



# IMAP Portfolio Management Conference AFCA Update

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27 March 2026





# Acknowledgement of Country

'Ngalimba'

Edwin Lee Mulligan

Slide 2



## Today's session

- > About AFCA
- > AFCA complaint stats
- > Maximising positive outcomes
- > Calculating compensation in financial advice complaints
- > Top ten tips

# About AFCA



# AFCA's role

## A single financial services EDR scheme

- > Three schemes (FOS, CIO and SCT) now one scheme
- > Operational since 1 November 2018

## Responsibilities

- > resolving complaints
- > identifying systemic issues and working with financial firms to resolve them
- > supporting regulators by reporting certain matters to them
- > promoting awareness of AFCA – including discussion of approach



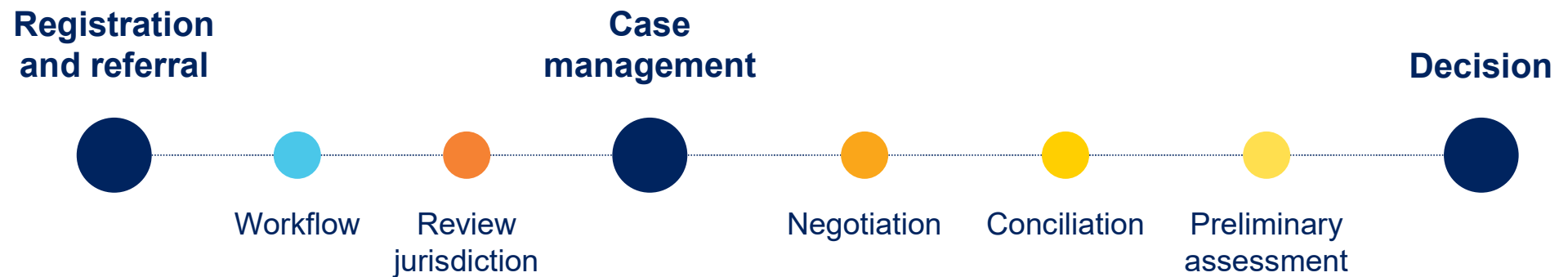
# AFCA's role in financial complaint resolution

- > In everyone's interest to have matters resolved quickly
- > Three-way discussion / get parties talking
- > AFCA can:
  - act as a circuit breaker and help to build trust with customers
  - identify and focus on the real issues
  - help with financial difficulty issues which often accompany credit complaints
  - provide an independent view based on fairness
  - be flexible and adaptable to meet parties needs



# What to expect from our process

Flexible complaint resolution model



# What to expect from us

- > Independent review of issues and merits of the complaint
- > Experienced complaint resolution staff with industry knowledge
- > Respectful engagement from our staff who will listen to your queries and concerns
- > Regular telephone contact
- > We will refer a request for a jurisdictional assessment promptly to our Rules team
- > Targeted requests for information to ensure we understand your perspective and position



# AFCFA complaint statistics

# Financial year to date operations

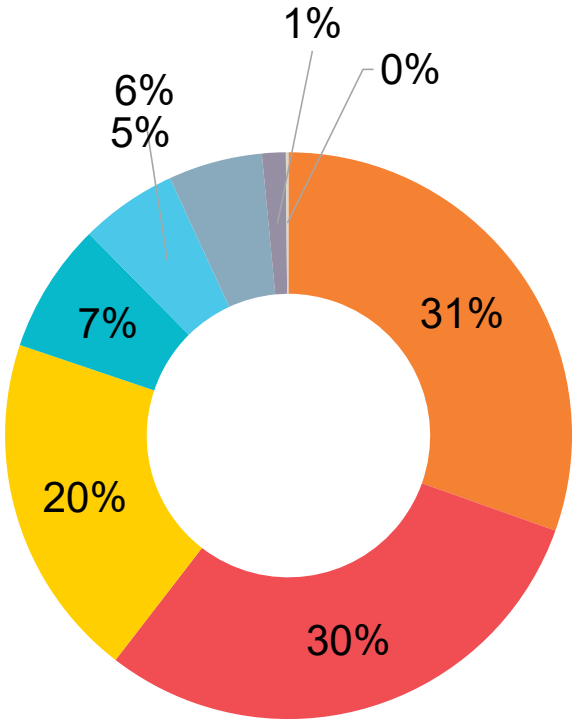
1 July 2025 to 31 December 2025



**57,147**  
Complaints received



**59,269**  
Complaints closed



Complaints received by product line

Credit*	17,419
General Insurance	17,168
Deposit Taking*	11,288
Superannuation	4,248
Investments	3,165
Payment Systems*	3,073
Life Insurance	775
Other	84

