



29 June 2018

Mike D'Argaville  
Australian Financial Complaints Authority  
GPO Box 3  
Melbourne VIC 3001

Via: [submissions@afc.org.au](mailto:submissions@afc.org.au)

**Re. *Consultation on Proposed AFCA Rules***

Dear Mike,

We welcome the opportunity to comment on the Consultation on Proposed AFCA Rules.

The FPA congratulates AFCA and the AFCA transition team on the development of the AFCA rules and the consultation process which has generally been undertaken through this transition. Communication has been both regular, open and at all stages transparent, and it is a testament to all those involved that tight time frames and complex decisions have not gotten in the way of communication - leading to excellent outcomes.

Specifically in relation to the AFCA rules, we would also like to congratulate AFCA on the general use of plain english, simple structure and the ability to clearly set out the process and expectations for both consumers and FSPs. This strikes a good-balance that enables the AFCA rules to be both understandable and functional.

We offer the following three specific comments in relation to the proposed rules.

1. Section A.16 deals with the Independent Assessor role, which forms an important check on the functioning of the AFCA disciplinary process and can be an invaluable source of guidance and feedback on how to enhance the AFCA experience for consumers and FSPs. While we agree that recommendations made by the Independent Assessor need to be considered in the broader context of AFCA's business, rules and processes, we don't feel the language used in A.16.5 assists in demonstrating that AFCA is serious about the importance of the Independent Assessor's function, role or recommendations. The FPA recommends AFCA reconsider the wording of A.16.5, and consider an "if not, why not" approach to responding to the Independent Assessor's recommendations. We acknowledge that in FPA discussions with AFCA on this rule that both Australian and international experience is that all recommendations are actioned, we would again question the value of this statement.
2. The FPA acknowledges that the rules may not be the right place for AFCA to state service standards for handling disputes given the process required to make amendments to the rules versus procedures, however the FPA recommends that the AFCA rules note that AFCA do have service standards they try to adhere to which can be found in another document. For consumers

and FSPs who aren't aware of what these are, ensuring it is easy to locate through the rules would be useful.

3. In regards to Rule A.17.5 and A.18.1, we note that all AFSL's who provide financial advice services are required to be registered with the Tax Practitioners Board as either a Tax Agent or Tax (Financial) Adviser, and will generally have obligations around ML/TF programs with AUSTRAC. We question whether AFCA may also be required to report systemic issues to the TPB and AUSTRAC as well as the other regulators mentioned. Further, A.18.1 does not include the same list of regulators as named at A.17.5.

In terms of the specific questions raised by AFCA in the consultation process, we broadly support AFCA's drafting of the rules and support the use of language, layout, quick guide, and use of tables AFCA has proposed. We do not offer any comments on superannuation complaints rules.

If you have any queries or comments, please do not hesitate to contact me at [policy@fpa.com.au](mailto:policy@fpa.com.au) or on 02 9220 4500.

Yours sincerely

**Ben Marshan CFP® LRS®**  
*Head of Policy and Government Relations*  
Financial Planning Association of Australia<sup>1</sup>

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<sup>1</sup> The Financial Planning Association (FPA) has more than 14,000 members and affiliates of whom 11,000 are practising financial planners and 5,700 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and superannuation for our members – years ahead of FOFA.
- We have an independent conduct review panel, chaired by Graham McDonald, dealing with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 26 member countries and the 175,000 CFP practitioners that make up the FPSB globally.
- We have built a curriculum with 18 Australian Universities for degrees in financial planning. Since 1st July 2013 all new members of the FPA have been required to hold, or be working towards, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners Board.