



21 June 2024

Senator Deborah O'Neill
Committee Chair
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra, ACT 2600

By email: corporations.joint@aph.gov.au

Dear Senator O'Neill

FINANCIAL SERVICES REGULATORY FRAMEWORK IN RELATION TO FINANCIAL ABUSE

The Australian Finance Industry Association (AFIA) is the only peak body representing the entire finance industry in Australia. We appreciate the opportunity to respond to the Parliamentary Joint Committee on Corporations and Financial Services inquiry 'Financial Services Regulatory Framework in Relation to Financial Abuse'.¹

We represent over 150 members, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

COMMENTS

Financial abuse is a significant community issue in Australia and is often a subset of family and domestic violence. Unfortunately, there is an increased risk of financial abuse during major crises, such as natural disasters, economic downturns, or pandemics, which places additional pressure on individuals. A report

¹ [Parliamentary Joint Committee on Corporations and Financial Services inquiry \(June 2024\) 'Financial Services Regulatory Framework in Relation to Financial Abuse'](#).

by the Commonwealth Bank and Deloitte previously found that an estimated 1 in 30 women and 1 in 50 men were subjected to financial abuse in Australia in 2020.² The report found that 623,100 individuals experienced financial abuse by a current or former partner, resulting in a combined cost of \$10.9 billion to victims and the economy.³

According to the Australian Bureau of Statistics (ABS), an estimated 4.2 million adults have experienced violence, emotional abuse or economic abuse by a partner between 2021-22, with 1 in 6 women experiencing economic abuse by a partner.⁴ Some older Australians can also be vulnerable to financial abuse due to declines in health and functioning which cause them to be put at risk of having a diminished capacity for self-protection.⁵

AFIA recognises that customers may encounter changes in their financial or personal circumstances that cause them to experience financial difficulties, such as customers who are experiencing financial abuse. We believe that the sooner appropriate support is in place for customers, usually more options are available and better outcomes can be achieved.

By having in place appropriate systems, policies and procedures, and programs to support customers experiencing financial abuse, financial firms not only assist their customers, but also demonstrate corporate responsibility by championing a thriving finance industry that always acts in the interests of customers and the prosperity of Australians.

AFIA members recognise the significance of this issue in Australia and the actual and potential impacts on their customers. Financial firms regularly review and refine their financial hardship programs, including hardship-related processes, and many have financial hardship teams in place to help manage customers experiencing financial difficulties, including customers who are experiencing financial abuse.

AFIA is working with our members in relation to recent financial hardship data and reports, including the Australian Securities and Investments Commission (ASIC) hardship report published in May 2024 and the Australian Financial Complaints Authority (AFCA) data released in April 2024.⁶ In particular, AFIA is hosting a roundtable with our members and AFCA in July 2024 about financial difficulty related complaints and ways to improve practices. We are organising a training workshop with UnitingCare in August 2024 about customer vulnerability and ways to make sure other factors impacting a customer's ability to manage their finances and/or make their repayments is better understood, including when to refer customers to specialised community support services.⁷

² [Commonwealth Bank of Australia \(2022\), 'The cost of financial abuse in Australia' report, page 6.](#)

³ *ibid.*

⁴ Economic abuse includes behaviours or actions that are aimed at preventing or controlling a person's access to economic resources, causing them emotional harm or fear. Please see: [The Australian Bureau of Statistics \(ABS\) \(March 2023\), Personal Safety Australia 2021-22. Financial Year data.](#)

⁵ For further information on financial abuse for older Australians, please see: [The Australian Institute of Family Studies, Elder abuse in Australia: Financial abuse \(August 2022\).](#) See also: [The World Health Organisations \(WHO\), Abuse of older people webpage.](#)

⁶ [ASIC Report 782 \(May 2024\), 'Hardship, hard to get help: Findings and actions to support customers in financial hardship'](#) and [AFCA media release \(29 April 2024\), 'AFCA worried by rising complaints over handling of hardship'.](#)

⁷ Please see [Uniting webpage.](#)

AFIA is further working with Financial Counselling Australia (FCA) as part of the industry's response to the FCA's 2023 Rank the banks and other lenders survey, to identify general and specific issues, as well as any areas for improvement, particularly in the context of the current economic conditions and cost of living pressures.

