

AFCA Rules Change Consultation

Summary of consultation questions

1. Does the proposed change satisfy AFCA's transparency requirements?
2. Do the Operational Guidelines adequately explain how the Rules as amended will apply?
3. Do you have any other comments about the proposed change?

1. AFCA's transparency requirements are outlined in the Operational Guidelines at A.2.1(f) be as transparent as possible while also acting in accordance with its confidentiality, privacy and secrecy obligations; and is further explained;

"Accountability requires us to operate as transparently as possible, while maintaining confidentiality for parties to a complaint. Accordingly, we publish our determinations on our website on an anonymised basis. We also report publicly about our performance every year. We must report more frequently to ASIC."

We believe that naming Financial Institutions in all determinations will defeat the objective of transparency. The operational guidelines aim to ensure transparency in the process and transparency with the scheme not transparency into every transaction or determination. Transparency occurs when meaningful information is imparted. The sheer volume and minor nature of many determinations will mean that important messages are lost in the 'noise'. The fact that aggregators will be unfairly named is the opposite to transparency. Aggregators are most often separate to transactions and operate primarily as a conduit to facilitate lender accreditation, administration, and compliance monitoring. The fact that consumers are not named in the determination (even vexatious consumers who make many frivolous complaints) also fails the transparency test. The transparency

2. The operational Guidelines do explain the proposed change but again we contest the conjecture that the rule change meets the transparency requirements and in anyway acts in the interest of the consumer.
3. Post the implantation of AFCA, post the Royal Commission into Misconduct in Banking, Superannuation and Financial Services Industry, we are all fully aware of the need for behavioral and cultural change. The proposed change does not serve the purpose of change it simply further illustrates issues of the past particularly considering the Legacy complaints regime. In order to restore confidence in the industry transparency is required but naming and shaming simply operates as a self-serving mechanism for AFCA to display the admonishment of the industry.

Finsure Finance and Insurance