

Economics Legislation Committee

Financial Accountability Regime Bill 2021 [Provisions] and Financial Services Compensation Scheme of Last Resort Levy Bill 2021 [Provisions] and related bills

Australian Financial Complaints Authority

AFCA QoN01 and QoN02:

CHAIR: Do you have a breakdown to give us an understanding of the quantum claimed within each of those categories?

Mr Locke: We can certainly take that on notice. I would say it should be heavily caveated because, as we've said, we haven't looked at the merits of this and often there may be a big disconnect between what is claimed and what actually may be determined in matters. So certainly it would be a very loose figure and I think it would need to be very heavily caveated. But, in terms of what individual complainants have put on their form when they first submit it to AFCA, we have that information. We have provided it to Treasury as well so that they would be able to look at that. But it would need to be very—

Senator PRATT: Can you provide that to us?

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

CHAIR: If you could take that on notice. I understand how it would be heavily caveated with respect to open matters, but with respect to closed matters which have not been satisfied due to insolvency—and I'm interested to know any other reason—the caveats would apply less so. Is that correct?

CHAIR: I'm very interested in whatever information you can give us in terms of the 180 closed cases which have not been satisfied, which you can break down in terms of different sectors of the financial services industry so we can gain an appreciation of the nature of the claims which are unsatisfied so we can determine what would be covered. You've given us the number that would be covered under the CSLR, but it will be interesting to know with respect to those which currently aren't what category they fall in, including managed investment schemes obviously, which is a contentious issue in terms of the bill, and other categories so we can get a bit of transparency in terms of what the experience has been since 1 November 2018. Is that practical?

Mr Locke: Yes.

Answer:

The following provides an overview of open and closed AFCA scheme complaints against financial firms impacted by insolvency from 1 November 2018 to 30 January 2022.

Statistical notes and qualifications

1. All data is for the AFCA scheme complaints only, received from 1 November 2018 to 30 January 2022. It does not include AFCA predecessor schemes' (FOS and CIO) complaints.
2. The data has moved since AFCA's hearing appearance on 27 January 2022, due to a financial advisor firm recently entering administration. As a result, this firm's complaint data was not included in AFCA's insolvent firm data that was referenced in the hearing but is now included in this response.
3. Data is provided for firms that have entered insolvency status pursuant to the Corporations Act 2001 (external administration, receivership, liquidation). The data also includes a small number of firms and complaints, where the firms have not entered insolvency but have either ceased operating and/or are not responding to complaints lodged against them (they represent 2% of 1,964 open and paused complaints and 14% of 180 closed complaints).
4. Primary business is the main financial service type that is self-reported by financial firms to AFCA. In some instances, a financial firm may have provided multiple financial products and services but identifies one such product or service for AFCA levy and reporting purposes. This metric is also used publicly on the [AFCA Datacube](#).

This metric is generally consistent with and aligned with the categorisation used by ASIC for its Industry Funding Model, but may vary as it is also used for other reporting and data purposes by AFCA.

5. We have shaded each entry in the tables below based on our understanding of the current proposed CSLR scope sectors, as follows:
 - Green shading is for sectors within scope of the CSLR
 - Orange shading is for sectors out of scope of the CSLR

AFCA will only be able to fully assess the impact of the CSLR to a complaint when details of the scheme are finalised, and the legislation is passed by Parliament. We will review all relevant complaints as soon as that occurs. Eligibility for payment of compensation will ultimately rest with the CSLR, once it is operational.

6. Complaint data and figures may be subject to changes during periods due to several reasons, including further data validation or complaints progressing.

Closed complaints (with determinations in favour of complainants)

Data covering closed AFCA complaints against insolvent financial firms only include complaints where an AFCA determination was issued in favour of a complainant (this is an eligibility requirement to access the CSLR). Complaints closed where an AFCA determination was in favour of the financial firm or resolved at earlier stages in the AFCA process are excluded.

Outcome amounts on closed complaints do not include any interest that may be payable by a financial firm on an award of compensation.

Given our limited role after a determination has been issued, we cannot advise of any partial payment that may have been received by a complainant, if applicable.

Closed complaints with determinations in favour of complainant and by primary business

Primary business	No. of complaints	% of total complaints	No. of financial firms	Outcome amounts awarded by AFCA (\$)
Managed Investment Scheme operator / fund manager	62	34.4%	5	\$6,386,774
Funeral Insurance provider	56	31.1%	1	\$524,504
Financial advisor / planner	25	13.9%	8	\$3,663,004
Derivatives dealer	21	11.7%	3	\$691,338
Securities dealer	7	3.9%	3	\$564,418
Foreign exchange dealer	4	2.2%	1	\$582,640
Mortgage broker	2	1.1%	2	\$513,106
Corporate advisor	2	1.1%	1	\$795,000
Make a market	1	0.6%	1	\$159,189
Total	180	100%	25	\$13,879,973

Open complaints paused due to insolvency

Complainants may advise AFCA of the amount of compensation they are seeking when lodging their complaints. Claim amounts on open complaints paused due to insolvency of the financial firm have not been fully assessed or validated by AFCA at this point in time. This ordinarily happens when the complaints are progressed through the AFCA process.

Total claim amounts also assume that all complaints will progress to a Determination, be awarded in favour of the complainants and the full claim amount is awarded as compensation. Some matters may be found to be without merit or fall outside AFCA's jurisdiction, once further investigated.

Open complaints by primary business and compensation amount claimed by the complainant

Primary business	No. of open complaints	% of total open complaints	No. of financial firms	Compensation amounts claimed by complainants (\$)
Foreign exchange dealer	1162*	59.2%	2	\$266,853,494
Managed Investment Scheme operator / fund manager	272	13.8%	6	\$28,074,948
Financial advisor / planner	216	11.0%	13	\$49,193,322
Derivatives dealer	166	8.5%	2	\$6,593,945
Funeral Insurance provider	84	4.3%	1	\$797,808
Corporate advisor	16	0.8%	1	\$8,029,978
Securities dealer	12	0.6%	3	\$2,155,319
General insurance broker	10	0.5%	2	\$15,936
Mortgage broker	9	0.5%	2	\$2,101,000
Make a market	6	0.3%	1	\$686,917
Timeshare scheme operator	4	0.2%	1	\$27,474
Credit provider	3	0.2%	2	\$1,500
Debt collector or buyer	2	0.1%	1	\$ -
Finance broker	2	0.1%	2	\$19,100
Total	1,964	100%	39	\$364,550,741

* One financial firm accounts for 1,161 complaints.