

AFCA Scheme Authorisation 2018

I, Kelly O’Dwyer, Minister for Revenue and Financial Services, Minister for Women and Minister Assisting the Prime Minister for the Public Service, being satisfied that the mandatory requirements in section 1051 of the *Corporations Act 2001* will be met, and after taking into account the general considerations for an external dispute resolution scheme under section 1051A of the *Corporations Act 2001*, hereby make the following notifiable instrument.

Dated: 23rd April 2018

Kelly O’Dwyer

Minister for Revenue and Financial Services, Minister for Women and Minister Assisting the Prime Minister for the Public Service

1 Name

 This instrument is the AFCA Scheme Authorisation 2018.

2 Commencement

This instrument commences on the day it is made.

3 Authority

 This instrument is made under subsection 1050(1) of the Act.

4 Definitions

In this instrument:

***Act***means the *Corporations Act 2001*.

***AFC*** means the Australian Financial Complaints Limited (ACN: 620 494 340).

***AFCA scheme*** means the external dispute resolution scheme referred to in section 5.

***CIO*** means the Credit and Investments Ombudsman Limited (ACN 104 961 882).

***FOS*** means the Financial Ombudsman Service Limited (ACN 131 124 448).

***Privacy Act*** means the *Privacy Act 1988*.

5 Authorisation of an external dispute resolution scheme as the AFCA scheme

The external dispute resolution scheme operated by AFC is an authorised external dispute resolution scheme for the purposes of subsection 1050(1) of the Act and will be known as the AFCA scheme.

Note: The operator of the AFCA scheme will be known as AFCA.

6 Condition on authorisation – report to Minister about decisions to vary fees

It is a condition relating to the authorisation of the external dispute resolution scheme that within 30 days after the end of each financial year that AFC must report to the Minister on any decisions taken during that financial year to do any of the following:

                      (a)  vary the amount of member levies payable by members of the AFCA scheme;

                     (b) vary the scale of complaint fees payable by members of the AFCA scheme.

7  Condition on authorisation – must seek recognition of the Australian Information Commissioner

It is a condition relating to the authorisation of the external dispute resolution scheme that AFC must take all reasonable steps required to obtain the Information Commissioner’s recognition of the authorised external dispute resolution scheme in accordance with section 35A of the Privacy Act.

8  Condition on authorisation – membership of the scheme is open to existing members of FOS and CIO

(1) It is a condition relating to the authorisation of the external dispute resolution scheme that the Constitution of AFC must enable an entity covered by subsection (2) to apply to become a member of the authorised external dispute resolution scheme.

(2)   An entity is covered by this subsection if:

                     (a)  the entity is a member of an external dispute resolution scheme operated by FOS or CIO at the time this authorisation is made; and

                     (b)  the entity is required to be a member of a recognised external dispute resolution scheme under Part IIIA of the Privacy Act.