

During AFCA's engagement on the issue, the insurer's sample review confirmed several claims were either not reported to WOHVR and/or not reported within the required timeframe. The root cause of the issue was due to gaps in its staff's adherence to the required procedure to lodge WOHVR notifications.

To resolve the issue, the insurer implemented changes to its process, provided training to the claims and assessment staff and completed targeted reviews. Further, the insurer conducted a remediation program to complete the necessary actions on the impacted claims and engaged directly with Transport NSW to enhance communication between the entities.

Take note

One-off human errors can indicate that a firm does not have clear or robust processes in place. Analysis of claims and/or complaints data can be a useful way to test whether what appears to be a one-off error is an isolated incident or a larger issue.

Any questions?

AFCA is available to help answer questions and discuss our approach to systemic issues. For more information on systemic issues or for any questions, you can contact us at systemicissues@afca.org.au