

Who gives AFCA?

A quick guide to what you need to be doing about the new external dispute resolution scheme

The Australian Financial Complaints Authority (**AFCA**) is a new external dispute resolution (**EDR**) scheme to deal with complaints from consumers in the financial system which is set to commence hearing disputes from 1 November 2018.

AFCA replaces the three existing financial services EDR schemes, being the Financial Ombudsman Service (**FOS**), the Credit and Investments Ombudsman (**CIO**) and Superannuation Complaints Tribunal (**SCT**), so that consumers have access to a single EDR scheme. Consumers and small businesses with less than 100 employees will be able to make complaints to AFCA, who can hear complaints regarding matters of up to a \$1 million value (other than superannuation complaints or complaints arising from a credit facility provided to a small business, for which there is no limit), and order compensation of up to \$500,000.

What do affected entities need to do?

Australian financial services licensees who provide financial services to retail clients, Australian credit licensees, authorised credit representatives and superannuation trustees are required to be members of AFCA.

Firms were required to register with AFCA on or before 21 September 2018. Those who have not yet done so must take steps to register as soon as possible. For firms who are also AFS licensees, it will also be necessary to follow any internal breach reporting policies and procedures as failure to maintain membership with AFCA is a breach of the general licensee obligations under the *Corporations Act 2001* (Cth).

[ASIC has indicated](#) that they are closely monitoring membership lists with AFCA and will be following up with firms who fail to meet this deadline.

Updating your documentation

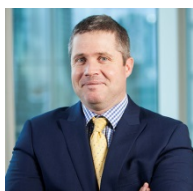
Financial firms must also ensure their clients are aware that they can bring a complaint to AFCA. However, ASIC has provided transitional relief until 1 July 2019 in relation to the relevant disclosure requirements. AFCA has provided the following transition time line to assist members with complying with their disclosure obligations (as applicable) during this period:

	Type of document		
	<ul style="list-style-type: none"> ▪ IDR Final Response letters ▪ RG 165.92 'delay letters' 	<ul style="list-style-type: none"> ▪ Website information ▪ General complaints brochure 	<ul style="list-style-type: none"> ▪ Mandatory disclosure documents ▪ Periodic statements
From 21 September 2018 to 31 October 2018	Give contact details of both the relevant predecessor scheme and AFCA	Give contact details of the relevant predecessor scheme	
From 1 November	May continue to	As a condition of the	Members should

Type of document			
2018 to 31 January 2019	include references to both the predecessor EDR scheme and AFCA, provided it is clear that only AFCA can receive complaints after 1 November 2018 Members should use this time to remove predecessor scheme details and instead refer complaints to AFCA	transitional disclosure relief provided in <i>ASIC Corporations (AFCA transition) Instrument 2018/447</i> and <i>ASIC Credit (AFCA transition) Instrument 2018/448</i> , broader communications about how to complain must be updated with AFCA's details by 1 November 2018	use this time to remove predecessor scheme details and instead refer complaints to ACFA
From 1 July 2019	Give contact details of AFCA only		

Firms should also review and, if necessary, update their dispute resolution policies and procedures.

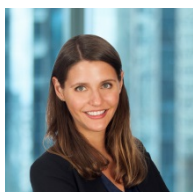
Key contacts



Tim Wiedman
Partner
M +61 7 3233 8716
E twiedman@mccullough.com.au



Trudi Procter
Special Counsel
M + 617 3233 8727
E tprocter@mccullough.com.au



Kathryn Morgan
Lawyer
M +61 7 3233 8878
E kmorgan@mccullough.com.au