Examples of industry practices

Please find below some examples highlighting industry practices:

- *Clear information about hardship programs and support for customers experiencing financial difficulties:* many financial firms provide information on their websites in relation to support for customers experiencing financial difficulties, including explanations for customers and the public on what factors can lead to financial hardship, such as loss of employment, illness or injury, relationship breakdown, or other factors such as family and domestic violence or financial abuse. Such information includes how customers can apply for hardship assistance, as well as further information on where customers can seek free and independent advice or other community support services. The types of hardship assistance provided to customers can include repayment holidays, postponement of payments, loan variations or arrears capitalisation.
- *Additional support and care for customers experiencing vulnerability:* financial firms will often work to train their staff on vulnerabilities in order for them to understand the issues customers in vulnerable situations are facing, including adapting their communications to suit the customers circumstances, and engaging with customers in an appropriate empathetic, sensitive and flexible way. As circumstances change, including economic conditions and other social factors, members recognise that ongoing training for their specialist customer service teams becomes important to ensure learnings are built into systems, policies, and programs.
- *Specific or specialised assistance for customers experiencing family or domestic violence or financial abuse:* some AFIA members have dedicated webpages on financial abuse and related information to support their customers. Additionally, when financial abuse or family and domestic violence is identified, referrals are often made to community support services so customers can get the specialised support and care they need through these difficult times or more broadly where their personal circumstances may be more permanent or permanently impacted causing additional difficulties. Members have also learned from recent crisis events, whether that has been related to operational disruptions or the COVID-19 global pandemic, that further and additional steps might be needed to help protect victims of family and domestic violence, especially customers with joint accounts, loans or other shared finance arrangements, where additional security solutions might be appropriate.

Examples of real-life case studies

- A co-borrower separated from the borrower due to domestic violence and financial abuse and had a medical condition. There was a domestic violence intervention order in place. The car loan was set up by the borrower, but the co-borrower was unable to make any repayments and needed the vehicle. The vehicle was registered in the name of the co-borrower. If the co-borrower was not the registered owner, the borrower would still have rights over the vehicle even if the debt is waived. In this example, a full debt waiver was approved by the provider due to the customer's vulnerabilities and inability to repay.⁸

⁸ Example provided by AFIA member.

- A customer’s long-term relationship ended, leaving them to raise children alone. The ex-partner was sentenced to prison for domestic violence, and the customer’s sole income was Centrelink payments. They were unable to work as they looked after children, and they were studying. The car was required to transport the children to school. The customer had previously applied for hardship assistance multiple times over the past several years and indicated that they could afford a certain amount of monthly repayment. Hardship assistance was approved, and the loan terms were adjusted, including a reduction in the principal amount, re-contracting the loan to extend the loan term, reducing the interest rate, and aligning the monthly repayment amounts to the customer’s affordability.⁹

AFIA Codes of Practice

AFIA is committed to building a more resilient economy through a safer and more transparent financial system. We believe industry standards through self-regulation is an important part of the regulatory framework, providing a mechanism for industry to work collaboratively to achieve customer-centric operating models.

Introducing and regularly reviewing industry codes is key to driving best practices across industry. Industry Codes of Practice can often respond faster to change than legislation and can be amended to efficiently keep up to date with emerging issues, as well as customer and community expectations.

AFIA works with our members to develop Codes of Practice to ensure the finance industry meets high standards, as well as their legal obligations, lift industry practices and respond to changing customer and community expectations, as well as strengthen confidence in the good standing of the finance industry.¹⁰

AFIA’s Codes of Practice contain provisions for our members related to financial difficulty and vulnerability, such as customers who are experiencing financial abuse.

Online Small Business Lending (OSBL) Code of Practice

AFIA worked together with our online small business lenders to release a Code of best practice lending principles. The AFIA Online Small Business Lending Code of Practice (‘the OSBL Code), was developed with support from the Australian Small Business and Family Enterprise Ombudsman.¹¹

Clause 20 of the OSBL Code details requirements for Code subscribers around financial hardship, noting the different regulatory standards for consumer and business lending.¹² The voluntary requirements go above and beyond the law and include working with customers in good faith to assist them in meeting

⁹ *ibid.*

¹⁰ [Please see the AFIA Codes of Practice webpage.](#)

¹¹ [Please see AFIA Online Small Business Lenders Code of Practice webpage.](#) The AFIA Members having a code-compliant online small business loan product are Capify, Lumi, Moola, OnDeck, Prospa and Shift.

