

QoN 010-11 – ASICs relationship with AFCA

What relationship exists between ASIC and AFCA to ensure that a dialogue is maintained around the complaints and how and what does ASIC need to do from a regulatory perspective to mitigate these risks into future?

Answer:

The *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* (AFCA Act) established AFCA and provided for enhanced accountability and reporting arrangements for ASIC in relation to overseeing the effective operation of the dispute resolution system. In addition to the legislative framework, ASIC issued guidance setting out our approach to oversight of AFCA in *Regulatory Guide 267: Oversight of the Australian Financial Complaints Authority* (RG 267).

RG 267 sets out ASIC's powers to issue regulatory requirements, give directions and approve material changes to the scheme and how we will administer the reporting requirements in the AFCA Act including the referral of serious contraventions and systemic issues and regular reporting of statistics about complaints received and managed by the scheme.

AFCA's quarterly statistical reporting to ASIC includes unit level complaints data about the number of complaints by member, the product and issue that is the subject of the complaint and the outcome of the complaint. ASIC's Misconduct and Breach Reporting (MBR) team receives and conducts an initial assessment of AFCA systemic issues and serious contravention reports and refers those matters to a stakeholder or enforcement team, as appropriate.

ASIC also has regular and direct engagement and liaison with senior AFCA scheme staff about operational issues. The focus of this engagement with ASIC stakeholder teams includes specific issues affecting different financial services sectors such as superannuation, financial advice, credit or insurance. This engagement also includes regular feedback about the reporting framework.

During the Covid-19 pandemic, ASIC and AFCA maintained very open and responsive lines of communication in a very dynamic environment responding to new and emerging issues relating to financial hardship, superannuation early access scheme, travel and business interruption insurance issues.