

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,

AFCA Consultation – AFCA Rules – Proposed amendments - Genetic Testing

The Financial Advice Association of Australia¹ (FAAA) welcomes the opportunity to provide feedback to AFCA on the proposed rule amendments to address the recently legislated ban on using adverse genetic testing information in life insurance underwriting.

The FAAA is supportive of the proposed amendments. We believe that these amendments incorporate the requirements of the law and should be effective in that regard.

It is our view that AFCA should provide guidance to reflect the likely complex circumstances that may be confronted in regard to situations where genetic testing results could unintentionally become a factor. We have set out some examples in the following section.

The importance of guidance

We suspect that there will be situations in the underwriting process where information could be revealed that relates to the completion of a genetic test and the result of this test, that could create challenges. We raise the following scenarios:

- Applicants are able to provide genetic testing information to life insurers that can be used in the underwriting process in a way that is supportive of the applicant. This might be in the case where the genetic testing report demonstrates that they do not have a particular gene that causes increased risk of illness. We imagine, however that the genetic testing reports could include information that is both supportive and adverse. We understand that the life insurer is only able to utilise the supportive information, however this will create complications as the life insurer will

¹ The Financial Advice Association of Australia (FAAA) is the largest association representing the financial advice profession in Australia, with over 10,000 members. FAAA advocates for the interests of financial advisers and their clients across the country.

need to take steps to destroy or redact the information that is adverse and ensure that they do not use it. This places an elevated risk on the insurer to get this right.

- In some cases, a life insurance applicant may declare that they have had surgical procedures such as a voluntary hysterectomy or double mastectomy. These procedures might be undertaken due to the discovery of an elevated health risk as a result of obtaining genetic testing. Inevitably medical advice will have been sought before proceeding with such an operation. The insurer will likely ask questions during the underwriting process as to the reason for such surgical procedures. They will need to be careful in how they do this. Asking such questions could lead to the accusation of soliciting genetic testing information. If done as part of tele-underwriting, and the applicant notifies the genetic testing result as the reason for the procedure, the life insurer will need to be very careful with how they deal with this information. They will need to delete any record of it and ensure that it is not considered as part of the underwriting process. This outcome could later be used as the basis for a complaint.
- Life insurers often request information from doctors as part of the underwriting process. There is an ongoing risk that doctors will inadvertently provide information that includes genetic testing information or references to genetic testing information. This is another area where life insurers will need to have careful procedures in place to avoid retention, reference to or reliance on this information as part of the underwriting process.

We suspect that there will be other challenging situations related to genetic testing and the underwriting process which have not yet been fully identified. It is our view that guidance should be issued to assist with this. We suspect that there might be an assumption that there is a very clear differentiation between genetic testing information and clinically diagnosed information, however there may at times be a risk of the intersection between the two that creates problems.

We are also concerned that these types of issues could create challenges for financial advisers and they would benefit from guidance on how to treat certain situations and avoid contributing to an increased risk of disclosing information to life insurers that would not be in compliance with the law for insurers to use.

The implementation of this ban on the solicitation or use of genetic testing information in the underwriting process is new territory and will likely have some complications in the early stages as the broader industry comes to terms with how they need to change processes and procedures to avoid the likelihood of breaching the law.

Conclusion

The FAAA welcomes the opportunity to provide feedback to AFCA on the proposed rule amendment and requests that AFCA consider how guidance can be provided to support compliance with this obligation.

If you have any questions about our submission, please do not hesitate to contact me on (02) 9220 4500 or phil.anderson@faaa.au.

Yours sincerely,



Phil Anderson
General Manager Policy, Advocacy and Standards
Financial Advice Association Australia (FAAA)