

Guide to Systemic Issues



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Purpose of this guide

This guide provides information about AFCA and our Systemic Issues function. It explains our role, how we identify systemic issues and how the early identification and management of systemic issues ensures positive outcomes for consumers, small businesses and industry.

What is AFCA responsible for?

AFCA is the independent external dispute resolution (EDR) scheme for the financial services sector. We provide fair, independent, and effective solutions for financial disputes. We do this by providing fair dispute resolution services to consumers and small businesses who have a complaint with their financial firm.

AFCA's role in addressing systemic issues

The focus of AFCA's involvement in systemic issues is to identify, report, investigate and resolve systemic issues ensuring the issue won't reoccur, and that consumers are compensated when necessary. Our objective is to reduce consumer complaints.

AFCA plays a critical role in the broader consumer protection framework by identifying and reporting systemic issues to regulators and working with financial firms to resolve them.

Systemic issue identification and management by external dispute resolution (EDR) schemes in Australia is a long-established practice, with complaints being a key risk indicator for systemic issues in a financial firm. The early identification and resolution of systemic issues can reduce consumer complaints and helps to minimise consumer harm.

AFCA's role is set out in the Australian Securities and Investments Commission (ASIC) *Regulatory Guide 267* (RG 267).

Helping consumers, small businesses and financial firms

Our work in systemic issues benefits consumers and small businesses who may not be aware they have been impacted by an issue or lodged a complaint. When we work on a systemic issue matter with a financial firm, our objective is to ensure the issue is rectified and consumers or small businesses are compensated where necessary.

Our work supports financial firms to address systemic issues early, and our role sits alongside a financial firm's own obligations to manage systemic issues identified through consumer complaints arising from *ASIC Regulatory Guide 271* (RG 271). The information we provide about potential systemic issues can assist financial firms to

identify them, if the issue has not already been identified by the financial firm through its own systems and processes.

We also proactively share data, insights and case studies with financial firms with the aim of improving industry practices.

How we work with regulators

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.

Regulators we report to include ASIC, the Australian Prudential Regulation Authority (APRA), the Office of the Australian Information Commissioner (OAIC) and the Australian Taxation Office (ATO).

How we work with ASIC

AFCA and ASIC have distinct but complementary roles. Where there is action being taken by both ASIC and AFCA regarding a systemic issue, ASIC and AFCA have different focus areas and reasons for engaging with the firm. Regulators such as ASIC focus on regulatory and enforcement action when they are involved in systemic issues. They have regulatory tools available to them such as law enforcement and making restrictions on licensed activity.

AFCA is not a regulator. AFCA's focus is on remediation and resolution of the systemic issue that is causing consumer complaints, guiding process improvements to help avoid recurrence and ensuring consumers are compensated for harm. After reporting a matter to ASIC, AFCA continues to work with the financial firm to ensure a systemic issue is resolved and consumer harm is addressed. However, if ASIC is directly taking action on the same systemic issue and seeking the same outcome, e.g. remedial action for consumers, we will discontinue our investigation.

Under the AFCA Rules we can share information with regulators, if required, at any stage of our process. We update regulators on the outcome of an issue when we finalise our investigation.

There are a number of information-sharing mechanisms that assist ASIC and AFCA to share insights about current issues and systemic issue activity. These help to reduce overlap and ensure that AFCA and ASIC have appropriate processes in place to enable a coordinated approach.

Systemic issues in summary

Systemic issues are issues within a financial firm that impact more than one consumer or small business.

- We identify, refer and report systemic issues that arise from the complaints we see, to regulators. After we make our report to regulators, we continue to work with financial firms to resolve the issue.
- Our role sits alongside a financial firm's own obligation to manage systemic issues under RG 271.
- The information we provide about potential systemic issues can help financial firms to identify and resolve them quickly.
- Consumer complaints can be a key risk indicator for systemic issues in a financial firm. For example, multiple complaints lodged by different consumers or small businesses about the same issue can indicate that there is a systemic issue.
- Analysing the root cause of systemic issues helps financial firms to detect other failures and prevent similar issues from occurring, as well as assisting with continuous improvement.

