



19 June 2019

Mr Michael D'Argaville
Legal Counsel
Australian Financial Complaints Authority
GPO Box 3
Melbourne VIC 3001

Email: submissions@afca.org.au

Dear Mr D'Argaville,

Re: Consultation – AFCA Rules Change Consultation

In brief:

AIST strongly agrees that financial firms should be identified within AFCA determinations. AIST would appreciate an industry roundtable to discuss how outsourced providers might be named in determinations (a key example is group life insurers) and how publication of the firm's name in the determination would be handled where inclusion of the financial firm's name might assist the public identify the complainant.

AIST would like to thank AFCA for the opportunity to make this submission. We also appreciate the release of the consultation paper – *AFCA Rules Change Consultation 31 May 2019* (the Consultation Paper). The proposal is to identify financial firms within AFCA determinations issued after the changes come into effect.

AIST strongly supports the publication of AFCA determinations. As a general comment, AIST supports the identification of financial firms within these determinations. Our submission¹ to AFCA about comparative reporting (Comparative Reporting Submission) included:

- The key objectives at system level are the public comparative report needs to be open, transparent, accountable, accessible, efficient, fair and effective.
- Consumers need to know that their complaints are properly dealt with.
- Consumers need to be able to gauge whether complaints across the industry are reducing.

¹ AIST (2019) Consultation – Proposed AFCA arrangements for comparative reporting of complaint data [online] AIST. Available at <https://tinyurl.com/y2nb3x6s> [Accessed 11 June 2019].

Consumers need to know which financial organisations have been complained about, the ‘intensity’ of complaints against organisations be they large or small, complaints that go to determination and whether they are upheld in favour of the complainant, and what the complaints are about. Statistical information is also needed outlining complaints and disputes against each scheme member including complaints that go to determination and whether they were upheld in favour of the complainant. This information should be published on AFCA’s website in a snapshot format for each member financial firm. Our Comparative Reporting Submission examines these and other matters.

We now turn to the questions raised in the Consultation Paper.

1. Does the proposed change satisfy AFCA’s transparency requirements?

AIST supports the proposal in the Consultation Paper that the name of the financial firm (s) would be published in AFCA determinations going forward. As we have previously stated, it is important that consumers are aware which financial organisations have been complained about.

We also support the non-publication of the names of other parties. It is particularly important that the name of the complainant is not published.

AIST appreciates that the AFCA Rules confine ‘financial firms’ to those which are AFCA members. Accordingly, the Consultation Paper -if implemented -would mean that individual people engaged within the financial firm would not be named. AIST supports this.

2. Do the Operational Guidelines adequately explain how the Rules as amended will apply?

AIST strongly recommends that further clarification is needed regarding:

(a) Outsourced providers

How to manage the publication of determinations where the complaints have either solely or predominately been caused by outsourced providers, including when the outsourced providers are or are not AFCA members. AIST has also raised the need to include data relating to outsourced providers within AFCA’s comparative reporting: we refer to our Comparative Reporting Submission. In raising this, AIST accepts that superannuation trustees are ultimately responsible.

A primary example is that of group life insurers which are contracted by superannuation funds to undertake claims management. AIST strongly recommends that in order to be completely transparent, the name of the insurance company should also be included in the determination.

For example, decisions of a prior insurer can be more problematic owing to claims being notified late and being more challenging to assess. This case raises the need to include

the name of the past insurer for not to do so may impact both the fund as well as the fund's current insurer.

(b) *Commercially sensitive*

That publication of the firm's name in the determination where the case included commercially sensitive information should be handled strictly on a case by case basis. AIST believes that these matters can only meaningfully be handed on a case by case basis.

(c) *Publishing firm name might help identify complainant*

How publication of the firm's name in the determination would be handled where inclusion of that name might assist the public identify the complainant.

(d) *Appeals*

Where a Determination has been made and there is an appeal, AIST supports the Determination being published prior to awaiting the appeal outcome. Whether or not the Determination should include that it is subject to an appeal could be a topic for an industry roundtable.

AIST would be very pleased to participate in any industry roundtable to discuss these matters.

3. Any other comments

(a) *Search functionality of determinations should be reviewed*

A key objective at system level is that AFCA data should be accessible. If the name of the financial firm(s) is to be included in determinations, then the AFCA complaints search tool should enable both a search at firm name and trading name as well as at aggregation at conglomerate level.

In our Comparative Reporting Submission, we recommended that the public reporting of data needs to identify conglomerates and related party structures within the volume of complaints reporting. This concept should also apply to search functionality of determinations. This is important to ensure that consumers can access which entities (at firm or conglomerate level) have had AFCA determinations made regarding them.

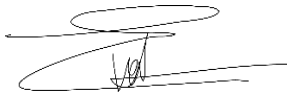
(b) *Industry roundtable needed*

AIST has been very pleased to make submissions regarding both this and the Comparative Reporting consultations. AIST strongly agrees with the proposals.

Given the focus on AFCA steps to help achieve greater transparency and accountability, AIST recommends that an industry roundtable be held to discuss the cumulative effect of these proposals. We would be happy to participate at such a roundtable.

For further information regarding our submission, please contact Karen Volpato, Senior Policy Advisor on [REDACTED].

Yours sincerely,



Eva Scheerlinck
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$1.3 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.