# EPAA SUBMISSION TO

# AFCA SCAMS PREVENTION FRAMEWORK RULES CONSULTATION

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Australia

**Department:**
Australian Financial Complaints Authority

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AFCA Scams Prevention Framework Rules consultation

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**Submission of Emerging Payments Association Asia (EPAA) to the Australian Financial Complaints Authority (AFCA) on the Proposed Changes to the AFCA Rules regarding the Scams Prevention Framework, released 31 August 2026**

Email: consultation@afca.org.au

## 1. Introduction

The Emerging Payments Association Asia (EPAA) welcomes the opportunity to provide feedback to the Australian Financial Complaints Authority (AFCA) on the proposed changes to the AFCA rules to implement External Dispute Resolution (EDR) aspects of the Scams Prevention Framework (SPF), released on 31 August 2026.

EPAA's goal is to unify the payments agenda in the Asia-Pacific region, drive business development, and improve the regulatory landscape for all organisations within the payments value chain. We are a community of payments organisations whose goal is to strengthen and expand the payments industry for the benefit of all stakeholders across the Asia-Pacific region. More information about EPAA can be found on our website www.emergingpaymentsasia.org

Please note that while we have consulted with our members and others within the ecosystem in the development of this submission, this submission is the view of EPAA alone and does not necessarily represent the views of individual EPAA Members, Supporters or Ambassadors.

## 2. General Comments

EPAA supports the development of a coordinated, risk-based, whole-of-ecosystem approach to scam prevention.

Given other aspects of the SPF are still being developed, we would request that AFCA continue to engage with industry participants, both within designated sectors and those likely to be impacted by the new regime, as these further details are made available.

We would also ask AFCA to continue to monitor regulatory outcomes in jurisdictions such as the United Kingdom to help inform decisions that prevent adverse outcomes.This includes whether there has been any knock-on effects to third parties, for example through higher insurance premiums, because of the introduction of scam related compensation.This monitoring also includes development through the current FATF process to creates greater coordination and consistency in financial crime regulation as part of the UK Presidency.

Further, given the complexity of multi-party liability and the operational uplift required across sectors, EPAA still believes a phased implementation approach needs to be considered by government and regulators, rather than a hard start in March 2027.

3. Response to Consultation Questions

**Q1. Refer-back approach for multi-party scam complaints**

EPAA supports AFCA's intention to allow refer backs to IDR. However, multi-party scam complaints may involve non-regulated entities such as PSPs and third-party service providers.

On this basis, AFCA should clarify how refer-back will operate when only some parties have SPF IDR obligations. A flexible approach is appropriate, but guidance is required to ensure proportionality and avoid procedural bottlenecks.

**Q2. Eligibility setting and requirements**

A complaint can only be lodged about a regulated entity that is an AFCA member when the complaint is submitted. This raises several issues for Payment Service Providers (PSPs) that may become part of a complaint as a third-party provider and / or within the regime at some future point when PSPs are designated. For example, third parties that may be subject to information requests should be notified of the possibility of needing to provide such information and given adequate time to be able to respond to any such information request.

**Q3. Guidance needed for Operational Guidelines on eligibility**

EPAA has some concerns over the proposed six-year eligibility time limits.While we note this has been drawn from other civil limitation time periods, changes are occurring quickly in financial services and payments with the application of new technologies happening regularly. The lengthy eligibility period will require regulated entities, potentially regulated entities and their third parties to collect and hold data, potentially with older technologies which can create future legacy challenges and impose costs.

On this basis, we would request as much up-front guidance from AFCA as possible on what kind of information that they would likely be seeking, so as to permit systems and processes to be built so that this information can be collected, stored and easily retrieved.

EPAA recommends further guidance on how AFCA will treat complaints involving a mix of regulated and non-regulated entities, in particular how AFCA will handle complaints where the scam occurred on a non-regulated entity, but the loss occurred through a regulated entity.

**Q4-Q5. Mandatory and discretionary exclusions**

EPAA would recommend that AFCA provide guidance and examples to clarify how it will assess "adequately dealt with" where multiple entities are involved and how it will treat cross-border matters where courts or tribunals outside of Australian have been involved.

**Q6. Multi-party complaint approach**

AFCA's ability to join and remove parties from a complaint will require detailed guidance. This is particularly important given that many scam pathways involve entities outside SPF scope such as PSPs. Further, joined entities may have different regulatory obligations.

AFCA should also strive for fair treatment in complaints where some parties have SPF obligations and others do not. There should not be the application of implied SPF obligations on a non-regulated entity just because it was part of the chain of a transaction.

**Q7. Guidance needed for multi-party complaints**

Liability apportionment is central to the SPF. AFCA's assessment of liability and apportionment should be anchored in the application of the final settings established under the SPF legislative framework.

EPAA has previously recommended consideration of a nuanced approach that allocates liability based on responsibility at each stage of the scam, such as Singapore's Shared Responsibility Framework. This ensures entities are accountable for the parts of the process they influence, rather than defaulting to equal shares.

EPAA is itself undertaking further work on fraud and scam taxonomies that map responsibility and visibility across the scam lifecycle and expect this work to inform a more robust apportionment model for Australia.

