

Submission by Price Financial Intelligence Pty Ltd

On Proposed Changes to the Rules that govern

AFCA's work in helping consumers to resolve complaints.

Change 1

Excluding complaints lodged by professional or sophisticated investors unless exceptions apply:

There should be a standard form which is signed by the professional or sophisticated investor, declaring their status.

By signing this declaration, they are declaring that all rights to be treated as a retail investor will cease.

They also acknowledge that this decision effectively removes their right to resolve any dispute using AFCA or to make a claim through AFCA.

Change 2

Enabling AFCA to exercise discretion not to consider a complaint from a “paid representative” (acting for a complainant) if they do not have an ACL/AFSL, where required or are not acting in the complainant’s best interests, and excluding them for up to 12 months, where appropriate:

We have no issue with this change.

Change 3

Excluding a complaint, if the nature and subject matter are substantively the same as a previous complaint that has been discontinued:

We have no issue with this change.

Change 4

Excluding a complainant who has submitted one or complaints that AFCA has decided to close or not consider:

We have no issue with this change.

Change 5

Discontinuing complaints because of threatening, intimidating, abusive, bullying, discriminatory, or otherwise unreasonable conduct:

We have no issue with this change.

Change 6

Ensuring only unresolved issues in dispute are progressed and that matters do not progress to case management or decision status, where appropriate offers of settlement have already been made:

We have no issue with this change.

Change 7

Enabling AFCA to decide that it is not appropriate to continue to consider a complaint if the complainant has suffered no loss:

This is an important improvement and AFCA must NOT attempt to create a loss where no loss has occurred. AFCA in the past has created losses suffered by complainants using hindsight and said action breaches every standard of the AFCA Act of 2018.

Change 8

Enabling determinations to be corrected and reissued if there is a clerical mistake or error:

This is very Important:

Must also include situations where AFCA staff have deliberately ignored legal obligations imposed by the AFCA Act of 2018 and:

Where decisions have been made in breach of the evidence before the ombudsman especially those based on an assumption.

We believe that every determination made by AFCA should subject to an appeal on one ground only; failure to comply with AFCA Act and that appeal should be handled by an ASIC solicitor.

Ground for Appeal limited to a breach of the AFCA Act of 2018 by the AFCA employee.

If the appeal is successful, then the matter is handed back to AFCA for a new ombudsman to be appointed to resolve the matter within the scope of the AFCA Act of 2018.

Change 8

Minor changes to definitions and language to update certain areas of the rules arising from legislative change, to give greater clarity and transparency of the scheme's operation overall.

We have no issue with this change.

Summary

The aim is to ensure AFCA continues to deliver fair, independent, efficient, and effective solutions for financial disputes:

The AFCA Act of 2018 provides an excellent road map to guide AFCA in providing procedural fairness, independence, and objectivity in delivering mediation services.

Unfortunately, the CULTURE within AFCA is to ignore the AFCA Act and disregard its requirements entirely.

Senior management within AFCA openly support the AFCA staff who fail time & time again to obey it legal obligations.

This undermines TRUST and ultimately this will undermine AFCA itself.

AFCA must choose to be either an advocate for claimants or a mediator.

They cannot be both.

Submission made by:

William Mills
Price Financial Intelligence Pty Ltd
Unit 11, 1 – 3 Central Avenue,
Thornleigh NSW 2120

Phone (02) 9875 2444

Mobile [REDACTED]

Email [REDACTED]