\*Comprise Banking & Finance (B&F) products  
Note: One complaint can have multiple product lines



# Investments & Advice (I&A) complaints

1 July 2025 to 31 December 2025

## Complaints received

**3,165** complaints received  
Up **105%** from Jul-Dec last year

**23%** resolved at Registration and Referral stage  
Down **3%** from Jul-Dec last year

## Complaints closed

**2,431** complaints closed  
Up **61%** from Jul-Dec last year

Average time to close a complaint:  
**112 days**  
Down **43 days** from Jul-Dec last year

### Top five I&A complaints received by product<sup>2</sup>

Product	Total
Superannuation Fund	<b>1,038</b>
Shares	<b>654</b>
Self-managed Superannuation Fund	<b>594</b>
Mixed Asset Fund/s	<b>248</b>
Cash Management Accounts	<b>135</b>

### Top five I&A complaints received by issue<sup>1</sup>

Issue	Total
Failure to act in client's best interests	<b>1,093</b>
Service Quality	<b>319</b>
Failure to prioritise clients interests	<b>252</b>
Failure to follow instructions/agreement	<b>224</b>
Inappropriate advice	<b>223</b>

### Stage at which I&A complaints closed

Stage	Total
Referral	<b>560</b>
Jurisdiction	<b>411</b>
Case Management	<b>757</b>
Decision	<b>703</b>

### Average time taken to close I&A complaints

Time	Total
0-30 days	<b>422</b>
31-60 days	<b>391</b>
61-180 days	<b>592</b>
181-365 days	<b>267</b>
More than 365 days	<b>759</b>

<sup>1</sup> One complaint can have multiple products / issues



# Managed Discretionary Accounts complaints

1 July 2025 to 31 December 2025

## Complaints received

**10** complaints received  
Up **25%** from last year

**20%** resolved at Referral stage  
Up **8%** from last year

## Complaints closed

**5** complaints closed  
Down **-79%** from last year

Average time to close a complaint:  
**54 days**  
Down **-221 days** from last year

### Top 5 complaints received by product

Product	Total
Managed Discretionary Accounts	10

### Top five complaints received by issue

Issue	Total
Inappropriate advice	2
Service issue	2
A fee or charge – e.g. premiums, excesses	1
Delay	1
Delay in complaint handling	1
Misleading product/service information	1
Service quality	1
Unauthorised transactions	1

### Stage at which complaints closed

Stage	Total
Referral	1
Case Management	2
Decision	2

### Average time taken to close complaints

Time	Total
0-30 days	0
31-60 days	2
61-180 days	1
181-365 days	0
More than 365 days	2

# Managed Discretionary Accounts complaints

1 July 2024 to 30 June 2025



## Complaints received

**13** complaints received  
Down -74% from last year

**11%** resolved at Referral stage  
Down -36% from last year

## Complaints closed

**36** complaints closed  
Down -5% from last year

Average time to close a complaint:  
**305 days**  
Up 149 days from last year

### Top 5 complaints received by product

Product	Total
Managed Discretionary Accounts	13

### Top five complaints received by issue

Issue	Total
Failure to act in client's best interests	2
Insufficient product/service information	2
A fee or charge – e.g. premiums, excesses	1
Delay in claim handling	1
Delay in complaint handling	1
Fee Disclosure	1
Incorrect advice	1
Incorrect fees/costs	1

