

SUBMISSION

Submission to ASIC –
Consultation Paper
CP 383: Reportable
situations and internal
dispute resolution data
publication

14 May 2025

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File: 2025/18

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14 May 2025

Dear Sir/Madam

CP 383 Reportable situations and internal dispute resolution data publication

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to ASIC's consultation paper CP 383 *Reportable situations and internal dispute resolution data publication*.

About ASFA

ASFA has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers.

We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians.

ASFA is keenly focussed on ensuring operational effectiveness of the superannuation system – in particular, that it delivers, at a reasonable cost, services of a type and standard that meet the needs and expectations of fund members and fosters trust and confidence in the system.

If you have any queries or comments in relation to our submission, please contact [REDACTED], Senior Policy Advisor, on [REDACTED] or by email [REDACTED]

Yours sincerely

[REDACTED]

Chief Policy & Advocacy Officer

1. Executive summary

ASFA supports transparency in relation to the reportable situations and complaints experience of Australian financial services and credit licensees. Transparency is an essential element in building confidence in the financial services industry.

However, we believe strongly that it is vital that any data reported by ASIC is simple, unambiguous, helpful to stakeholders, and presented in a manner which minimises the risk that the data will be misinterpreted or misapplied.

We have addressed specific consultation questions in the response tables requested by ASIC, and noted some additional issues not raised by those questions.

We wish to note, however, at the outset of this submission, our four key areas of concern. These relate to the useability, contextualisation and accuracy of the data and the need for an overarching data reporting framework.

1. Publication of the entity-level data will, understandably, attract scrutiny from a range of stakeholders, including government, the regulators, consumers, industry commentators and analysts as well as the mainstream media. While this initiative may contribute to industry transparency and provide an additional element of oversight, it also means it is essential to ensure the data is properly contextualised to avoid undermining consumer confidence in particular sectors, or the financial services industry more broadly.

While we welcome the contextual statements ASIC is proposing to include in its publication we are strongly of the view they will not adequately provide the necessary perspective for stakeholders to genuinely understand the data. In particular, we consider it is critical that ASIC includes information indicating the size of financial firms, as without this context users will be unable to meaningfully assess the scale and impact of reportable situation (RS) and internal dispute resolution (IDR) reports. Please see our response to consultation question B3Q1 for our detailed comments in relation to contextualisation.

2. We consider it important that all proposals for publication of data undergo detailed consumer testing, to ensure the publication will provide a meaningful level of transparency while not overwhelming or confusing consumers. We are also of the view a detailed post-implementation review should be undertaken following the initial publication of the entity level dashboards. Please see part 3.1 of this submission for further comments.
3. Noting concerns raised by ASIC about data accuracy – in particular, a perception of under-reporting – we are of the view ASIC should provide additional guidance to financial firms regarding its data reporting expectations and enhance the validations it applies to submitted data to identify potential outliers and take any necessary action. Please see part 3.2 of this submission for further comments.
4. Given the intrinsic link between IDR and external dispute resolution (EDR) outcomes, we recommend ASIC implements a complaints data and reporting framework with AFCA to ensure clarity around objectives and co-ordinate the manner which data is collected, reported and published to maximise consistency between what is published via ASIC's dashboards and the AFCA DataCube. Please see part 3.3 of this submission for further comments.

2. Response tables – responses to specific consultation questions

Table 1: RS response table (feedback questions B1Q1 to B4Q1)

B1Q1 Do you have any comments about the proposed format of the data publication, or any suggestions for the interactive dashboards?	<p>It would be helpful to know if ASIC will enable features for users to personalise their dashboard searches of the interactive data, such as adjustable filters and customisable layouts?</p> <p>For consumer utility and useability, we suggest that the dashboard should be available, and its format optimised for display, on various devices such as desktop computers, mobile phones and tablets.</p>
B2Q1 Do you have any comments on this proposal?	<p>ASFA members have requested that ASIC clarifies the format in which data will be downloadable (for example, CSV, Microsoft Excel or Microsoft Word), and have suggested it would be beneficial if downloadable data could be extracted in a substantially similar format to the format displayed on the dashboard.</p>
B3Q1 Do you have any comments about ASIC using explanatory notes and contextual statements to assist in the interpretation of the data elements?	<p>Publication of the entity-level data will, understandably, attract scrutiny from a range of stakeholders, including government, the regulators, consumers, industry commentators and analysts as well as the mainstream media. While this initiative may contribute to industry transparency and provide an additional element of oversight, it also means it is essential to ensure the data is properly contextualised to avoid undermining consumer confidence in particular sectors, or the financial services industry more broadly.</p> <p>We welcome the contextual statements ASIC is proposing to include, as outlined in proposal B3, but strongly consider that these should be expanded to include additional explanatory notes that highlight the significance of the data presented and help users better understand the regulatory environment in which financial firms are operating and the broad issues they are experiencing.</p> <p>Further, we are deeply concerned at ASIC's decision to not include, from the outset, "information to classify the size and sector" of financial firms.</p> <p>Raw numbers, at scale, can be confronting and – if provided without a frame of reference – alarming. ASFA strongly urges ASIC to reconsider its decision to not include, at this time, any form of contextualisation around the size of a financial firm. If stakeholders are to genuinely understand the data reported, this is an essential piece of information.</p>

