



13 June 2025

By email: consultation@afca.org.au

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

Dear Ms Kumarich

AFCA Rules – Proposed amendments Consultation Paper

The Stockbrokers and Investment Advisers Association (SIAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and Advisory firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

The history of the stockbroking profession in Australia can be found [here](#).

Our members are a small but important group of AFCA members. They represent the full range of providers from online providers providing execution-only services to full-service stockbroking and investment advisers.

SIAA welcomes the opportunity to provide feedback on the Consultation Paper on the proposed changes to AFCA rules (Consultation Paper). Our comments are limited to Proposals one and three.

Proposal 1: Scams

Question 1 – Do you think that the proposed Rules amendments appropriately address the requirements of the Authorisation?

Question 2 – Do you think that there are any unintended consequences of the proposed Rules amendments?

Question 3 – What should AFCA take into account in implementing these proposed Rules amendments?

It is timely that AFCA is undertaking a rules consultation on its new scams jurisdiction.

Scams and frauds in Australia are undertaken by highly sophisticated cybercrime syndicates that operate highly complex international businesses. They operate within a complex web of criminal

enterprises, utilize AI and have significant financial resources. The scale of fraud and scam activities undertaken by these international fraud syndicates within our region is enormous.

By way of example, a scam and fraud syndicate operates a scam compound in Myanmar that holds 60,000 slave labourers from countries such as the Philippines and Thailand who are required to meet scam KPIs. These slave labourers are tasered or beaten if they do not meet their scam targets.

These syndicates engage in identity 'takeovers' of unsuspecting victims to open accounts and facilities in the victims' names without their knowledge or consent. This fraud and scam threat to Australian consumers is continually evolving. AFCA needs to be aware of ways that scammers and fraudsters exploit AFCA's systems and processes.

One tactic used by scammers who have taken over a victim's account is to make a complaint to the financial firm as evidence of 'proof of life' so that the financial firm is deceived into thinking that the scammer is a real customer. Our members report that scammers and fraudsters also make complaints to AFCA as part of this deception. It is all too easy for a savvy scammer to threaten them with an AFCA claim for the simplest of dissatisfaction reasons. Under the current rules our members have no protection from say a \$500 compensation request where the customer threatens to go to AFCA – a step that triggers a \$1,000 cost to those larger firms who are unable to avail themselves of AFCA's five free complaints process.

Clearly this opportunity for manipulation of AFCA's processes by scammers and fraudsters is of concern to our member firms. We are interested to know the guardrails that AFCA will put in place to ensure that its processes are not being exploited by scammers and fraudsters in this way.

SIAA recommends that AFCA consider a solution for financial firms in this situation. Scams and frauds are a business. Once the fraudsters and scammers no longer receive a return, they will turn their attention to another channel.

One suggestion is for AFCA to introduce a verification process (at a lower fee of a few hundred dollars per complaint) where a firm suspects that the complainant is a scammer or fraudster. The complaint can be placed into a queue at AFCA for verification prior to progression. If the complainant is unable to be verified, the complaint can be closed. If verification is successfully completed the complaint can be sent back to Referral for a period of time during which the financial firm can make a commercial decision prior to proceeding to Case Management and accruing additional AFCA fees. This recommendation could introduce friction into AFCA's systems to avoid financial firms commercially settling with fraudsters and scammers and could be used by financial firms who suspected fraud.

We also consider that there is an important role for investor responsibility in the fight against scams and frauds. Without this, the incidence of scams and frauds will continue. AFCA needs to consider appropriate guardrails when investors or customers freely provide their passwords or PINs to scammers or engage with fraudsters despite being warned not to by their financial institutions. There cannot be a remediation for every fraud or scam that occurs.

We would be happy to engage with AFCA further on any measures it wants to introduce to address this risk of exploitation by scammers and fraudsters of its processes.

Proposal 3: Financial Firm failure to comply with an AFCA Determination

Question 5 - Do you think that this proposed Rules amendment is appropriate and will assist AFCA to provide a more effective and transparent dispute resolution process for consumers, small businesses, industry and other stakeholders?

Question 6 - Do you think that the proposed Rules amendment will assist to bring transparency and fairness to the financial services sector?

SIAA's members who provide personal advice and dealing services to retail clients are subject to the Compensation Scheme of Last Resort (CSLR) and are required to pay the CSLR levies.

The CSLR is currently the subject of a cost blow out that is significantly impacting firms subject to CSLR levies.

SIAA strongly supports AFCA publicly reporting firms who have failed to comply with an AFCA determination. The failure of a financial firm to comply with an AFCA determination is a lead indicator for CSLR claims as these firms are most likely to be those that are placed into administration. That means that any unpaid determinations are referred to the CSLR for payment and must be included in the levy calculation. It is vital for our members that there is full transparency of the status and amount of unpaid AFCA determinations as well as the identity of the financial firm in default. Essentially from our members' perspective, the more information that is made publicly available by AFCA concerning these unpaid determinations the better. **SIAA recommends** that AFCA provide real time reporting of this information as well as monthly updates and a progressive count by firm.

Conclusion

If you require additional information or wish to discuss this matter in greater detail, please do not hesitate to contact SIAA's policy manager, Michelle Huckel, whose contact details are in the covering email.

Yours sincerely

A handwritten signature in black ink, appearing to be 'J Fox'.

Judith Fox
Chief Executive Officer