Member Response Guide

Systemic issues

This document outlines how financial firms can prepare quality responses for cases about potential systemic issues and is a **guide only**.

# First response and early engagement

## Why your first response and early engagement with AFCA is important

Your first response to a systemic issues investigation is a critical step in the process.

When we first contact you about a potential systemic issue, we haven’t yet formed a view about whether the issue is systemic or not. Early engagement with AFCA provides a valuable opportunity for you to take proactive steps to investigate an issue and consider whether it has impacted (or has the potential to impact) other consumers or small businesses beyond the complainant in the AFCA complaint.

## Requests for information

When we refer a matter to you, we will request information that helps us to decide whether an issue is systemic. You should provide additional comment and supporting information in your response if you want AFCA to take it into consideration (even if AFCA hasn’t requested it).

Generally, if an initial response doesn’t appropriately cover all the issues raised, we will seek further information. AFCA still expects a response to any subsequent requests for information.

# Reports to regulators

Let us know whether you have reported the same issue that we have raised with you to regulators such as:

* the Australian Securities and Investments Commission (ASIC)
* the Australian Prudential Regulation Authority (APRA)
* the Office of the Australian Information Commissioner (OAIC), and/or
* the Australian Taxation Office (ATO).

If you have already reported the issue to a regulator, and you are working with the regulator to remedy the issue, it is our process to discontinue our involvement in the matter. Let us know early on if this is the case. Provide copies of any reports made to the regulators.

# Providing a comprehensive response

Include the sections outlined below to ensure you provide a comprehensive response to a systemic issue investigation.

## Summary of complaint

Summarise what happened in the cited AFCA complaint and the circumstances surrounding the potential systemic issue. Include any necessary background information.

If you have already taken steps to consider whether the issue raised in the AFCA complaint is a systemic issue, include these details.

If the issue relates to a known systemic issue that you have already identified through your systemic issues processes, include these details and provide any report made to a regulator about the issue.

## Your firm’s position

Outline your position in relation to the potential systemic issue. Where there is more than one potential systemic issue, please separately outline your position for each.

Briefly state whether you view the issue as systemic or not and set out the reasons for your position, noting what information you have considered to reach this view.

## Financial firm review

When AFCA contacts you about a potential systemic issue, we generally ask you to conduct an internal review to consider:

* whether you have received other similar complaints about the issue
* the number of similar complaints and whether the underlying cause of the issue was the same in these complaints, and
* the outcome of those complaints or what you did to resolve them.

In your response to AFCA, outline the scope of your review, for example:

* we reviewed our complaints data between [date range]
* we looked at other claims lodged in a similar period [date range], and
* we reviewed our complaints data and found [number of relevant complaints].

Then, depending on the outcome of your review, set out your findings. For example: “We do not consider the issue to be a systemic issue because we reviewed [number of] complaints in [date range] and found no other consumers impacted by this issue.”

Provide a thorough explanation as to why you have formed the view that the issue is (or is not) a systemic issue. Refer to any documentation or process used to support your position.

## Proposals to resolve systemic issues

Where you have conducted your internal review and found the issue to be systemic, you should set out the actions you are proposing to take, or have taken already, to resolve the systemic issue.

If your view is that the issue is not systemic, but a positive result came from your review, please describe this, and provide details. For example:

* you introduced a process, system, or control enhancement …
* based on feedback, you have elected to …
* you have identified areas of improvement in … and have implemented … to mitigate future complaints.

## Supporting information

To support your position and reasoning, you may wish to provide the following documentation, in addition to any other information specifically requested by AFCA:

* Policy, procedure or system documents
* Compliance/audit or training manuals
* The Financial Services Guide (FSG), terms and conditions, Product Disclosure Statement (PDS), Trust Deed or insurance policy
* Data or system information (e.g. complaints or claims data)
* Reports made to a regulator on the issue
* Other relevant correspondence.

### Any questions?

For any questions or more information about member responses or systemic issues in general, visit [afca.org.au/systemicissueshttps://www.afca.org.au/about-afca/systemic-issues](https://www.afca.org.au/about-afca/systemic-issues) or contact us at systemicissues@afca.org.au