We acknowledge that the proposals raised in CP 383 apply broadly to Australian financial services and credit licensees, not merely to APRA-regulated superannuation funds. We further accept that ASIC does not wish to increase the regulatory burden on impacted licensees – some of which might not currently report data around ‘size’. However, we note that appropriate contextual information in relation to APRA-regulated superannuation funds is already reported by those funds, including to AFCA and APRA. Utilisation of this information in relation to the data published by ASIC would provide significantly improved context and place the published data in perspective.

We consider it is imperative that ASIC accompanies the launch of its public reporting with material educating all stakeholders on how to meaningfully interpret and apply the data. Without this, we are concerned the data and accompanying contextual statements will not be understood or could even be misinterpreted. As part of this, it is critical to avoid creating or supporting any negative inference about the volume of RS or IDR reports. For several reasons, the raw number of reports, of itself, is not necessarily indicative of ‘poor’ performance by a financial firm:

IDR complaint data

As we have previously submitted¹, raw complaints data may be a relevant indicator of the level of complaint activity, but it is not a meaningful indicator of the IDR ‘performance’ of any superannuation trustee. As such it does very little to inform consumers’ decision making about superannuation products they may hold currently or may consider acquiring.

- Members of superannuation funds may make ‘complaints’ to their fund trustee for a number of reasons. In a significant proportion of these cases, the decision or conduct of the superannuation trustee will not have been unfair or unreasonable but will have been dictated by regulation or by the governing rules of the fund. We also note the relevant definition of ‘complaint’ is extremely broad² – that is, an expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.
- IDR reporting by funds focusses on only one aspect of the complaints process. To provide a true depiction of a fund’s complaints- handling processes and outcomes, the IDR data would need to be combined in some way with the EDR data published by AFCA. We consider a fund’s EDR conversion rate to be an important metric in understanding a fund’s IDR outcomes. By this we mean the proportion of complaints that are not resolved internally to a complainant’s satisfaction and proceed to EDR by AFCA.

¹ [ASFA submission to AFCA](#) – Proposed AFCA arrangements for comparative reporting of complaint data, 3 May 2019 and [ASFA submission to ASIC](#) – Internal dispute resolution data reporting requirements, 19 February 2021

² The defined is prescribed in AS/NZS 100002:2014 and incorporated into enforceable regulatory requirements for licensees through ASIC’s Regulatory Guide RG 271 *Internal dispute resolution*

- However, a simple illustration may serve to highlight some of the potential difficulties that arise when presenting 'comparative' data.

Trustee A has 600 IDR complaints for a period while Trustee B has only 150. Both are 'large' trustees. If both have 20 complaints that proceed to EDR by AFCA, this gives Trustee A an EDR conversion rate of 3.3% while Trustee B has an EDR conversion rate of 13.3% - three times higher than Trustee A.

How should this comparison be interpreted? On one hand, it could indicate that Trustee A's IDR process is very effective at resolving complaints at the IDR stage. Alternatively, the difference could be because Trustee A applies a lower threshold for recognition of a complaint (leading to a higher volume of IDR reports) than Trustee B.

- Further, it should be noted that many complainants will – no matter the resolution offered at the IDR level – choose to exercise their legal right to pursue EDR – particularly given there is no cost to the consumer to make a complaint to AFCA. Consumer dissatisfaction with the decisions or conduct of a superannuation trustee is always regrettable, but it should not automatically be assumed to stem from some non-compliance by the trustee (particularly noting the broad definition of 'complaint'). Many complaints that progress through EDR will ultimately be resolved in the trustee's favour.
- An undue focus on the raw number of complaints made in relation to individual superannuation trustees may, in ASFA's view, create a potentially misleading impression of the performance of those trustees. It also risks potentially causing unwarranted reputational damage to those trustees and to the sector more broadly.
- Accordingly, ASFA strongly encourages ASIC to ensure that messaging accompanying the initial and ongoing publication of IDR data draws appropriate focus to **outcomes adjusted data** – that is, taking into account not only IDR but also EDR outcomes – and avoids highlighting raw complaints data.

