



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (AFCA Regulatory Requirement) Instrument 2021/0002

I, Sarah Edmondson, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date: 5 January 2021

Sarah Edmondson

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (AFCA Regulatory Requirement) Instrument 2021/0002*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under paragraph 1052A(b) of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

AFCA means the operator of the AFCA scheme.

AFCA scheme means the external dispute resolution scheme for which an authorisation under Part 7.10A of the Act is in force.

scheme rules means the Australian Financial Complaints Authority (AFCA) Complaint Resolution Scheme Rules.

Part 2—Regulatory requirement

5 Requirement to amend scheme rules

- (1) AFCA is required to amend the scheme rules on or before 15 January 2021, without consultation, to:

- (a) in the appropriate place in rule E.1.1, insert:

“**Representative** means any person or entity for whose conduct a Financial Firm is or may be liable, including but not limited to a representative within the meaning of the Corporations Act, and a credit representative within the meaning of the National Consumer Credit Protection Act 2009.” and

- (b) omit paragraph 4 of the definition of Financial Firm in rule E.1.1 and substitute:

“4. For the purposes of rule B.2, A.7.1, A.7.2 and A.7.6 in relation to a complaint other than a Superannuation Complaint, “Financial Firm” also includes any employee, agent or contractor of the Financial Firm, any Representative of the Financial Firm regardless of whether the Representative’s conduct is within or without authority, and without limiting the foregoing, any other person who has actual, ostensible, apparent or usual authority to act on behalf of the Financial Firm or authority to act by necessity in relation to a financial service.”

Note 1: This requirement does not affect the requirement in s1051(5)(b) of the Act that ASIC approve material changes to the AFCA scheme