¹² [AFIA Online Small Business Lending Code of Practice](#), Clause 20.

their financial obligations, and treating each customer fairly and with respect, and considering their specific circumstances.¹³

Car Rental Code of Practice

AFIA and our car rental members released a Car Rental Code of Practice (‘the Car Rental Code’) in March 2018.¹⁴ The Car Rental Code ensures an industry standard is set and met on a wide range of issues, including transparency of pricing and credit card charging practices, rental contract terms and damage assessment and billing.¹⁵ This is supported by a clear process to allow customers to raise complaints with our members where they should be resolved in a timely and fair manner. On those occasions where customers may want further consideration following a member’s decision, a further conciliation process is provided.

AFIA has taken a proactive approach to address further evolving community expectations by working to update our Car Rental Code, with input from the Australian Competition and Consumer Commission (ACCC) and consumer and community stakeholders. This update will include clauses related to expectations around financial hardship, vulnerability, and financial abuse. This addition will ensure that car rental providers who are our members commit to treating customers experiencing financial difficulty with sensitivity and respect, providing appropriate support and assistance. The updated Code is due to be published shortly.

Insurance Premium Funding (IPF) Code of Practice

The AFIA Insurance Premium Funding Code of Practice (‘the IPF Code’) also addresses financial hardship with provisions to support customers facing financial difficulties under Clause 27.¹⁶ The requirements include provisions around working with customers in good faith if they are experiencing difficulties in meeting their financial obligations, by negotiating new payment arrangements.¹⁷ In the first quarter of 2024, there were no declined applications for financial difficulty assistance by AFIA IPF Code members.¹⁸

Buy Now Pay Later (BNPL) Code of Practice

The AFIA Buy Now Pay Later Code of Practice (‘the BNPL Code’) was informed by Australia’s financial services, credit and payments laws, augmented with additional protections, to create a self-regulatory framework fit for the future. It provides a meeting point between consumer expectations about financial safety and consumer preferences regarding financial products, as these two concepts evolve over time.¹⁹

¹³ [AFIA Online Small Business Lending Code of Practice](#), Clause 20.2.

¹⁴ Please see the [AFIA Car Rental Code webpage](#).

¹⁵ [Car Rental Code of Practice](#).

¹⁶ Please see the [AFIA Insurance Premium Funding Code of Practice webpage](#). Please also see [AFIA Insurance Premium Funding Code of Practice](#), Clause 27.

¹⁷ [AFIA Insurance Premium Funding Code of Practice](#), Clauses 27.1 and 27.2.

¹⁸ Data provided to AFIA for membership purposes.

¹⁹ [Please see the Buy Now Pay Later Code of Practice webpage](#). BNPL Code Compliant Members (referred to as Code subscribers) include Afterpay, Brighte, Humm, Payright, Klarna, Plenti, and Zip.

Clause 14 of the BNPL Code sets out requirements for Code subscribers to offer financial hardship assistance. Clause 14.1 provides that Code subscribers will treat customers experiencing financial difficulty with fairness, respect, and consideration of their specific circumstances.²⁰ Code subscribers are required to train staff to treat diverse and vulnerable customers with sensitivity, respect and compassion, as well as identify signs of vulnerability, and ensure that information about requesting hardship assistance is readily accessible on their websites and digital platforms.²¹ The BNPL Code identifies various factors that may contribute to a customer's vulnerability, such as mental health, family or domestic violence.²² The BNPL Code outlines clear procedures for responding to hardship requests, including freezing late fees and halting collection activities while a request is being considered.²³ The AFIA BNPL Code Compliance Committee (CCC) annual report highlights the industry's commitment to high standards and consumer safeguards. This report demonstrates that as of March 2023, 90 per cent of active BNPL accounts in Australia were protected by the BNPL Code, and the rate of external dispute resolution complaints remains low.²⁴ Furthermore, the report details that nearly 98 per cent of financial hardship requests were approved for the 12 months to December 2022, demonstrating the sector's responsiveness to customer needs.²⁵

On 14 October 2022, AFIA brought forward and announced an independent review of the BNPL Code, appointing Promontory Australia to conduct the review.²⁶ AFIA supported all the recommendations, including ways to strengthen the BNPL Code's language and requirements around vulnerability.²⁷

In December 2023, AFIA took a further step in reinforcing customer protections by introducing new BNPL industry guidance measures to support customers experiencing vulnerability.²⁸ The industry guidance includes a focus on:

- product and service design: promoting the use of new software and digital tools to identify suspicious activity, such as fraud or financial abuse, using plainer language for product descriptions and greater assessment of products and suitability for customers.
- communications with customers: increasing communication channels with customers, while also ensuring advertising is clear.
- skills and capacity of staff: improving training programs to equip staff with the knowledge and skills to help identify and support potentially vulnerable customers, including those with changing payment behaviours who may be suffering from financial abuse.

