



AFCA Scheme (Additional Condition) Amendment Authorisation 2019

I, Josh Frydenberg, Treasurer, 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: 19 February 2019

Josh Frydenberg
Treasurer

1 Name

This instrument is the *AFCA Scheme (Additional Condition) Amendment Authorisation 2019*.

2 Commencement

This instrument commences on 30 June 2019.

3 Authority

This instrument is made under subsections 1050(4) and (5) of the *Corporations Act 2001*.

4 Schedules

Each notifiable instrument that is specified in a Schedule to this notifiable instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this notifiable instrument has effect according to its terms.

Schedule 1—Amendments

AFCA Scheme Authorisation 2018

1 At the end of the instrument

Add:

9 Additional condition

- (1) It is an additional condition relating to the authorisation of the AFCA scheme that the AFCA scheme must permit an eligible person to make a complaint if:
 - (a) the complaint relates to a compulsory member of the AFCA scheme who is a member of the AFCA scheme at the time the complaint is made; and
 - (b) the complaint is not an excluded complaint; and
 - (c) the complaint is not otherwise excluded by the scheme rules (other than because of a time limit in the scheme rules); and
 - (d) the complaint is made under the AFCA scheme within the period referred to in subsection (2).
- (2) The period for making the complaint is any time during the period starting on 1 July 2019 and ending on 30 June 2020.

Note: The period in subsection (2) does not apply to complaints that can otherwise be considered by the AFCA scheme.

- (3) If a complaint is made under the AFCA scheme in accordance with subsection (1), the complaint must be determined in accordance with the scheme rules as in force at the date this instrument commences.
- (4) In this section:

compulsory member means a person who is required to be a member of the AFCA scheme under a law of the Commonwealth.

eligible person has the same meaning as in the scheme rules.

excluded complaint means any of the following:

- (a) a complaint about conduct that occurred and ended before 1 January 2008;
- (b) a complaint in relation to which a decision or determination has been made by a court or tribunal;
- (c) a complaint in relation to which a decision or determination about the merits of the complaint has been made under a predecessor scheme or the AFCA scheme;
- (d) a complaint in relation to a superannuation death benefit;
- (e) a complaint that solely relates to a right or obligation arising under the *Privacy Act 1988*;

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- (f) a complaint that has previously been finally settled by the person making the complaint and the compulsory member to whom the complaint relates (other than a complaint which can still be made under the scheme rules).

predecessor scheme has the same meaning as in the scheme rules.

scheme rules means the Australian Financial Complaints Authority (AFCA) Complaint Resolution Scheme Rules as in force at the date this instrument commences.

small business has the same meaning as in the scheme rules.