

10 June 2025

Michelle Kumarich
Executive General Manager, Jurisdiction
Australian Financial Complaints Authority
GPO Box 3
Melbourne VIC 3001

By email: consultation@afca.org.au

Dear Ms Kumarich

AFCA 2025 Rules Consultation – Proposed Amendments

The Insurance Council of Australia (Insurance Council) welcomes the opportunity to respond to the Australian Financial Complaints Authority's ('AFCA') 2025 Rules¹ Consultation – Proposed Amendments – Consultation Paper ('the Consultation').²

The Insurance Council is the representative body of the general insurance industry in Australia and represents approximately 85 per cent of private sector general insurers. As a foundational component of the Australian economy, the general insurance industry employs approximately 60,000 people and on average pays out \$147 million in claims each working day (\$36.5 billion per year).

We note the Consultation outlines four proposals relating to scams, Paid Representatives, Financial Firm failures to comply with an AFCA determination and legacy complaints. Our submission focuses on the proposals with respect to Paid Representatives and Financial Firm failure to comply with an AFCA determination.

Paid Representatives

We recognise the importance of consumers being afforded adequate protections as they navigate the claims process and the use of services from third parties, such as Paid Representatives.

AFCA will note that Paid Representatives that do not meet the relevant deadlines or use appropriate communication channels can lead to significant work for Financial Firms and cause delays which risk causing detriment to consumers.

It is crucial to ensure that licencing obligations are adhered to and we strongly support AFCA's proposal to cease handling complaints if the Paid Representative is not a member of AFCA, when their licence requires this. As such, the Insurance Council supports the amendments proposed by AFCA with respect to the engagement of Paid Representatives.

We note the potential for consumers to face contractual penalties if AFCA determines that a Paid Representative is not representing their best interests. We encourage AFCA to consider how they can

¹ AFCA Complaint Resolution Scheme Rules, 1 July 2024, [AFCA's Rules | Australian Financial Complaints Authority \(AFCA\)](#).

² 2025 Rules Consultation - Proposed amendments – Consultation Paper – May-June 2025: [2025 Rules Consultation – Proposed amendments - Consultation Paper | Australian Financial Complaints Authority \(AFCA\)](#).

support consumers in these circumstances, such as by intervening or providing guidance to avoid such penalties.

The Insurance Council suggests, with respect to:

- Rule A.8.4.(a), AFCA consider publishing details of these Paid Representatives to help consumers avoid entering into potentially problematic agreements in the future that may cause them detriment; and
- Rule A.8.4.(b), AFCA consider highlighting the importance of good intent and fairness, and the impact of poor behaviour on AFCA's decision making with respect to handling the complaint, ceasing dealing with or banning the Paid Representative.

Financial Firm Failure to Comply with a Determination

The Insurance Council supports the objectives of enhanced transparency and accountability. We recognise the importance of improving practices across Financial Firms to ensure uplift across multiple industries and the important role AFCA plays enabling this.

With respect to the proposal to publish or publicly name a Financial Firm that has not complied with a Determination, we assume this list and publication will be based on Financial Firms that receive 'failure to comply' or 'failure to give effect' notices from AFCA. We welcome further clarity from AFCA on the proposed value such publication will provide to the public and what form, as well as frequency, the publication will take. For example, if AFCA intends for this information to be published within its Data Cube and if this will be published on a half yearly basis.

We encourage AFCA to include appropriate contextualisation for consumers as it publishes this information. We believe that contextualisation will be crucial to recognise the various circumstances that can lead to Financial Firms failing to comply with a determination. For example, Financial Firms may endeavour to ensure compliance with a Determination but, for legitimate reasons beyond their control, have been unable to, such as where the:

- Financial Firm is reliant on a third party, such as a contractor (for example, approval of council permits), in order to meet the Determination requirements and is therefore unable to comply with the determination in the prescribed timeframe; or
- Determination requires engagement with the customer or for the customer to conduct certain activities, the timing of which is out with the control of the Financial Firm and which may result in a new complaint or even preclude payment entirely (e.g. a customer might not allow an assessment of the damage claimed or, in the case of a personal accident claim, the customer might refuse to lodge a workers' compensation claim prior to receiving any benefits).

It is important that both consumers and Financial Firms are able to use the proposed publication to make meaningful conclusions. The information presented in the publication should be done in a way which users can interpret appropriately, to avoid any risk of misinterpretation by users, such as consumers and media.

The Insurance Council encourages AFCA to consider:

- Delineating between instances where a Financial Firm has refused to comply with a Determination and instances where a Financial Firm has sought to address the Determination but, for legitimate reasons, has been unable to comply, such as if there have been unforeseen delays. We note that if a Financial Firm refuses to comply and goes against the overarching intention of a Determination, the membership of that Firm should be considered by AFCA.

- Presenting the information as ratios alongside specific numbers to help contextualise against the number of complaints a particular Financial Firm receives based on its size. For example, smaller and specialised Financial Firms would have a high ratio but smaller overall complaints volume and large Financial Firms would have high complaints volumes but smaller potential ratios; and
- Developing a framework that identifies the extent of any consumer harm caused by the failure to comply in the reporting. This would help delineate, for example, between inconveniences caused to consumers, versus significant detriment and harm.

The Insurance Council would welcome an opportunity to review and respond to the proposed reporting of Financial Firm failure to comply with a Determination before publication. We believe that industry engagement early in the process will enable further context to be provided as to the reasons for any failure to comply, and could lead to further potential solutions for the customer. The opportunity for this engagement before the publication of the data is particularly important given a Financial Firm has no right of appeal on Determination outcomes.

We recommend engagement by AFCA with individual Financial Firms before notices such as failures to give effect are issued to Financial Firms, in order to help resolve any issues upfront in the process and enhance the consumer experience.

We appreciate the opportunity to respond to the consultation. If you have any questions, please contact myself or Yasmin Monfared, Senior Adviser, Regulatory and Consumer Policy, at ymonfared@insurancecouncil.com.au.

Yours sincerely,



Alexandra Hordern
General Manager, Regulatory and Consumer Policy