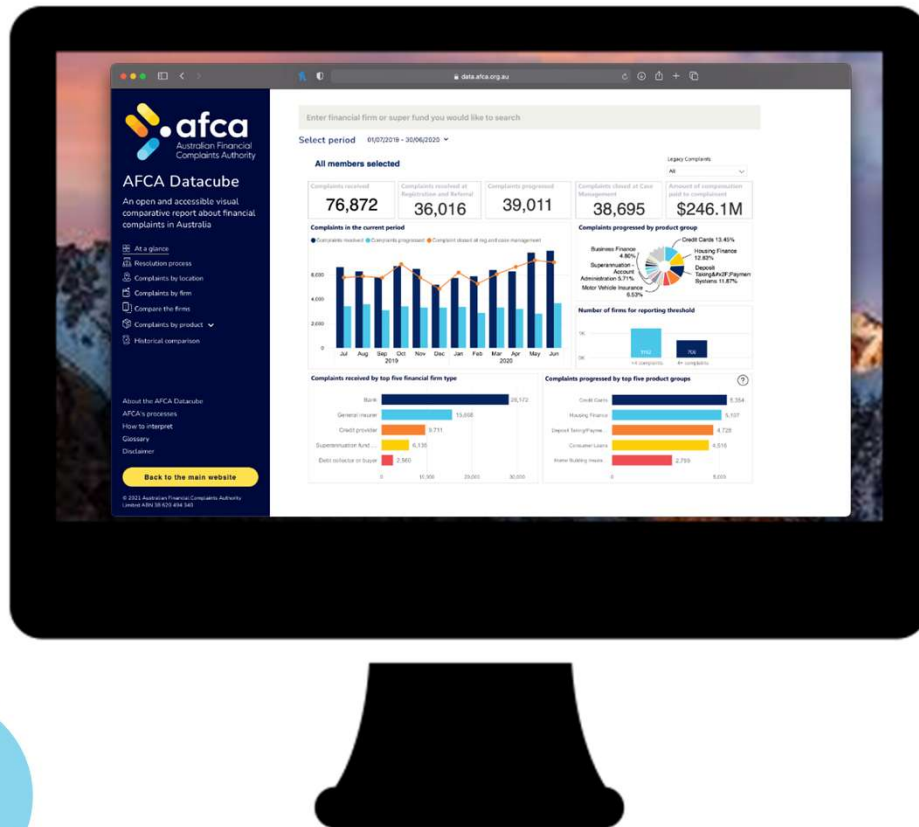
### Stage at which complaints closed

Stage	Total
Referral	4
Jurisdiction	8
Case Management	13
Decision	11

### Average time taken to close complaints

Time	Total
0-30 days	2
31-60 days	3
61-180 days	8
181-365 days	9
More than 365 days	14

# AFCA Datacube



- > The [AFCA Datacube](#) is an interactive complaints data base that makes financial firm complaint data available to public.
- > It includes complaints data from financial firms with four or more complaints in the financial year to date.
- > It is updated on the first business day of the month with data current to the end of the previous month.

Maximising positive outcomes



# Your customer

Customer service keeps going after the sale is made

- > Are the internal complaint escalation points clear?
- > How do you take complaints?
- > Timeframe for first response
- > Remember tone and content
- > Acknowledge the issue



# Communication is key

## Are you responsive and proactive?

- > Engage by phone as much as possible
- > Listen and understand with empathy
- > Have you explored what they understand and what they don't – don't assume
- > Beware of template letters
  - Tailored response
  - Plain English
  - Explanation not cut and paste
  - Facts work, emotive language doesn't



# Unreasonable behaviours

- > Make sure you support your staff to have the right conversation
  - Policy framework Escalation protocols
  - Training
- > Separate the behaviours from the issues in dispute
- > Set and manage expectations
- > Do what you say you will do
- > Explain your approach
- > Avoid surprises
- > Referral services

## Accessibility guides



# When a complaint comes to AFCA

## Best practice

- > Let us know if there are vulnerability issues
- > Keep communicating with your customer
- > Have fresh eyes review your position
- > Don't be defensive
- > Be open and transparent
- > Keep listening, never stop listening
- > Collaborate with us
- > Complex issues take longer to resolve



# Calculating compensation in financial advice complaints

# Calculating loss in financial advice complaints

## Counterfactual, estimate

- > Loss is calculated on an estimated counterfactual basis, e.g. most Dixon complaints.
- > This is fairly based on the likely situation the complainant would be in if provided with appropriate advice, using a market benchmark.
- > It is extremely unlikely the complainant's funds would otherwise have been left in cash for long periods (often over ten years).

## Counterfactual, no transaction

- > Loss is calculated based on the position if no transaction had occurred, e.g. most UGC complaints.
- > This is fairly based on the complainant remaining in the exact investments they divested before investing inappropriately.
- > This acknowledges the complainants are extremely unlikely to have withdrawn previous investments to cash.

