

# How we resolve complaints and our Rules

The Australian Financial Complaints Authority (AFCA) is an independent, not-for-profit, non-government organisation.

We help individuals and small businesses resolve complaints about financial products and services.

Our service is fair, free and independent.

We stream complaints based on the issues raised in the following ways:

- Fast Track
- Standard and Complex
- Financial Difficulty

See our Complaint Resolution Process for more information about the steps we follow.

When we receive a complaint we check if it fits within our Rules.

## Key facts – our Rules

The Rules set out:

- who can lodge a complaint
- the types of complaints we consider
- how we resolve complaints
- the remedies we offer; and
- other operational guidelines.

When dealing with complaints we will:

- explain the steps we will take before we make a decision
- provide everyone an opportunity to present their views to us
- give appropriate opportunities to provide information and documentation.

We will also

- do what in our opinion is appropriate to resolve the complaint in a cooperative, efficient, timely and fair manner
- work with the minimum formality and technicality
- be as transparent as possible
- act in accordance with our confidentiality and privacy obligations.

Our Rules came into effect on 1 November 2018 following stakeholder consultation and ASIC approval. We replaced the Financial Ombudsman Service, the Credit and Investments Ombudsman and the Superannuation Complaints Tribunal.

You can download our Operational Guidelines and Transitional Superannuation Guide which explain the Rules in more detail from our website [www.afca.org.au/rules](http://www.afca.org.au/rules).



## Complaints we consider

We can consider a broad range of financial problems, including:

- errors in banking transactions and credit listings
- difficulty repaying loans, credit cards and short-term finance
- denial of an insurance claim (such as car, home and contents, pets, travel, income protection and trauma)
- inappropriate investment advice
- a trustee's decision about the distribution of a superannuation benefit.

We may be able to help if a financial firm has acted unfairly by:

- breaking a law
- breaching a relevant Code of Practice
- not meeting standards of good practice in the relevant industry sector.

## Complaints we cannot consider

There are some types of complaints that we can't deal with, for example:

- complaints with a business that is not a member of AFCA at the time the complaint is lodged
- complaints already dealt with by a court, tribunal, or a predecessor scheme
- some complaints subject to legal proceedings
- specific insurance products such as compulsory third-party insurance, private health insurance and some commercial general insurance products
- a financial firm's assessment of the credit risk posed by a borrower (with exceptions in cases of irresponsible lending or financial hardship).

See Section C of the Rules for more information



**Credit, finance & loans**



**Banking deposits & payments**



**Insurance**



**Investments & financial advice**



**Superannuation**



## Claim limit

Generally, there is a claim limit of \$1,263,000.

## Compensation caps

From 1 January 2024

We can award up to \$631,500 compensation in most claims of direct financial loss, except:

Claim type	Compensation cap
General insurance broking	\$316,000
Income stream life insurance	\$16,900 per month
Uninsured third-party motor vehicle claims	\$19,000
Small business loan (the credit facility must be less than \$6.3 million)	\$1,263,500
Primary producer loan	\$2,526,500
Guarantor has offered their home as security	unlimited
Superannuation complaint	unlimited
Indirect financial loss per claim (such as loss of profits)	\$6,300
Non-financial loss per claim (such as an unusual amount of physical inconvenience)	\$6,300

Interest and limited costs may be awarded on top of these caps.

See Section D of the Rules for more information

## Remedies

Action we may require a financial firm take:

- pay a sum of money
- forgive, or vary a debt
- release security over a debt
- repay, waive or vary a fee or other amount paid (or owing) to the financial firm (or its representative or agent), including varying the applicable interest rate on a loan
- reinstate, rectify or properly perform a contract
- vary the terms of a credit contract in cases of financial hardship
- meet a claim under an insurance policy.

## Legal proceedings

During the complaint process, the financial firm must not:

- begin legal proceedings against the complainant relating to the complaint
- pursue debt recovery proceedings instituted before lodgement, except to the minimum extent necessary to preserve the financial firm's legal rights (unless the complainant has taken steps beyond lodging a defence)
- recover a debt that is the subject of the complaint, protect assets securing that debt, assign any right to recover that debt, or list a default on a credit file.