²⁰ [AFIA Buy Now Pay Later Code of Practice \(BNPL Code\)](#), Clause 14.1.

²¹ [BNPL Code](#), Clause 14.2.

²² *ibid.*

²³ [BNPL Code](#), Clause 14.10.

²⁴ [AFIA Buy Now Pay Later Code Compliance Committee Annual Report 2023](#), page 3.

²⁵ [AFIA Buy Now Pay Later Code Compliance Committee Annual Report 2023](#), page 12.

²⁶ Please see the [webpage](#) for further information on the review.

²⁷ [Promontory Australia \(March 2023\), Review of the Buy Now Pay Later Code of Practice](#). See also [AFIA Media Release \(31 March 2023\), 'Buy Now Pay Later sector supports all recommendations in independent review of the BNPL Code of Practice'](#).

²⁸ [AFIA Media Release \(December 2023\), 'BNPL Sector Working to Support Vulnerable Customers'](#).

- complaint handling: increasing the promotion of complaints procedures, including on websites, apps, and documentation.²⁹

The published interim industry guidance contains detailed guidelines on financial abuse, including potential signs to identify a person who may be experiencing financial abuse, as well as what barriers and challenges people may be facing which make it difficult for them to seek help. This guidance is now being further developed by AFIA and finalised with consumer and community stakeholder feedback.

With new BNPL legislation in the Parliament, AFIA is working with our BNPL members to update the BNPL Code to implement the independent review's recommendations, to give greater prominence to supporting customers experiencing financial difficulties and vulnerability and align with new laws.³⁰

²⁹ [AFIA Interim Guidance, Buy Now Pay Later Supporting Customers Experiencing Vulnerability.](#)

³⁰ [Treasury Laws Amendment \(Responsible Buy Now Pay Later and Other Measures\) Bill 2024](#)

AFIA Finance Industry Code of Practice

AFIA has been working with our members on introducing a new AFIA Finance Industry Code of Practice ('the AFIA Code') covering the finance industry broadly. The AFIA Code will include provisions on supporting customers experiencing financial difficulties, vulnerability, and financial abuse, building on the provisions in our existing Industry Codes of Practice.

We are also working with our members on expanding industry guidance to support customers experiencing vulnerabilities to cover the finance sector more broadly, as well as new industry guidance on customer's experiencing financial difficulties, family and domestic violence, and financial abuse.

AFIA will be consulting with our members and stakeholders on a draft AFIA Code, with attention to supporting customers through difficult times and situations, and additional industry guidance, through a public consultation in the second half of this year.

FURTHER ACTION

It is of vital importance that financial products, services and technologies are not used as a method of perpetuating financial abuse.

AFIA supports further work being undertaken by the finance industry, Government and key stakeholders to develop and adopt further consistent approaches and support better understanding of the challenges people face who are the victims of financial abuse.

AFIA supports further action to help prevent and protect older Australians against financial abuse including educational campaigns to raise awareness of the issue and the establishment of a national register for Powers of Attorney to act as a deterrent.³¹

In relation to the impact of financial abuse in credit reporting, we note that victims of financial abuse can have their credit reporting information negatively impacted as a result of the abuse, which may make victims look less creditworthy than had the abuse not occurred. We note that the credit reporting framework in Australia is currently subject to an independent statutory review.³² AFIA supports further work and consideration of how such credit-related data is managed and reported to help protect victims of financial abuse.

On 21 June 2024, members of the Finance Industry Council of Australia (FICA), which AFIA is the Chair, affirmed a commitment to lead the financial services industry and its stakeholders to address financial abuse and family and domestic violence in our community. We understand deeply how important it is to put the needs of victim survivors at the centre of our approach. We recognise that organisations across

³¹ [Attorney-General's Department, Protecting the Rights of Older Australians.](#)

³² [Independent review of Australia's Credit Reporting Framework.](#)

the finance industry have a key role to play in supporting people when they need it most, including if they are experiencing financial abuse.

CONCLUSION

Thank you for the opportunity to respond to the Parliamentary Joint Committee on Corporations and Financial Services inquiry 'Financial Services Regulatory Framework in Relation to Financial Abuse'.

Should you wish to discuss our submission, AFIA's self-regulatory work, or alternatively require any additional information, please contact me or Leisha Watson, AFIA Policy Director, on _____ or at _____.

Yours sincerely

Diane Tate
Chief Executive Officer