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Super
Consumers
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CHOICE



consumer
action
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CPRC
Fairer markets for Australians



Financial Rights
LEGAL CENTRE

14 May 2025

Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3001
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Dear ASIC RS and IDR Data Publication Project Team;

RE: CP 383 Reportable situations and internal dispute resolution data publication

We appreciate the opportunity to comment on the proposed reportable situations (RS) and internal dispute resolution (IDR) data publication. This is a joint submission made on behalf of:

- CHOICE
- Consumer Action Law Centre
- Consumer Credit Legal Service
- Consumer Policy Research Centre (CPRC)
- Financial Counselling Australia
- Financial Rights Legal Centre
- Mob Strong Debt Help
- Super Consumers Australia

Too many Australians dealing with financial services firms have faced gruelling processes, long delays, lack of access to information, inappropriate service and increasingly, scams and fraud. Transparency of breaches and complaints drives firm accountability by allowing the media,

policy makers, consumer advocates and the public at large to scrutinise firm behaviour and highlight major issues and trends. It is also very useful to have public records that demonstrate the impact particular laws are having on the sector and its consumers that can be used for research and evaluation purposes to support public policy development and law reform. In this way, transparency deters poor practices and supports better outcomes for consumers. We have long called for the publication of reportable situations and internal dispute resolution data at a firm level. We therefore strongly support ASIC's proposal to finally shed further light on well-hidden systemic problems in this sector and urge ASIC not to delay publication any further.

General comments

While we acknowledge that ASIC does not have the resources to verify every data point submitted, it is critical that ASIC conducts rigorous compliance checks and takes strong enforcement action against firms who submit poor quality data or underreport complaints and breaches. Firms have an obvious incentive to mis- or under-report breaches and complaints to preserve their reputation and avoid regulatory scrutiny. The result can be that the worst performers appear to be the best. This undermines the value of transparency.

High quality data and robust data governance is also fundamental to a firm's ability to operate in compliance with the law - a problem that cannot be seen is one which does not get fixed. Data quality issues and the importance of data governance were recently highlighted in ASIC's [REP 806](#) *Taking ownership of death benefits: How trustees can deliver outcomes Australians deserve* (REP 806) as well as Commissioner Constant's 19 November 2024 [letter to superannuation trustee CEOs](#). ASIC must take action against firms who refuse to comply with their reporting obligations.

We support the development of an interactive dashboard which makes the data easy to extract and engage with in addition to providing the data for download in a machine-readable format. Examples of good dashboards include those of the [Telecommunication Industry Ombudsman](#) and the [Australian Communications and Media Authority](#).

It is not clear from the consultation paper (para. 23) that ASIC intends to make the same data available through the dashboard and for download; however, it is critical that they are the same. Limiting downloadable data constrains the ability of researchers, advocates, policy makers and industry to analyse and use the data to scrutinise firm behaviour. It also discriminates against people who rely on this format for accessibility.

We recommend ASIC further consult with future users of the dashboard and undertake user testing with interested stakeholders in order to ensure that it meets their needs, in addition to being accessible. We recommend ASIC develop an evaluation approach to measure user traffic to the dashboard to assess the dashboards' accessibility and usability from a user perspective.

Despite the proposed release of the data, ASIC should continue to publish insights reports about the RS and IDR data (such as [REP 800](#) and [REP 801](#)) as these reports provide valuable

analysis and commentary on the data that might not otherwise be apparent to media or consumer advocates who use the data to tell a story about consumer harm. ASIC should consider how these reports could be improved with greater use of detailed tables, graphs, colour and plain language similar to the approach taken by the Australian Financial Complaints Authority (AFCA) reports: see e.g. AFCA's [Systemic Issues Insights Reports](#).

CPRC recently published a report identifying best practice in complaints reporting by Australian government agencies, regulators and other reporting bodies: see CPRC, [Am I The Only One – How regulators can use complaints data to help consumers, businesses and themselves](#) (September 2024). ASIC should incorporate the best practices from other complaints reporting regimes in its data publication.

Included data points (Questions D1Q1 and E1Q1)

We support the publication of all the data points in Tables 1-10 of the consultation paper, and there should only be exceptional reasons for not publishing any of them. If ASIC is considering not including any of the data identified in the consultation paper, stakeholders, including us, should be given a further opportunity to provide input to any positions developed.

ASIC should include firm size data where available to provide context to breaches and complaints and assist users to make relevant comparisons (e.g. number of complaints per 1,000 members). We would expect, for example, that larger firms would have more complaints because they have more customers, not necessarily because they offer poorer services. This is the approach that the Australian Financial Complaints Authority has taken with its datacube. Australian Prudential Regulatory Authority (APRA) already collects data on the number of members or policyholders a trustee or insurer has. As ASIC already has access to firm size data from APRA for some industries, this information should be included in the initial firm level data publication.

We caution against the publication of mean handling timeframes in the absence of other, more meaningful figures. Mean handling times are problematic for all the reasons ASIC identified in Appendix A to REP 806. While median times are less of an issue, a broader set of distribution statistics would offer a more comprehensive view of the data's spread and variability. We note with approval that this is the approach taken by ASIC in the insights reports ([REP 800](#) and [REP 801](#)). APRA has taken a similar approach in its [life insurance claims and disputes statistics](#). ASIC should also include metrics which measure compliance with relevant obligations, e.g. the percentage of complaints that are processed within the statutory timeframe (i.e. 45 days).