However, we may consent to the financial firm taking certain action while the complaint remains open by imposing conditions.

Financial firms can also continue to charge interest while we are considering a complaint.

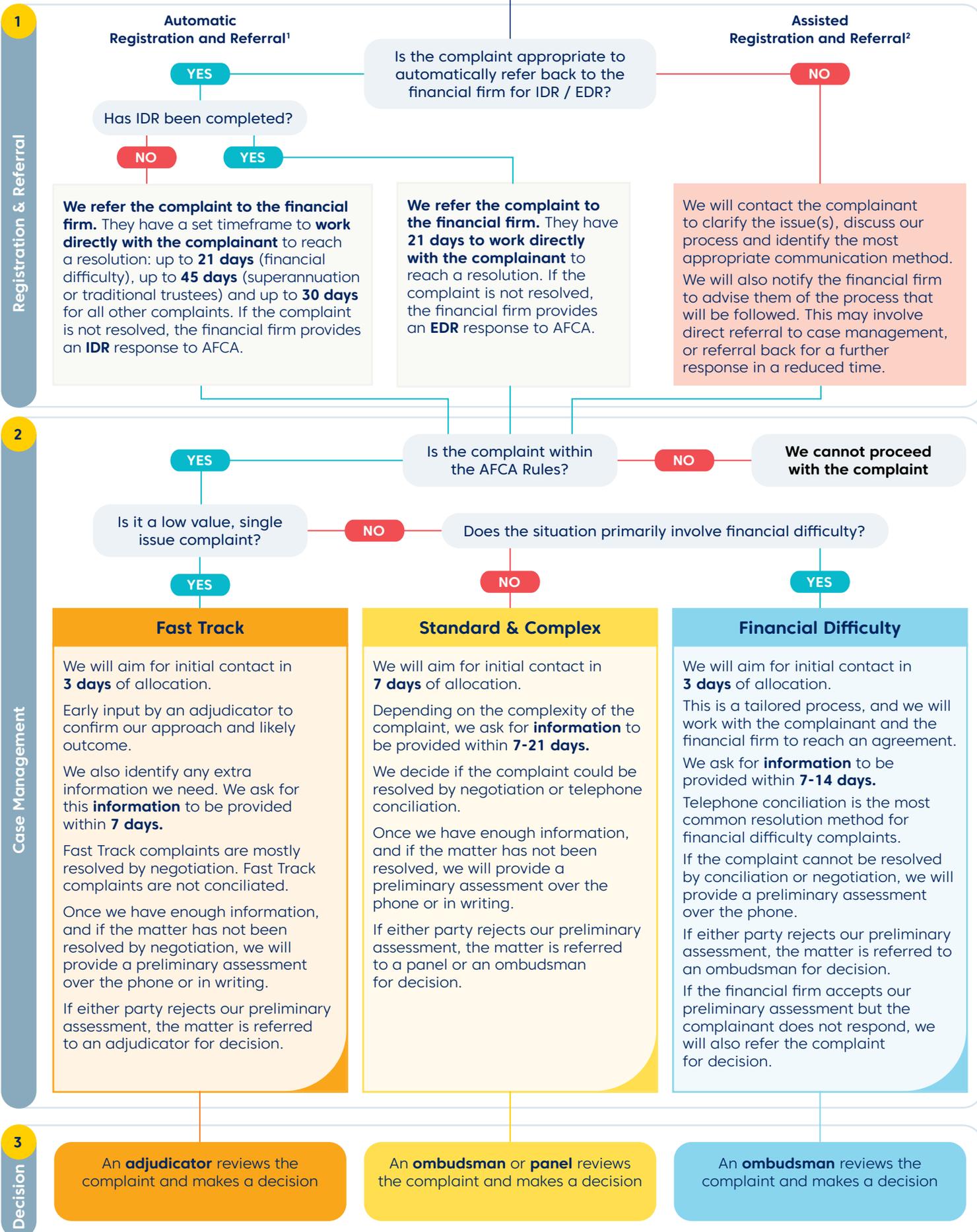
## Financial difficulty

We have a tailored method for complaints in the financial difficulty stream. We will review the financial firm's response to the complainant's request for assistance. In most cases, a telephone conciliation conference is mandatory. A representative of the complainant may also participate. Each party must have the authority to settle the dispute in the conference.