## Actual / capital loss

- > Loss is calculated on the capital lost investing in a specific inappropriate investment.
- > This ignores likely market exposure the complainant otherwise would have had, which removes market risk and return.
- > Financial product advice is not only advice to invest in a specific product, but to divest another product in order to do so.
- > This approach fails to consider the divestment advice.

# AFCA's approach: Calculating loss in financial advice complaints

## Based on existing law

AFCA's use of a counterfactual approach to calculating direct loss is consistent with relevant case law.

Examples include:

- > *Newman v Financial Wisdom Limited; Newman v Hold Pty Ltd [2004] VSC 216 (upheld on appeal; Financial Wisdom Limited v Newman & Ors [2005] VSCA 110)*
- > *Williams v Nugara [2021] VSC 331*
- > *Patersons Securities v Financial Ombudsman Service Ltd [2015] WASC 321*

## Fair in all the circumstances – for both parties

- > Unlike a capital loss approach, AFCA's approach does not ask advisers to underwrite the market
- > It compensates complainants based on their likely market exposure – whether that realises risk or return

## Efficient and effective

- > AFCA's approach allows a streamlined approach which is efficient and fair
- > Not allowing a whole portfolio market exposure approach, requires significantly more complicated and time-consuming calculations, and increases costs.

# Case Studies

# Case Studies

12-25-206670

- > In favour of the complainant.
- > Com was 68 and retired.
- > Advice to:
  - Set up an SMSF with about \$300k
  - Invest in MDA Options Strategy
- > Advice was inappropriate:
  - Fees of \$47k in 3 years
  - FF's website said min balance for strategy was \$500k
  - Complex and risky

12-00-992553

- > In favour of the complainants.
- > Advice to an SMSF and FT
- > SMSF
  - Recommended SMSF and MDA
  - SOA downplayed the costs
  - SOA didn't justify switch
- > Family Trust
  - Invested outside MDA parameters

12-00-923475/  
12-00-1080719

- > In favour of the complainant.
- > Against 2 FFs providing services to an SMSF via an MDA-
  - FF 1 traded margin fx through FF2's platform.
- > FFs classified SMSF as wholesale using \$2.5mil test not \$10mil.
- > Traded margin fx with 1:1,000 leverage
- > Loss divided 3 ways between FF1, FF2 and SMSF

# Top ten tips for MDA Complaints

# Top ten tips for advisers

- 1) Take detailed file notes
- 2) Explain the scope of advice
  - > It is extremely important to ensure the client understands the scope of advice
- 3) Clearly understand and summarise goals and objectives
  - > i.e. to retire at 65 on an income of \$50,000 pa., not just “wealth creation” or “capital security”
  - > How will the recommended strategy achieve the goals and objectives?



# Top ten tips for advisers

- 4) Understand and explain the products recommended
  - > Products are getting more and more complex. Cryptos. Explain them in simple terms
  - > Super switching and SMSFs
- 5) Need good reasons to recommend a switch
  - > Need compelling reasons to recommend an SMSF, especially where the account balance is low
  - > Set out alternatives



# Top ten tips for advisers

## 6) Turn clients away if necessary

- > If you don't offer the product or have the requisite expertise
- > Consider carefully how to proceed if clients are seeking a return that does not match their risk profile

## 7) Use risk profiling tools carefully

- > Consider inconsistencies in answers provided
- > Consider the client as a whole
- > Don't amend the risk profile lightly



# Top ten tips for advisers

- 8) Manage conflicts of interest adequately
- 9) Document carefully if a client wants to act against your advice
  - > Are you endorsing the advice?
  - > Are you providing an execution-only service
- 10) Make sure the consumer provides informed consent to the advice



# Top ten tips for financial advisers

1. Take detailed file notes
2. Explain the scope of advice
3. Clearly understand and summarise goals and objectives
4. Understand and explain the products recommended
5. Need good reasons to recommend a switch
6. Turn clients away if necessary
7. Use risk profiling tools carefully
8. Manage conflicts of interest adequately
9. Document carefully if a client wants to act against your advice
10. Make sure the consumer provides informed consent to the advice

# Questions?

## Contact us

-  **Visit** [afca.org.au](http://afca.org.au)
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Thank you