The early identification and resolution of systemic issues ensures consumer harm is minimised, improves industry practice, and can reduce consumer complaints.

Systemic issues in detail

What is a systemic issue?

A systemic issue is one that is likely to have an effect on consumers or small businesses in addition to any complainant. You can read a full definition in the [AFCA Rules](#).

Consumer complaints can point to potential systemic issues

Consumer complaints are a source of information for financial firms when considering improvements to products and services. Complaints are also an important indicator that a financial firm may not be getting things right and the issues raised may be systemic in nature.

Common indicators of systemic issues





- A financial firm receives multiple complaints about the same issue.
- There is a sudden increase in complaints about the same issue.
- There are multiple complaints referred to AFCA about the same issue.
- AFCA provides a view or decision that the financial firm has breached a duty or obligation owed to a consumer or small business and the breach may have impacted a broader group.
- The complaint is about the failure of a system within the financial firm (e.g. an outage).
- The complaint is about the interpretation or application of an agreement between the financial firm and the consumer or small business (e.g. the loan or credit contract, insurance policy, or other terms and conditions) and the interpretation may have impacted a broader group of consumers or small businesses.
- The complaint is about a financial firm's conduct and whether it breaches a law or obligation owed to the consumer, the financial firm's own policies and procedures and/or an agreed service standard and the conduct may have impacted a broader group of consumers or small businesses.
- Financial firms should consider whether multiple complaints or a single complaint raised by a consumer indicate a possible systemic issue.

What causes systemic issues?

A key aspect of investigating whether a systemic issue exists is determining how the breakdown, error or breach occurred. Understanding the cause is key to rectifying issues and preventing their recurrence. Clarifying the cause may also assist in identifying other impacts arising from the same issue and help to improve a financial firm's overall operations.



Common causes of systemic issues

Category	Underlying cause
 People	<ul style="list-style-type: none">• Inadequate resourcing• Poor training• Lack of appropriate guidance and support• Inadequate compliance and monitoring
 Communications	<ul style="list-style-type: none">• Failure to meet disclosure obligations• Unclear and/or misleading wording• Delayed correspondence or failure to send required correspondence• Templates with incorrect or out of date information
 Policies and Procedures	<ul style="list-style-type: none">• Lack of processes• Reliance on manual processes or use of manual 'workarounds'• Policies and procedures that are not compliant with obligations• Out of date documentation• Failure to adequately monitor compliance with policies and procedures
 Systems	<ul style="list-style-type: none">• System malfunctions• Systems that are not fit for purpose or are out of date• Failure to adequately test the implementation of new systems• Inadequate security for online platforms, products and systems

Systemic issue examples

Here are some examples of systemic issues we have identified from complaints:

- Inadequate disclosure about high-risk investment products.
- A Product Disclosure Statement (PDS) for a life insurance product that included contradictory terms about how premiums would be increased.
- Inadequate credit assessment processes that led to the approval of unsuitable loans.
- A system error that caused the incorrect calculation of interest.
- Internal Dispute Resolution (IDR) policies and processes that were poor or inadequate.
- Incorrect information on a superannuation statement that indicated the owner had insurance cover when they did not.
- Inadequate resources to meet agreed service standards and statutory obligations.
- A system error that meant incorrect information was recorded on a consumer credit file.

Read more of our case studies in AFCA's [Systemic Issues Insights reports](#).

Regulatory guidance for financial firms

ASIC has provided guidance to financial firms about the management of systemic issues and how to remedy issues where they have occurred.

Part D of RG 271 sets out guidance to financial firms about systemic issue management, including enforceable provisions. *Regulatory Guide 277 Consumer Remediation* sets out guidance to financial firms about remediating consumers or small businesses impacted by a systemic issue.

Other resources

Insights and case studies

We publish key insights in systemic issues, using case studies and examples, with the aim of supporting better outcomes for both consumers, small businesses and industry. Read our [insights and case studies](#).

Want more information?

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