# AFCA complaint resolution process

Effective from 27 February 2023

## Complaint lodged with AFCA



To find out more about current timeframes please visit [afca.org.au/delays](https://afca.org.au/delays)

<sup>1</sup> Most complaints will progress through the automatic Registration and Referral process.

<sup>2</sup> Some complaints may not be appropriate to automatically refer back to the financial firm because of the subject matter, urgency or the accessibility needs of the complainant.

# Time limits

## General

### Time limits for most complaints

**6 years**

from actual or reasonable awareness of the loss

**2 years**

from financial firm's final response or end of regulated loan

## Superannuation

### Time limits for complaints about total and permanent disability (TPD) benefit claims

*Working at date of disablement*

**2 years**

TPD claim must be lodged with the fund trustee within 2 years of permanently ceasing employment

**4 years**

a complaint must be made with AFCA within 4 years of the fund trustee's decision to decline the TPD claim

*Stopped work for reasons not related to disablement*

**6 years**

a complaint must be made with AFCA within 6 years of the fund trustee's decision to decline the TPD claim

### ATO Contribution statements

**12 months**

from receiving written notice from the fund trustee that it has given a contribution statement to the ATO

### Other

**2 years**

from the fund trustee's IDR response\*

### Time limits for death benefits

**28 days**

to object to the fund trustee about the proposed distribution of a death benefit

**28 days**

a complaint must be made with AFCA within 28 days after being notified of the fund trustee's final decision

\* Includes death benefit payments where proper notification was not provided by the fund trustee and income protection disability claims

## Frequently asked questions

### What information needs to be provided?

Financial firms: any relevant or applicable contracts, account statements, policy documents, diary notes and dates, reports, emails, analyses, expert opinions, plans, notes, statements from staff or other document.

Complainants: all relevant information they have.

### Can I ask for more time to resolve a complaint?

You can ask us to extend the time if special circumstances would make an extension reasonable.

### When will a determination be made by a single ombudsman or an adjudicator, and when will it be made by a panel?

We will decide how the determination is made by considering a range of factors; the amount of the loss, the complexity and significance of the complaint and any expertise required.

### What must the financial firm do if there has been a binding determination requiring action by the financial firm?

Generally, financial firms must implement the determination within 30 days if it is accepted by the complainant.

## More information

Rules and Operational Guidelines:

[afca.org.au/rules](https://afca.org.au/rules)

Complaint form:

[afca.org.au/complaints](https://afca.org.au/complaints)

Publications:

[afca.org.au/publications](https://afca.org.au/publications)

## Key terms

Term	Definition
Adjudicator	Decision maker (Fast Track stream).
Conciliation	A telephone conference call that includes the complainant, the financial firm and an AFCA conciliator.
Compensation cap	The maximum value of a remedy we may award for a claim.
Complainant	Person who has submitted the complaint and is in dispute with the financial firm.
Determination	AFCA's final decision.
EDR	External dispute resolution.
IDR	Internal dispute resolution.
Ombudsman	Decision maker (Standard & Complex streams).
Panel	Group formed to make a determination, consisting of a Chair (usually an ombudsman), an industry and consumer representative.
Preliminary assessment	Our reasons for any conclusions made about the merits of the complaint. May be delivered verbally or in writing.

See Section E of the Rules for more information

## Contact us

**Australian Financial Complaints Authority**

**1800 931 678** (free call)

(9am to 5pm from Monday to Friday)

**(03) 9613 6399** (fax)

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