RS data

Similarly, we note the volumes of RS reports may vary across different sub-sectors and between different firms within the same sub-sector. This may be because (as acknowledged in CP 383) some licensees have stronger or more sophisticated compliance systems that more effectively identify and record non-compliance and so may have a higher number of RS reports as a result of their diligence. Other firms may have less sophisticated compliance systems or apply higher thresholds in determining whether a matter is reportable and so may have fewer reports. A simple comparison of the data reported by firms in such cases does not provide an accurate reflection of their true RS 'performance'.

	<p>We note ASIC’s view that adoption of a “simple, broad definition of an incident” is better practice albeit this means a firm will have a higher number of RS reports and will, in the data to be published, appear to compare unfavourably against a firm that applies a more complex or restrictive definition.³ It would be inequitable, given this, if funds adopting a broad definition were presented unfavourably against those adopting a higher threshold.</p> <p>We have noted above our view that information reflecting the size of superannuation funds must be included in the published data. In the case of RS data, we consider this can be used to provide important context for users about the genuine scale of a particular RS. In particular, we suggest that rather than simply publishing the number of superannuation fund members/beneficiaries impacted by a RS, it would be more meaningful and informative to users to present the data in terms of the percentage of members/beneficiaries impacted. While we welcome the proposed contextual statements, we are not persuaded that these will adequately assist users to understand the relative scale of a particular RS.</p> <p>We consider it critical that contextual information regarding the size of financial firms is included from the outset of the dashboard publication, rather than being deferred for consideration at a future date as suggested in paragraph 26 of CP 383 – at least for APRA-regulated superannuation funds, even if this cannot be achieved for other sectors.</p>
<p>B3Q2 Are there any other types of explanatory statements we should also publish, or particular issues that they should cover? If so, what are they?</p>	<p>As noted above, additional explanatory notes should be included that highlight the significance of the data presented and help users better understand the regulatory environment in which financial firms are operating and the broad issues they are experiencing.</p> <p>ASIC should include clear statements about the source and any potential limitations of the published data, including the fact the published dashboards are based purely on data reported by financial firms without any verification by ASIC (see part 3.2 of this submission for our comments on the need for additional data quality verification). While ASIC has noted concerns about perceived under-reporting by some licensees⁴, this will not be evident to users of the dashboards as those licensees will either not appear in the dashboards or may appear – by virtue of having lower RS or IDR reports – to compare favourably against other licensees. We urge ASIC to carefully consider the framing of its explanatory statements to minimise the risk that adverse inferences of this nature may be drawn.</p>

³ ASIC, *Reportable situations: findings of ASIC’s review and how licensees can improve compliance with the regime*, 4 December 2024

⁴ ASIC, *22-295MR Breach reporting: ASIC publishes insights from the reportable situations regime*, 27 October 2022

	<p>ASIC should provide tips or guidelines on how users can interpret the data effectively. This may include material explaining that where more than one issue category applies to a particular complaint / reportable situation, the presented data could be impacted by some firms choosing one category and other firms choosing another category for objectively similar complaints/reportable situations.</p>
<p>B4Q1 Do you have any suggestions on potential features that ASIC should consider in future? Please provide details, including the benefits that suggested features would provide.</p>	<p>Publication of data only provides true transparency if it is useful and accessible to the target audience.</p> <p>ASFA strongly recommends that ASIC undertakes consumer testing of the proposed dashboards as soon as possible. The outcomes of this testing should inform not only the final version of the dashboards to be published this year, but also future developments. A post-implementation review should also be undertaken following the publication of the first dashboards, and this will also inform the need for additional features. See part 3.1 of our submission for further comments.</p> <p>Finally, as noted in relation to B3Q1, contextual information regarding the size of financial firms must, in ASFA's view, be included from the initial publication of dashboards, not deferred for consideration at a future date as suggested in para 26 of CP 383 – at least for APRA-regulated superannuation funds, even if this cannot be achieved for other sectors. It may also be enlightening for users if ASICs indicates the size of the relevant reporting population and the number of licensees in that population that made reports during the period. For example, out of x licensees, y are superannuation trustees and z made reports during the period and appear in the dashboard.</p>

Table 2: RS response table (feedback questions D1Q1 to D1Q3)

Data element #	Data element	Do you have any comments on the proposed data element?	Are there any reasons why the data element should not be published?	Are there any specific contextual statements that may help users to interpret the data element?
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Table 2: Volume & nature of breaches

RS-DE 2.7	Core obligation provision			We recommend ASIC indicates whether it is a breach or likely breach.
RS-DE 2.8	Act or Rule breached			We recommend ASIC indicates whether it is a breach or likely breach.

