



Kelly O'Dwyer MP
Minister for Revenue and Financial Services

Media Release

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PUTTING CONSUMERS FIRST — IMPROVING DISPUTE RESOLUTION

The Turnbull Government will establish a new one-stop shop dispute resolution scheme, the Australian Financial Complaints Authority (AFCA), which will significantly improve how financial disputes are dealt with in Australia.

In response to feedback received during consultation, the Minister for Revenue and Financial Services, the Hon Kelly O'Dwyer MP, said the Government will make a number of improvements to the *Treasury Laws Amendment (Putting Consumers First – Establishment of the Australian Financial Complaints Authority) Bill 2017* (the Bill), previously known as the Treasury Laws Amendment (External Dispute Resolution) Bill 2017.

AFCA will replace the three existing schemes – the Financial Ombudsman Service (FOS), the Credit and Investments Ombudsman (CIO) and the Superannuation Complaints Tribunal (SCT).

Critically, AFCA's monetary limit of \$1 million and compensation cap of \$500,000, which is almost double the existing limits, will significantly enhance access to redress for consumers and small businesses who wrongfully suffer losses.

And, in the case of small business credit facility disputes, a small business will be able to lodge a dispute where the credit facility is of an amount up to \$5 million and will be able to receive compensation of up to \$1 million. This is almost triple the existing monetary limit and compensation cap.

Today's announcement will confirm the key legislative elements of the establishment of AFCA and clarifies that the transition team, being led by Dr Malcolm Edey, will undertake stakeholder consultation in order to develop AFCA's terms of reference, governance and funding arrangements.

Key changes to the Bill:

- Strengthened governance – the Bill allows the Minister to appoint a minority of the AFCA board on its establishment, including the independent chair. This will ensure that the board has the necessary skills and expertise to deliver an improved EDR service.
- Superannuation – key features of the SCT's complaints handling model, including requirements for handling death benefit complaints, the decision-making test and the unlimited monetary jurisdiction, will be enshrined in the Bill, to provide certainty to stakeholders.
- Transitional arrangements – the Bill will require membership of the FOS and CIO to be maintained for up to 12 months following AFCA's commencement on 1 July 2018, to enable the orderly resolution of their outstanding disputes prior to cessation of the two schemes. In relation to superannuation disputes, from 1 July 2018 all new superannuation complaints will be lodged with AFCA. The SCT will continue to operate until 30 June 2020 in order to resolve its backlog of legacy complaints.

- Transparency of internal dispute resolution (IDR) – to improve transparency and accountability of firms' IDR practices, the Bill provides for ASIC to publish IDR data, including firm-level data that identifies firms.

Matters to be addressed in AFCA's terms of reference

AFCA's operating rules — known as its terms of reference (TOR) — will set out the way in which AFCA will meet its duties and requirements under the law and how it will operate, including:

- monetary limits – the increased monetary limits and compensation caps for both small business credit facility and other non-superannuation disputes will be set out in AFCA's TOR. In addition, the transition team will consult on sub-limits (such as for disputes about general insurance broking), for inclusion in AFCA's TOR;
- decision-making processes – AFCA will be required to take a consistent approach to decision-making so that consumers and financial firms know what to expect from AFCA;
- internal dispute resolution requirements – before AFCA will consider a dispute it will refer all complaints back to the financial firm for a final opportunity to resolve the dispute in a defined timeframe (subject to certain exceptions), to ensure that the IDR process has the opportunity to work; and
- an independent assessor – AFCA will have an independent assessor to investigate complaints regarding the way in which a dispute was handled, to ensure procedural fairness.

To ensure that AFCA is accountable for the fees it charges to members, as a condition of authorisation, AFCA will be required to report to the responsible Minister annually on any decisions to vary fees.

This reporting requirement, along with the requirement for independent reviews and the enhanced governance arrangements (including ASIC's directions power, AFCA's board structure, and the requirement for AFCA to establish an independent assessor), will ensure that AFCA is transparent and accountable to both industry and consumers.

"These changes provide industry and consumers with certainty on the AFCA framework and the opportunity to engage in further consultation with the transition team on AFCA's TOR. Constructive stakeholder engagement will underpin the smooth commencement of this landmark reform," Minister O'Dwyer said.

Further details on changes to the Bill and matters AFCA will need to address in its TORs are in the Treasury fact sheet. The Government encourages all stakeholders to engage closely with the transition team.

The Government thanks Professor Ian Ramsay, Ms Julie Abramson and Mr Alan Kirkland for their work on the review and the Australian Small Business and Family Enterprise Ombudsman, Ms Kate Carnell AO, for her work in conducting an inquiry into small business loans. These reports have laid the foundations for the Government's landmark reforms to improve the financial system's dispute resolution framework.

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