A further concern with the multi-party approach is that scheme rules, chargeback processes and bilateral indemnities can reallocate scam losses outside the SPF. This exposes non-regulated entities, such as PSPs and third-party service providers, to liability despite having no standing in the SPF or AFCA process.

Lastly, we would hope that these settings make clear that private contractual arrangements cannot override the SPF's intended allocation of liability, nor shift losses unfairly onto parties outside the SPF perimeter. Without this safeguard, designated entities could push losses downstream, undermining both fairness and deterrence.

**Q8. Adapting AFCA's resolution approach for similar SPF complaints**

Flexible resolution pathways are welcomed and EPAA recommends guidance and procedures that include:

- Clear triage processes for high-volume, similar scam complaints.
- Ensuring conciliation does not impose disproportionate burden on smaller entities or those outside SPF scope.

**Q9. Information gathering approach**

In addition to the need for upfront guidance on likely information requests as noted in our response to Question 3 above, we would request that AFCA provide more details on how legally privileged and other sensitive information is handled.

We would suggest a principle that AFCA information requests be proportionate and reasonable and that AFCA favours less sensitive discovery, where possible.This includes consideration of privacy, data protection and AML/CTF (including tipping-off) obligations.

As well, EPAA would recommend clarity on how AFCA would undertake information requests from offshore institutions or non-regulated entities and how that data will be used.

**Q10. $10,000 expert advice cap**

The expert advice cap has the potential to impose costs that could be particularly impactful on smaller entities.

On this basis, EPAA recommends:

- Clear criteria be provided by AFCA as to what constitutes “special circumstances”.
- Clear criteria on how the amount would be apportioned in a multi-party claim.
- That the triggering of expert advice amount be proportionate to the alleged financial loss.
- Guidelines be provided on how AFCA will select experts to ensure their necessary competence, integrity and independence.

**Q11. Guidance on managing GenAI use**

EPAA believes that AI has the potential to create significant efficiency gains across the economy. However, we are also aware that it has the potential to create problems for legal and dispute resolution processes with the possibility that large numbers of low-quality submission could be easily generated.

On that basis, we would recommend guidance from AFCA that:

- focuses on relevance, accuracy and proportionality of submissions rather than how they were created
- avoiding blanket restrictions that impede legitimate efficiency gains
- ensuring parties understand expectations for transparency when using GenAI tools
- focus on preventing misuse, particularly mass-generated frivolous, vexatious or misconceived submissions

**Q12. Compensation limits**

In respect to the compensation limits, EPAA notes that limits should be reviewed periodically and the impact on compensation of industry segments be closely monitored.This is particularly warranted where the potential cumulative impact of multiple lots of compensation on smaller entities.

**Q13. Legal and professional cost limits**

EPAA believes AFCA should avoid procedures and cost structures that incentivise legal involvement and to closely monitor the behaviour of legal and other advisers claiming to pursue complaints on behalf of consumers. This is to avoid complaints-lodging being overly industrialised or legal representation being hard-wired into a process that is supposed to be a low-cost alternative to the courts for dispute resolution.

**Q14. Non-financial loss wording**

EPAA recommends AFCA Rules on non-financial loss be clarified as to how AFCA will assess non-financial loss in multi-party scams.

**Q15. Notification of settlement terms**

EPAA supports the parties notifying AFCA of settlement terms for transparency and reporting, provided:

- AFCA does not require disclosure of commercially sensitive contractual arrangements beyond what is necessary.
- AFCA clarifies how settlement data will be used and protected.

**Q16. Guidance on decision-making**

While we have touched on most of these point already, EPAA recommends guidance on how AFCA will:

- ensure consistency and fairness across sectors with differing obligations and visibility

- interpret SPF Codes and Rules when determining liability
- avoid making regulatory breach findings
- treat scheme rules and contractual arrangements that allocate liability outside SPF

**Q17. Reference to AFCA's Engagement Charter**

In respect to the Engagement Charter, EPAA recommends that AFCA:

- clarifies expectations for multi-party cooperation where entities have different regulatory obligations
- ensures expectations are proportionate for smaller entities and PSPs not yet designated
- provides guidance on how it will manage situations where offshore institutions cannot engage

**Q18.-Q19. Paid Representative**

EPAA believes that AFCA should play a pro-active role in ensuring the quality and integrity of legal and other representatives involved in the process.
On this basis we support AFCA being able to restrict advisers, particularly when they have a history of exploiting vulnerable scam victims.

As noted above, we also believe that AFCA should monitor the behaviour of the advisory community to ensure that the SPF EDR remains a fit-for-purpose, accessible and low cost means of resolving disputes.

## 4. Conclusion

EPAA welcomes continued engagement with AFCA, Treasury and the relevant regulators and stands ready to contribute further insights and industry perspectives, including from across the region, as this work progresses.

EPAA is willing to participate in working groups, technical standards development, and industry education.

If you have any questions on this submission, please feel free to contact Dr Brad Pragnell, EPAA Ambassador and Senior Policy Adviser by email at brad.pragnell@34south45north.com .

Kind regards,
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