

# Proposed Rule change – naming Financial Firms in Determinations

AFCA proposes to amend Rule A.14.5 to allow AFCA to name financial firms in published determinations.

This change will apply to all determinations issued after the changes take effect, whether the complaint was received before, on or after that date.

The proposed amendment is to Rule A.14.5 but the whole of Rule A.14 (including the proposed amendment) has been set out below, to give the context to the amendment.

## A.14 Decision making approach

- A.14.1 When determining a Superannuation Complaint, the AFCA Decision Maker:
- a) may refer a question of law to the Federal Court in accordance with section 1054C of the Corporations Act; and
  - b) must apply the approach specified in section 1055 of the Corporations Act.
- A.14.2 When determining any other complaint, the AFCA Decision Maker must do what the AFCA Decision Maker considers is fair in all the circumstances having regard to:
- a) legal principles,
  - b) applicable industry codes or guidance,
  - c) good industry practice and
  - d) previous relevant Determinations of AFCA or Predecessor Schemes.
- A.14.3 An AFCA Decision Maker is not bound by rules of evidence or previous AFCA or Predecessor Scheme decisions.
- A.14.4 A Determination must be in writing with reasons. Any remedy must be within AFCA's jurisdiction as set out in Section D.
- A.14.5 AFCA will publish its Determinations in a form which identifies the financial firm or firms but does not identify the other parties to the complaint. A Determination will not be published if to do so would risk identifying any party other than the financial firm or firms, or if there are other compelling reasons not to publish it.