26 June 2026

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

Via email: consultation@afca.org.au

Dear Ms Kumarich

Amendments to AFCA Rule C.1.4b) and d)

The Council of Australian Life Insurers (**CALI**) welcomes the opportunity to provide feedback on the proposed amendments to the Australian Financial Complaints Authority's (**AFCA**) Rules C.1.4b) and d) (**the Rules**).

CALI and its members have consistently supported, and advocated for, a legislated ban on the use of predictive genetic tests in life insurance underwriting. We recognise that genetic testing plays an important role in empowering people to make informed decisions about their health and wellbeing in a preventative and personalised way. It has never been the life insurance industry's intention to deter people from taking genetic tests or participating in scientific research.

CALI supports the proposed changes to the Rules which appropriately align AFCA's jurisdiction with the *Treasury Laws Amendment (Genetic Testing Protections in Life Insurance and Other Measures) Act 2026*.

CALI considers the amendment to the Rules be a proportionate response, ensuring customers have access to fair and effective dispute resolution where this prohibition may not have been met.

To support this intent, CALI and its members have proposed targeted drafting changes to ensure the proposed amendments to the Rules align closely with the underlying legislation. This maintains an appropriate focus for external dispute resolution remains appropriately focused on alleged breaches of the statutory prohibition, rather than a broader review of the underwriting decision.

We welcome the opportunity to engage further with AFCA on these important reforms. Our detailed response is provided in the attached submission.

This submission is made on a non-confidential basis. For more information, please contact Prue Wilson (Associate Director, Policy) at prue.wilson@cali.org.au

Kind regards

Luke Hyde
General Manager, Policy
Council of Australian Life Insurers

About the Council of Australian Life Insurers (CALI)

CALI is the leading voice of life insurance in Australia. We support Australians to make informed choices about their future and help them live in a healthy, confident and secure way over their lifetime.

Our members' products and services give people peace of mind when making important decisions and provide a financial safety net during life's biggest challenges.

CALI's mission is to support our members to build a strong and trusted life insurance industry, that provides accessible protection and support to millions of Australians every day.

We do this by advocating for national policy settings that improve access to life insurance and by being the leading voice on affordable, understandable and trusted insurance.

CALI represents all life insurers and reinsurers in Australia. The Australian life insurance industry is today a $26.4 billion industry, employing thousands of Australians, holding $133.3 billion in assets with $97.8 billion in Australian debt and equities and paying billions of dollars of benefits each year.

For more information, visit www.cali.org.au

Detailed response

Do you consider that the proposed Rules amendments appropriately address the requirements of the amended legislation and enable AFCA to deal with any complaints that may arise?

CALI supports the intent of the proposed amendments. The proposed changes to the Rules appropriately allow AFCA to consider complaints alleging breaches of this prohibition.

However, the current drafting may unintentionally broaden the scope of AFCA's jurisdiction beyond the legislative intent, as the use of the phrase "relates to" could capture complaints that extend beyond allegations of 'solicitation' or 'use' of protected genetic information. This risks the Rules operating more expansively than the statutory prohibition they are intended to reflect.

CALI therefore considers that the drafting should be amended to confine the exception to complaints **about** an alleged 'solicitation' or 'use' of protected genetic information, rather than complaints that merely **relate** to such matters, ensuring the Rules remain aligned with the legislation.

Do you consider that there are any unintended consequences of the proposed Rules amendments?

While the amendments are intended to be targeted, CALI is concerned about the potential for underwriting decisions to be captured by characterising them as 'relating to' genetic information without evidence that protected information was used or solicited.

Underwriting outcomes should not be in scope, only determinations on whether the prohibited conduct has occurred. The current drafting may lead to determinations being made by reference to underwriting outcomes alone, rather than evidence of whether prohibited conduct has occurred.

As set out in response to Question 1, redrafting to confine the exception to complaints **about** an alleged 'solicitation' or 'use' of protected genetic information would reduce the risk of unintended consequences.

What should AFCA take into account in implementing these proposed Rules amendments?

The legislative framework is clear in establishing the relevant prohibition and the circumstances in which it applies. AFCA's implementation of the amended Rules should reflect that framework, with a focus on applying the law to the facts of individual complaints, rather than extending into broader reconsideration of underwriting judgement.

The relevant consideration for AFCA is whether the prohibited conduct occurred. Where AFCA determines that it has, the appropriate outcome is for the matter to be referred back to the life insurer to re-underwrite without reliance on the prohibited information, rather than AFCA determining what the underwriting outcome should be. This approach ensures decisions are appropriately made by life insurers, having regard to their underwriting processes and manuals.

CALI also notes that the legislative amendments commence on 8 October 2026. It is therefore important that the operation of AFCA's Rules aligns with that commencement date.

Complaints should be assessed by reference to the law as it applied at the time of the alleged contravention, and the application of the Rule should not operate in a way that enables retrospective application of the prohibition to decisions made prior to commencement, nor should it be interpreted as capturing the continued application of policy terms derived from those decisions.

For example, where an underwriting review results in a new decision (such as, a variation, reinstatement, or reassessment of cover), the prohibition will apply and protected genetic information must not be used. However, where a review merely confirms or maintains an existing underwriting determination (such as, upholding an existing exclusion), this should not be characterised as a new "use" of genetic information.

Consistent with the legislative intent, AFCA should assess complaints by reference to whether there has been an actual post-commencement solicitation or use of protected genetic information, rather than the existence or continuation of underwriting decisions made prior to commencement.