Table 3: Extent & impact of breaches

RS-DE 3.1	Customers impacted	Initial estimates of the number of customers affected by a breach may vary substantially from the final number identified once investigation has concluded.		<p>We recommend ASIC indicates whether it is a breach or likely breach.</p> <p>If estimates are to be utilised this should be clearly explained.</p> <p>We suggest it would be relevant to indicate customers impacted as a percentage of the licensee's total customers (in the case of APRA-regulated superannuation funds, as a percentage of total fund membership).</p>
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Data element #	Data element	Do you have any comments on the proposed data element?	Are there any reasons why the data element should not be published?	Are there any specific contextual statements that may help users to interpret the data element?
DE-RS 3.2	Customer financial loss	Initial estimates of the financial loss may vary substantially from the final value identified once investigation has concluded.		<p>We request that ASIC clarifies whether this is intended to be an exact amount or an approximation or a range, and whether it is a total or per customer financial loss.</p> <p>If estimates are to be utilised this should be clearly explained.</p>
RS-DE 3.3	Number of instances			The context should clearly explain the differences between customers impacted as opposed to the number of instances or the number of reportable situations.
RS-DE 3.4	Number of reportable situations			The context should clearly explain the differences between customers impacted as opposed to the number of instances or the number of reportable situations.

Table 4: Identification & investigation of breaches

RS-DE 4.4	Investigation timeframe	Data could be misleading where different financial firms have adopted a different approach to determining when an investigation commences		
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Data element #	Data element	Do you have any comments on the proposed data element?	Are there any reasons why the data element should not be published?	Are there any specific contextual statements that may help users to interpret the data element?
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Table 5: Compensation and remediation

RS-DE 5.1	Time taken to complete compensation	Estimated dates for completion of compensation (where this has not yet been concluded) will vary widely. The outcome may differ substantially from an estimate made at the beginning of an investigation.	Given the likelihood an estimate will vary from the final outcome, it is not clear that reporting of this data element will be consistent between licensees, nor meaningful for users.	If estimates are to be utilised this should be clearly explained. It should also be clearly noted that the data does not reflect final outcomes for specific reportable situations.
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Table 3: IDR response table (feedback questions E1Q1 to E1Q3)

Data element #	Data element	Do you have any comments on the proposed data element?	Are there any reasons the data element should not be published?	Are there any specific contextual statements that may help users to interpret the data element?
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Table 10: Complaint information

IDR-DE 3.10	Complaint issue	<p>Financial firms may interpret 'complaint issue' differently.</p> <p>For example, in a comparable factual situation one superannuation fund trustee might select 'service' as a complaint issue, another might select 'advice', while a third might select both issue categories.</p>	<p>Inconsistency in the approaches taken to reporting data may lead to disproportionate representation of complaint issue categories. This issue is likely to resolve over time if firms are provided with additional guidance re ASIC's expectations. While ASFA does not consider it warrants non-publication of the data, additional context may be required (see next column).</p>	<p>It may be useful to explain that funds may interpret complaint issues differently as more than one complaint issue can apply to the same complaint.</p> <p>Separately, additional guidance should be provided to financial firms to strengthen understanding of ASIC's expectations if how the appropriate 'complaint issue' should be selected, to aid consistency and comparability.</p>
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3. Additional comments – matters not addressed by the consultation questions

3.1 Consumer testing of the dashboards prior to finalisation followed by a post-implementation review

In launching any new data on the performance of the financial services industry, ASFA considers it critical to ensure the clarity, transparency and effectiveness of that data is maximised and that it is truly fit for purpose.

An important aspect of this, in ASFA's view, involves ensuring that it is able to be understood by consumers and that it is a relevant and meaningful aid to consumers' decision making. Providing volumes of data does not genuinely aid transparency if it is not able to be easily – and accurately – understood and applied by stakeholders.

ASFA welcomes the focus on improving outcomes for consumers and strongly encourages ASIC to conduct consumer testing before settling the content and format for its data publication. It is important to ensure the data is appropriately targeted from the outset. If consumers do not find the initial publication to be comprehensible, useful and accessible, this is likely to cause confusion and a loss of engagement that may be difficult to subsequently reverse.

While important, however, upfront consumer testing does not obviate the need for a post-implementation review. We consider there should be a review of the dashboards following their implementation, to ensure they are achieving their stated objectives. We note ASIC has indicated it may, in future years, change the data published and we are of the view any such change should only follow the completion of an appropriate post-implementation review and following consultation with stakeholders.

