

20 June 2019

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

Email: submissions@afca.org.au

Submission on AFCA Rules Change Consultation

Dear Mr D'Argaville

Industry Super Australia (ISA) undertakes policy research and advocacy on behalf of over five million members of industry superannuation funds, to ensure that the policy settings for superannuation are consistent with the objective of maximising their retirement incomes.

ISA welcomes the opportunity to make this submission to AFCA.

ISA's position

ISA supports the proposed draft changes to Rule A.14.5 that will enable AFCA to identify financial firms in published determinations. However, ISA considers that for the disclosure to be meaningful, the following additional information should be displayed:

1. Whether AFCA found in favour of or against the financial firm and if the determination was appealed, whether the appeal was upheld.
2. Statistical information about 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.

ISA also considers that there are some operational issues which should be addressed such as identifying the operating name for the financial firm and timely publication of determinations.

We elaborate on these points below.

Consultation questions

Question 1: Does the proposed change satisfy AFCA's transparency requirements?

ISA understands that AFCA's reason for publishing determinations is to provide users of the AFCA scheme with an understanding of how similar fact scenarios may be viewed (AFCA Operational Guidelines). ISA supports the proposed change and agrees that including the name of the financial firm will increase transparency and accountability of AFCA's operations and decision making.

However, we consider that the publication of determinations could be enhanced to improve transparency. In particular, it is important to ensure that people who are interested in the determinations understand in whose favour the determination is made without reading the whole determination, which can often be long and complex.

While we expect that interest in full determinations is likely to come from industry, professional advisers and academics the information will also be relevant to consumers seeking to understand which financial firms have determinations against them. When coupled with the statistical information about complaints which AFCA collects and reports on, consumers and others will be able to access meaningful information about which financial firms are receiving complaints, their prevalence, how often the decision against the financial firm is upheld, areas of complaint and potentially also willingness of firms to reach a negotiated outcome.

Therefore, we suggest that:

- The landing page for the determination include a note to indicate in whose favour the determination is made and the outcome of any appeal against the determination. We note that the Financial Ombudsman Service (UK) site contains a box which indicates whether the decision was 'upheld' or 'not upheld'.
- AFCA publish up to date statistical information about 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.

Question 2: *Do the Operational Guidelines adequately explain how the Rules as amended will apply?*

ISA considers that the operational guidelines do not need further explanation

Question 3: *Any other comments*

ISA considers that the objective of publishing determinations would be further enhanced if AFCA adopted the following processes around identifying the operating name for the financial firm and timely publication of determinations.

Often a financial firm will operate under a business name which is publicly recognisable but different from the legal entity which is named in the complaint. For example, a complaint against Fund XYZ may be made against ABC Super Pty Ltd as trustee for the XYZ superannuation fund. We suggest that the search function for determinations and the landing page for those determinations give the business name of the fund in addition to the legal entity.

Publication of determinations should be timely so that the information is made available to users without delay (e.g. within 14 days of the determination).

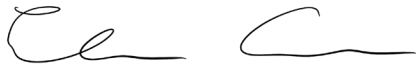
Finally, while we appreciate that this consultation is not directed at collection and recording of statistical information about complaints, as noted above, publication of determinations which identify financial firms when coupled with other statistical information will provide meaningful information to the public.

To improve the usefulness of this information, ISA considers that:

- It would be helpful if AFCA could further explain how it will classify and report complaints that relate to more than one product or service. While operational guidelines A.19 and A.20, identify the issues, they do not provide clarity on how they will be resolved.
- Reporting of complaints data should contain measures to reflect the relative size of each financial firm with reference to the number of customers or members. This is important context which will not be apparent from raw complaint numbers as larger financial firms may be over represented because they have more customers or members.

If you wish to discuss this submission, please contact Ella Cebon at [REDACTED]

Kind regards

A handwritten signature in black ink, appearing to read 'Ella Cebon', with a long horizontal flourish extending to the right.

Ella Cebon
Senior Policy Adviser