

## Parliamentary joint Committee on Corporations and Financial Services

### Oversight of ASIC, the Takeovers Panel and the Corporations Legislation, 20 October 2023

#### Australian Financial Complaints Authority

#### QoN no. 1

**CHAIR:** Can we go to the reports to ASIC. You said there were over 1,000 system failures but 105 of that 1,000 you determined were sufficiently in breach of regulation or law. Which is it?

**Dr Smith:** It could have been both, but also where there has been a failure, either through a system, process or engagement with consumers in some way which had caused loss or harm to those consumers; that's correct.

**CHAIR:** So, loss and harm being the critical determinants of this? So, you took 105 to ASIC. Did you also take that same 105 you mentioned to APRA and then the Office of the Information Commissioner, and how many went to each of them?

**Dr Smith:** We will provide to you, on notice, some more detail around that.

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#### Answer

In FY 2022-23 AFCA:

- Identified 1,042 potential systemic issues. (Following further examination, a smaller number were considered to be definite systemic issues and were reported to regulators)
- reported 105 systemic issues to regulators.
- reported 58 referable matters under section 1052E(1)–(3) of the Corporations Act:
  - > 14 reports to regulators of serious contraventions of the law
  - > 40 reports made about financial firms' refusal or failure to give effect to AFCA determinations.
  - > 4 reports made about settlements that may require investigation.

In total for FY22-23 (systemic issues plus serious contraventions):

Regulator	
ASIC	164
APRA	39
Other (including OAIC & ATO)	18

- *Noting that some reports are provided to more than one regulator (for example, we will always report every systemic issue or other reportable matter to ASIC, but we may also report it to APRA and/or OAIC in some cases. For example, a single systemic issue may be reported to both ASIC and APRA depending on the issue raised.*
- *Total reports include systemic issues and other reportable matters, including serious contraventions of the law and refusals/failures to give effect to determinations.*

- FY23 reports made to ASIC 164:

- > Systemic issues 105
- > Serious contraventions of the law 14
- > Refusals/failures to give effect to determinations 40
- > Settlements 5

- FY23 reports made to APRA 39:

- > Systemic issues 28
- > Serious contraventions of the law 3
- > Refusals/failures to give effect to determinations 8
- > Settlements 0

- FY23 reports made to OAIC & ATO 18:

- > Systemic issues 18
- > Serious contraventions of the law 0
- > Refusals/failures to give effect to determinations 0
- > Settlements 0

## Types of Systemic Issues referred to each of the regulators

### ASIC

All systemic issues and other reportable matters are reported to ASIC (including serious contraventions of the law, refusals/failures to give effect to determinations, settlements etc).

In FY 22-23 some common types of systemic issues referred to ASIC were:

- credit reporting issues (e.g. incorrect information being put on a consumer's credit file)
- inappropriate debt collection
- issues with provision of credit
- inappropriate interpretation of general insurance policies (more commonly home building and motor vehicle) (also reported to APRA)
- issues with cooperation and engagement with AFCA in the general insurance industry and
- inadequate disclosure of life insurance premiums, particularly for level premiums. (Also reported to APRA)

## APRA

We report all systemic issues to APRA where they relate to the following product areas:

- superannuation funds (e.g. delays in claims processing for death benefits have recently been reported to both ASIC & APRA)
- general insurers
- authorised deposit institutions (ADIs)
- life insurers

## OAIC

- We report privacy related systemic issues to OAIC. This includes where the issue relates to:
  - > breaches of the Australian Privacy Principles (APPs)
  - > credit reporting

## ATO

- We report taxation related systemic issues to the ATO. This is relatively rare as we do not see this come up frequently.