As part of this, it is important that ASIC:

- considers whether the published data presents a true and fair representation of financial firms' IDR and RS outcomes, including in light of media/commentator use of the data
- assesses whether changes are required to either the dashboards or the underlying reporting regimes, to improve reporting and comparability
- is mindful to ensure that any changes do not unduly increase the reporting burden on financial firms, that any proposed changes requiring additional reporting by firms are the subject of consultation, and that an appropriate transition time is provided for their implementation.

We suggest that this review should occur following the publication of the first dashboards, which we understand will cover IDR data for the 2023-24 and 2024-25 financial years, and RS data submitted during the 2024-25 financial year.

3.2 Improving the quality of reported data and the validations undertaken

We note that despite automated validation processes being applied to financial firms' IDR data prior to allowing submission through the ASIC portal, ASIC has raised concerns about potential under-reporting of complaints across the industry and a particular concern about a higher than expected number of 'nil reports'.⁵ Similarly, ASIC has noted low rates of reportable situations reports by some licensees, which "suggests deficiencies in incident identification".⁶

⁵ ASIC, 24-264MR ASIC flags key observations from inaugural IDR data publication, 3 December 2024;

⁶ ASIC, Reportable situations: Findings of ASIC's review and how licensees can improve compliance with the regime, 4 December 2024

Despite these concerns, CP 383 notes that ASIC “will not take steps to confirm or verify the accuracy of the data submitted by firms (or to confirm or verify firms’ failure to submit reports) for the purpose of data publication”⁷.

To ASFA, this raises two key considerations:

1. We recommend that additional guidance is provided to financial firms to support reporting in line with ASIC’s expectations, for both the IDR and RS reporting regimes.

We note that ASIC is partway through a long-running project to simplify the RS regime and anticipate that simplification and clarification of the regime may support improved RS reporting by financial firms. We suggest simplification of the RS regime would be an appropriate matter for consideration by the Simplification Consultative Group recently instigated by ASIC Chair Joe Longo.

2. We accept that the quality of data reported by financial firms is the responsibility of those firms. However, we are deeply concerned that ASIC’s proposed data dashboards will present a disadvantageous comparison of those firms that have complied with their reporting obligations as against those that may have under-reported.

ASIC’s comments about expected reporting levels suggests it should be possible for ASIC, either as part of the validation process for data submissions or through early screening of submitted data, to identify clear outliers – that is, to identify firms that have nil or very low levels of RS or IDR reports in circumstances where that does not accord with ASIC’s expectations.

We would expect that ASIC would pursue inquiries with those firms in a timely manner to address any potential under-reporting and we question whether it is appropriate that the data reported by those firms is presented in the dashboards, alongside reported data from other firms that was within ASIC’s expectations.

We also query whether the scope and level of pre-submission validations can be increased to reduce the risk of under-reporting.

3.3 Ensuring consistency of complaint data reported by ASIC and AFCA – implement a complaints data reporting framework

Financial firms are obliged to report extensive amounts of data to various regulators. In the case of APRA-regulated superannuation funds, this includes substantial and regular reporting to APRA, ASIC and the ATO. Much of this data already is or – as with the proposals in CP 383 – shortly will be published in various forms, some at the industry, sector and/or sub-sector level and some at the entity level. Further, AFCA publishes extensive detail about EDR level complaints and outcomes at the sector level and also at the entity level, through its DataCube.

Done well, publication of data has the potential to deliver significant benefits in terms of transparency and improved confidence in the system. ASFA is, however, concerned that standalone data publications from the various regulators and agencies – covering different issues and time periods – can be confusing for stakeholders, particularly for consumers. We believe there would be significant benefit in more co-ordination across all regulators and agencies to achieve, over time, a cohesive data collection and reporting framework. We acknowledge that this is a significant undertaking beyond the scope of this consultation.

⁷ ASIC, Consultation Paper CP 383 *Reportable situations and internal dispute resolution data publication*, paragraph 39

In the shorter term, however, we seek clarification of the extent of co-ordination between ASIC, in terms of IDR data reporting and now publication, and AFCA in terms of EDR data publication. It is, in ASFA's view, vital to ensure consistency in reporting to the extent possible. As noted in our response to B3Q1, we consider the EDR conversion rate and the EDR outcomes are essential to drawing meaningful and informed judgements about the IDR outcomes of financial firms such as APRA-regulated superannuation funds.

Should one not already exist, we recommend that ASIC and AFCA implement a complaints data and reporting framework, to ensure clarity around objectives and to co-ordinate the manner which data is collected, reported and published to maximise consistency.