



AUSTRALIAN COLLECTORS &  
DEBT BUYERS ASSOCIATION

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Michelle Kumarich  
Executive General Manager - Jurisdiction  
Australian Financial Complaints Authority  
GPO Box 3  
Melbourne VIC 3001

Transmitted via Email only: [consultation@afca.org.au](mailto:consultation@afca.org.au)

Dear Ms Kumarich,

**AFCA 2025 Rules consultation (June 2025)**

The Australian Collectors & Debt Buyers Association appreciates the opportunity to provide the attached Submission in response to AFCA's 2025 Rules consultation.

Please do not hesitate to contact the writer to discuss any aspect of the Submission.

Yours sincerely

Jacob Maiore  
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## Introduction

The Australian Collectors & Debt Buyers Association (ACDBA) welcomes this opportunity to comment on AFCA's 2025 Rules consultation.

ACDBA was established in 2009, for the benefit of companies who collect, buy and/or sell debt - the members of ACDBA (refer Appendix 1) represent the majority of the collection market in Australia.

Our members which purchase debt, each hold an Australian Credit Licence and are members of the Australian Financial Complaints Authority (AFCA).

## Response

We support AFCA's continuous improvement of its operations but consider several of the proposed changes to be indicative of deeper concerns with the scheme's structure. Rather than patching specific symptoms, we urge AFCA and ASIC to address the underlying system issues through stronger mandatory exclusions and jurisdictional clarity.

### **Complaints about receiving banks related to scams**

We acknowledge the Government's direction via the Authorisation instrument to expand AFCA's jurisdiction in respect of scam-related complaints involving receiving banks. This policy intent is clear and responds to a real and growing problem.

However, we hold concerns that the implementation as drafted may overreach the Authorisation's intention. Specifically:

- The proposed definition of "Bank" in Schedule E is too broad. It uses the phrase "includes but is not limited to" in reference to authorised deposit-taking institutions (ADIs) under the Banking Act 1959. This creates ambiguity about whether non-bank lenders or unrelated entities could fall within scope.
- The Government's Authorisation refers to a "bank carrying on a financial services business of engaging in credit activities", which implies a narrower remit. ACDBA believes AFCA's drafting should reflect that narrower intent.

We therefore recommend:

- The definition of "Bank" be amended to remove "includes but is not limited to" and instead state: "means an authorised deposit-taking institution under the Banking Act 1959".

This ensures clarity, avoids scope creep, and gives both complainants and financial firms certainty about who is subject to this rule.

### **Paid Representatives**

ACDBA supports the proposed amendments requiring Paid Representatives to use AFCA's designated communication channels (such as the consumer portal) and enabling exclusion of representatives who are not AFCA members where required by law.

This is a practical and necessary change. Financial firms regularly experience inefficiencies and delays when dealing with non-compliant representatives, particularly some debt management firms, who often fail to engage constructively, use inappropriate communication channels, or bypass internal dispute resolution.

However, we believe the changes should go further:

- Complaints lodged by a Paid Representative who is required by law to be an AFCA member but is not should be **automatically excluded** until that issue is rectified. This should not be a discretionary decision.
- Representatives should be required to disclose their fees in the complainant's Statement of Financial Position, to avoid concealment of material liabilities.
- Representatives should be required to provide evidence of the financial firm's final response to the dispute before lodging with AFCA.
- A signed client consent authorising the representative to lodge the complaint should be mandatory.

These measures will improve the integrity of the process and protect complainants from inappropriate or unauthorised third-party conduct.

### **Financial Firm non-compliance with AFCA Determinations**

We agree that a clear breach of an AFCA determination undermines the credibility of the EDR scheme. However, we question whether AFCA itself is the appropriate party to publicly name non-compliant firms.

While we support enforcement and transparency, we consider that publication of non-compliance should remain the responsibility of ASIC, as the regulator with established authority and mechanisms to handle such disclosures. ASIC already has powers under RG 271 and licensing obligations to act where firms fail to comply with AFCA determinations, including taking enforcement action or cancelling licences. AFCA's role should remain focused on dispute resolution, with referrals made to ASIC where necessary.

We therefore suggest that AFCA maintain its current practice of referring non-compliance to ASIC, and that any publication of non-compliance be managed and disclosed by ASIC in line with its regulatory protocols.

### **Removal of Legacy Complaint Rules**

We agree with the proposal to remove Section F of the AFCA Rules, which dealt with complaints received between 1 July 2019 and 30 June 2020. This provision has served its purpose and is no longer needed.

## **Broader Rule Reform Needed**

While the individual proposals are generally reasonable, they are symptomatic of a deeper issue: AFCA's framework relies too heavily on discretionary exclusions and reactive adjustments. This creates inefficiencies, inconsistent outcomes, and exposes financial firms and complainants to process burdens that could be avoided.

We recommend AFCA and ASIC:

- Expand the categories of **mandatory exclusions** to cover matters involving non-compliant representatives, complaints with no reasonable prospect of success, and abuse of process.
- Reduce reliance on AFCA's discretionary powers, and instead codify more objective jurisdictional limits.
- Commit to a structural review of jurisdictional boundaries, exclusions, and threshold filters to ensure clear jurisdictional boundaries.

## **Conclusion**

ACDBA appreciates the opportunity to comment on AFCA's proposed rule changes. We support measures to improve AFCA's operations but urge a broader structural reform process to ensure the EDR scheme remains efficient, fair, and focused on genuine disputes.

We are happy to discuss this submission further or provide additional feedback on the implementation of these proposals.

## **Contact**

For any enquiry in relation to this Submission, please contact:

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## Appendix 1

### Members of Australian Collectors & Debt Buyers Association

- Axess Recoveries & Collections Pty Ltd
- CCC Financial Solutions Pty Ltd
- Charter Mercantile Pty Ltd
- Complete Credit Solutions Pty Ltd
- Credit Corp Group Limited (ASX: CCP)
- Lyndon Peak Pty Ltd t/as Access Mercantile Services
- PF Australia Pty Ltd
- PRA Australia Pty Ltd (NASDAQ: PRAA)
- Recoveries Corporation Holdings Pty Ltd
- Strategic Collections Pty Ltd

### Affiliate Members of Australian Collectors & Debt Buyers Association

- Acceleon Pty Ltd
- CreditSoft Solutions Pty Ltd
- Experian Australia Pty Ltd
- Talefin Australia Pty Ltd
- TCN
- Collect!
- Equifax Pty Ltd