

MEMORANDUM OF UNDERSTANDING
BETWEEN
AUSTRALIAN FINANCIAL COMPLAINTS AUTHORITY LIMITED
AND
THE AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY

1. Introduction

- 1.1. Supporting a fair and efficient financial system is a key focus of both the Australian Financial Complaints Authority Limited (ACN 620 494 340) (AFCA) and the Australian Prudential Regulation Authority (APRA) (together, the authorities). A well-regulated and stable financial system is important for promoting consumer, investor and policy-holder confidence.

2. Purpose

- 2.1. This Memorandum of Understanding (MoU) sets out the agreed basis for engagement, including coordination, cooperation, and information sharing, between AFCA and APRA. This MoU is not intended to create legally binding rights or obligations. The arrangements in this MoU will be implemented in accordance with relevant requirements under each authority's governing legislation or documentation.
- 2.2. This MoU reflects the authorities' intentions to maintain a proactive, open and collaborative relationship.
- 2.3. The authorities may, by mutual agreement, establish supplementary protocols and guidelines to operate under this MoU.

3. Responsibilities

- 3.1. Although AFCA and APRA have distinct mandates and responsibilities, they both have a common role in protecting and delivering benefits for all Australians.
- 3.2. AFCA is responsible for assisting consumers and small businesses to resolve their complaints with their financial firm. It does this by acting as an independent external dispute resolution scheme for complaints relating to financial services, including credit, finance and loans; insurance; banking deposits and payments; investments and financial advice; and superannuation. AFCA has certain obligations under Part 7.10A of the *Corporations Act 2001*, and is bound by its Rules (which have contractual force) and its constitution.
- 3.3. APRA is tasked with protecting the financial well-being of the Australian community. It does this through the regulatory oversight of financial entities with the objective of protecting the interests of depositors, insurance policyholders and superannuation fund members. It is also required to balance the objectives of financial safety and efficiency, competition, contestability and competitive neutrality and, in balancing these objectives, is to promote financial system stability.

4. Agreement to engage

- 4.1. The authorities recognise the importance of mutual consultation and cooperation in the effective discharge of their respective responsibilities.
- 4.2. Each authority commits to developing and maintaining effective arrangements for engagement and, in accordance with legislative and contractual obligations and agreed protocols, having regard to each other's mandate and broader regulatory objectives.
- 4.3. Under the arrangements, each authority will:
 - inform - proactively provide appropriate information and documents that are relevant to the other authority and respond promptly to information and document requests;
 - consult - where one authority is considering or undertaking an activity that has an impact on the other authority's responsibilities;
 - collaborate - seek input from, or collaboration with, the other authority to achieve or improve regulatory outcomes, particularly in policy development and consultation with industry and statistical collections; and
 - engage effectively - seek to improve the efficiency of its interaction with the other authority and, in areas of common interest, the efficiency and effectiveness of interaction with industry participants.
- 4.4. The authorities agree to a proactive approach to engagement, which will include senior-level liaison meetings; and mechanisms to share perspectives and expertise on relevant issues.

5. Information Sharing

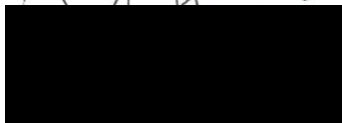
- 5.1. The authorities acknowledge the benefits of sharing information that will assist each other in performing their functions and exercising their powers.
- 5.2. The authorities acknowledge that market participants and other stakeholders may provide commercially sensitive information, or other information, on a confidential basis. In some circumstances, this information may be subject to statutory or contractual confidentiality, secrecy, non-disclosure and, where applicable, privacy legislation obligations.
- 5.3. The authorities may share, to the extent possible, information relevant to the financial or prudential soundness of regulated financial institutions, with each other. This is subject to any statutory secrecy and non-disclosure obligations, other confidentiality and information-sharing obligations, or any other constraints including, where applicable, privacy legislation obligations. The authorities agree to adhere to any conditions imposed by the disclosing authority or any other terms required.
- 5.4. The authorities acknowledge that, in some circumstances, it will not be appropriate to share certain information with each other.
- 5.5. The authorities agree not to disclose any confidential information obtained under this MoU to a third party unless authorised or required by law or prior consent has been obtained from the originating authority.

5.6. The authorities acknowledge that there are circumstances where disclosure may be required, authorised or permitted by law. In such cases, the authorities will advise the other authority in advance of any proposed disclosure, where possible.

6. Administration of MoU

6.1. The authorities may review the operation of the MoU (including any supplementary protocols and guidelines) on a periodic basis and consult with each other about improving the operation of the MoU where necessary. Any part of this MoU may be amended at any time with the mutual agreement of both authorities in writing.

6.2. The authorities agree that this MoU may be published on each authority's website.



David Locke
Chief Ombudsman and CEO
Australian Financial Complaints Authority

Date: 15/03/2023



John Lonsdale
Chair
Australian Prudential Regulation Authority

Date: 6 March 2023