

2 July 2021

Mr Andrew Wallace MP
Chair
Parliamentary Joint Committee on Corporations and
Financial Services
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email: corporations.joint@aph.gov.au

Dear Mr Wallace,

I am writing to correct the evidence we provided at the Parliamentary Joint Committee on Corporations and Financial Services public hearing on Friday, 18 June 2021.

The first correction relates to the number of serious contraventions that AFCA reported to the Australian Securities and Investments Commission (ASIC) relating to financial firms' non-compliance with AFCA's determinations, as detailed at page 21 of the Hansard. See extract below (relevant section in bold):

Mr VAN MANEN: Thank you, Dr Smith. That's probably a very good segue into my next question. You identify in your report some 508 systemic issues and investigations and serious contraventions. What is the process with those? I'm assuming, in identifying those, you're subsequently having discussions with ASIC and/or other regulators as necessary. How does that process work? Given the previous discussion we've just had with Senator Pratt, at what point does that become something that ASIC or another regulator takes over? And what's the feedback loop for you to identify that has been resolved?

Mr Locke: I'll ask Dr Smith to answer that because she has carriage of this area.

Dr Smith: In terms of role, clearly we are not the regulator, but we are obligated under our regulatory guide to provide investigation and reporting to three regulators—the Australian Securities and Investments Commission, APRA and the ATO—where we find definite systemic issues or possible serious contraventions of the law. Just to give you a flavour of that work, since 1 November we've undertaken 584 investigations, 202 of which have been resolved. As a result of that work, \$226 million was returned to 4.2 million customers up to May 2021. We've reported 90 definite systemic issues to the regulator, which then takes that report and considers and explores whether or not additional regulatory action should be taken. And there were 75 possible serious contraventions of the law or of the AFCA rules. **Unfortunately, 75 of those 90 related to noncompliance with an AFCA determination, meaning that the consumer who was awarded compensation has not received their award.**

The evidence we provided was incorrect. Since 1 November 2018 to 31 May 2021, AFCA reported 75 serious contraventions (possible and definite) to the Regulators. We reported 64 instances of non-compliance with AFCA's determination(s) by a financial firm.

The second correction relates to evidence also detailed at page 21 of the Hansard. See extract below (relevant section in bold):

Mr VAN MANEN: Sorry to interrupt, but do you have the capacity to name the organisations that are refusing to comply with AFCA awards?

Mr Locke: We do. We name financial institutions that do not comply.

Mr VAN MANEN: Could we get that information, please.

Mr Locke: Yes, certainly. We're happy to take that on notice.

Senator O'NEILL: Where do you name them?

Mr Locke: **We produce information on the website.**

Mr Untersteiner: **Yes, we place that on our website. We do regular reporting of noncompliance on our website and we also push it through our media channels.**

The evidence we provided was incorrect. The information we currently place on our website and publish is where financial firms are non-compliant with the payment of AFCA's fees. We have not to date though published the names of financial firms who have failed to comply with an AFCA determination.

We apologise for inadvertently providing incorrect information to the Committee.

Separately to this letter, we provide details of the financial firms AFCA has reported to ASIC for non-compliance with AFCA's determinations, as requested by the Committee (AFCA01QON).

Yours sincerely

David Locke
Chief Ombudsman and CEO
Australian Financial Complaints Authority