While it is out of scope of this consultation, we recommend that ASIC undertake a review of the data items in the IDR data dictionary (ASIC [IDR data reporting handbook](#)) and the reportable situations form on the ASIC Regulatory Portal to ensure that both are collecting sufficient and appropriate data. In particular, ASIC should consider how it can drive better firm anti-scam practices by collecting and publishing more robust data about scams. ASIC Commissioner Constant's recent letter to superannuation trustees about scams highlights the fact that trustees

are failing to detect scams affecting their members, in part because they collect little data on scams: see ASIC, [ASIC calls out superannuation trustees for weak scam and fraud practices](#) (30 January 2025). Requiring additional data collection practices relating to scams will drive better anti-scam practices by forcing firms to confront the prevalence of the scams they are failing to protect consumers from and providing greater transparency about the types of scams that are happening. The additional data ASIC should collect is listed in Appendix A to this letter.

Reportable situations data

The consultation paper states that it is ASIC's intention to exclude certain breaches from the data reported (paras 30, 71). It is unclear from the paper whether the proposal simply acknowledges the situations excluded from the obligation to publish in section 912DAD of the Corporations Act 2001 or narrows publication further than the scope of section 912DAD. If ASIC proposes to exclude additional breaches beyond those set out in legislation, ASIC should formally consult on those exclusions and provide reasons for the proposal. In principle, we would not support ASIC excluding additional breaches as this undermines the goal of transparency.

Internal dispute resolution data

ASIC should publish demographic data (data elements IDR-DE 2.1 - IDR-DE 2.4) at the firm level in order to provide transparency about how firms are treating particular cohorts of consumers. In particular, ASIC's recent postcode analyses in REP 806 and [REP 785 Better banking for Indigenous consumers](#) concretely demonstrate the value for driving better outcomes for First Nations peoples of publishing firm level demographic data. Without these analyses, several firms would still be labouring under the impression that they had no First Nations consumers.

Appendix A

Table 1 below outlines the specific additional data items that ASIC should collect and publish about reportable situations. Table 2 below outlines the specific additional data items that ASIC should collect and publish about internal dispute resolution complaints.

Table 1: Additional data to be collected about reportable situations

Item	Commentary
Brand or trading name (RS-DE 1.1)	While the licensee name will be included, it is important to ensure that the trading names of licensees and their sub-brands are available to users in order to more easily find information that they are seeking. These names should either be included, a link provided to cross reference and search names, or build capability into the engine of the dashboard to allow searches to find the licensee name based on the search of the trading name or sub-brand. This is the approach taken by the Australian Communications and Media Authority in its dashboard.
Sub-issue (RS-DE 2.3)	While the issue will be included, this is quite generic and there is no list of second tier issues. ASIC is not proposing to publish the free text fields in the form where firms provide additional detail. More specific information or a further breakdown of second tier issues should be provided.
Significance reason (RS-DE 2.6)	<p>“Duration of the breach” should be added to the list of options.</p> <p>The form should be amended to remind firms that some breaches may be significant even if they only impact one customer.</p> <p>Both of these suggestions would better align this dataset with approaches already taken to the concept of ‘significance’ by industry codes of practice.</p>
Non-financial loss (RS-DE 3.2)	ASIC collects information about customer financial loss but not non-financial loss, e.g. where the firm’s breach causes someone emotional distress by failing to process a claim efficiently as highlighted in REP 806. Other options might include delays, lack of access to funds, administrative burden, and loss of dignity. Information about non-financial loss should be collected.
Remediation arrangement (RS-DE 5.5)	ASIC may wish to consider including the option for “a payment of residual remediation payments to a third party” to capture those practices that firms conduct from time to time in the form of “community benefit payments.”

Table 2: Additional data to be collected about internal dispute resolution complaints

Item	Commentary
Brand or trading name (IDR-DE 1.1)	As above, while the firm name will be included, it is important to ensure that the trading names of firms and their sub-brands are available to users in order to more easily find information that they are seeking. These names should either be included, a link provided to cross reference and search names, or build capability into the engine of the dashboard to allow searches to find the licensee name based on the search of the trading name or sub-brand. This is the approach taken by the Australian Communications and Media Authority in its dashboard.
Third party actors	Many financial firm complaints involve other entities, including non-financial services firms. ASIC should collect and publish data on complaints that involve these firms. This would provide transparency about new forms of poor conduct harming consumers, e.g. buy now pay later schemes related to solar panels or the relationship between Latitude and Harvey Norman. We would support any law reform required to implement this recommendation.
Distribution issues (IDR-DE 3.10)	Across all products, ASIC does not collect information about complaints related to mis-selling, unsolicited sales or other distribution related conduct. This information should be collected and published by ASIC.
Scam sub-issues (IDR-DE 3.10)	The sub-issues that firms can select from related to scams are limited (items 73-76 in the data dictionary) and provide little insight into the nature of the scam. ASIC should require the collection of additional details about the nature of the scam e.g. the type of scam. ASIC should consider the United Kingdom Payment Systems Regulator (PSR) data collection and publication regime in relation to an expanded data collection on scams: see PSR APP fraud performance data .
Demographics (Table 9)	<p>Firms should be required to report additional demographic data where available and with prior informed consent. For example, where a complainant has given consent, firms should be required to report where the complainant has disclosed that they:</p> <ul style="list-style-type: none"> ● identify as a First Nations person; ● do not speak English as a first language; ● have a disability; ● are experiencing domestic or family violence; ● are experiencing financial hardship; ● are experiencing vulnerability. <p>This data will provide transparency about the outcomes firms are providing to historically underserved groups of people.</p>