

Submission: IDR data reporting requirements – ASIC Media Release (20-327MR)

Australian Timeshare and Holiday Ownership Council

The Australian Timeshare and Holiday Ownership Council (**ATHOC, we, our, or us**) is the industry body for the timeshare industry. ATHOC is a not-for-profit industry body established in 1994 to represent all interests involved in the Australian timeshare industry, and to work toward national industry best practice.

ATHOC operates nationally with an elected board representing a range of membership categories covering resorts, timeshare owners, developers and promoters, marketers, exchange companies and organisations providing professional advice to the timeshare industry.

ATHOC aims to foster a high standard of ethics and adherence to industry best practice amongst its members and to maintain good standing with all stakeholders (by requiring its members to abide by a code of ethics and a code of practice), to continually promote the benefits of the industry and to protect the goodwill of both members and consumers, and to assist members to achieve growth and profitability.

ATHOC's members include several AFS licensees, in particular responsible entities of timeshare schemes and sellers of timeshare and this submission is made on behalf of those members. These licensees are subject to the requirement to have IDR processes that comply with standards and requirements made or approved by ASIC, are members of the Australian Financial Complaints Authority (**AFCA**) and will be required to comply with ASIC's IDR data reporting requirements.

Consumers who acquire timeshare products from a responsible entity may obtain a loan to assist fund such purchase. The lender will hold an Australian credit licence and while such entities are not members of ATHOC they are related to, or work in conjunction with, a responsible entity of a timeshare scheme. Credit licensees are also subject to the requirement to have IDR processes that comply with standards and requirements made or approved by ASIC, are members of AFCA and will be subject to the IDR reporting requirements.

ATHOC provided a submission on ASIC's Consultation Paper 311 in 2019 and is cognizant that Attachment 1 to ASIC's Media Release 20-237MR and the updated data dictionary take account of the various submissions received by ASIC, including ATHOC's submission.

ATHOC has consulted with a number of its AFS licensee members and makes the following submissions on behalf of those members on those matters identified as being of the greatest importance or concern for them.

Issue	Submission
<p>1</p>	<p>A financial firm should record all complaints including those which are resolved to the complainant’s satisfaction within 5 business days.</p> <p>As identified in its submission on CP 311, ATHOC is concerned that requiring firms to record complaints which are resolved to a complainant’s satisfaction within five business days of receipt will impose an unreasonable administrative burden. Timeshare schemes provide holiday accommodation for their members, with such accommodation typically located at hotels and resorts. Given the broad definition of complaint, ATHOC’s concern is that minor accommodation-related complaints from members such as the lack of cutlery, insufficient number of towels, food & beverage complaints, bathroom cleanliness, etc. which are resolved immediately, would need to be recorded as these all fall under the operation of the timeshare schemes and would impose unnecessary administrative burden on hotel or resort staff, the cost of which would be borne by scheme members.</p> <p>ATHOC reiterates its previous submission that the requirement to record all complaints should exclude complaints which are resolved to the complainant’s satisfaction immediately (i.e. within 24 hours).</p> <p>ATHOC acknowledges the reasons identified by ASIC in 20-237MR as supporting ASIC’s proposal for all complaints to be recorded. However, ATHOC considers the time and costs benefits resulting from the reduced administrative burden of being able to exclude complaints which are resolved immediately outweighs the concerns identified by ASIC if not all complaints are recorded (and noting that ASIC’s concerns were in the context of a proposal to exclude the recording of complaints which were resolved within 5 days rather than immediately).</p> <p>ATHOC believes that excluding complaints which are resolved immediately will ensure that the complaints recording obligation does not create an unreasonable administrative burden while making certain that the complaints recording process captures sufficient data to assist financial firms with identifying potential issues in the provision of financial services and to improve the client experience.</p> <p>Alternatively, the goal of having a full dataset of financial service and financial product related complaints whilst not imposing an unreasonable administrative burden on financial firms could be achieved by ASIC clarifying that the IDR</p>

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		<p>process and IDR data reporting relate only to complaints about financial services and products and, in the context of timeshare schemes, do not include accommodation-related complaints.</p>
2	<p>The revised 'Complaint issue' list in the data dictionary contains 10 categories and 77 issue types, but no longer includes an issue type for 'Other'.</p>	<p>The proposed data dictionary in CP 311 included an 'Other' code for complaint type, whereas Table 13 in Attachment 2 to 20-237MR does not include an 'Other' option for the complaint issue type.</p> <p>ATHOC recommends that ASIC include an 'Other' complaint issue type for each of the complaint issue categories in Table 13.</p> <p>Given the broad definition of 'complaint' for the purposes of IDR requirements, complaints to which the IDR data reporting obligations will apply may include complaints about issues which are applicable for timeshare schemes but would not be experienced by other financial firms.</p> <p>For example, in ASIC Report 642, ASIC highlighted that common complaints about timeshare include those relating to the timeshare accommodation or resort (e.g. housekeeping or other issues with the accommodation) and specific membership rules or benefits (which, in ATHOC's view, would cover matters such as members not being able to book their preferred accommodation).</p> <p>ATHOC considers that these complaints may fall within the 'Financial entity decision' or 'Service' categories but there is no complaint issue type in ASIC's proposed data dictionary which accurately reflects the nature of the complaint. Accordingly, ATHOC submits that ASIC should expand the list of complaint issue types in the 'Service' category to include 'Resort experience' and 'Hospitality' options which would cover common complaints from timeshare consumers and also include an 'Other' option for each complaint issue category to cover those complaints which do not fall within the specific complaint issues provided for in Table 13 (such as, for example, a complaint about the availability of accommodation).</p>
3	<p>Financial firms will only be able to include one product or service for a complaint. If a complainant complains about multiple products or services, these would be recorded as multiple complaints (i.e. one</p>	<p>ATHOC submits that, if a complaints relates to multiple products or services, a financial firm should be able to record the complaint as a single complaint relating to multiple products or services, rather than multiple complaints.</p>

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	<p>complaint per product or service).</p> <p>ATHOC notes that financial firms will be able to select up to three complaint issues and up to three complaint outcomes for a single complaint and ATHOC considers that ASIC should provide the same functionality for complaint products or services.</p> <p>Where a consumer makes a complaint which relates to multiple products or services (such as, in the context of timeshare, a complaint about the advice provided by a timeshare adviser in connection with the purchase of a timeshare interest and a complaint about the operation of the timeshare scheme, such as availability of accommodation), the financial firm deals with the consumer's complaint as a single complaint and responds to the consumer in relation to each issue raised in the complaint. That is, the financial firm does not treat the consumer's complaint as multiple complaints which are handled and resolved separately.</p> <p>ATHOC believes that requiring a financial firm to characterise a complaint, which the financial firm addresses with the consumer as a single complaint, as multiple complaints for IDR data reporting purposes creates an unreasonable administrative burden for a financial firm and will potentially result in the IDR data reported to ASIC being incorrect and unreliable. For example, a financial firm will generally provide a single outcome to address all the issues raised by the consumer in their complaint and will not provide a separate outcome/resolution for each issue. However, in completing the IDR data reporting, the financial firm will be required to select a separate outcome for each complaint which will not accurately reflect the resolution of the complaint.</p>
4	<p>ASIC is proposing that financial firms report IDR data on a quarterly basis rather than every six months.</p> <p>ATHOC proposes that ASIC retain its original proposal of requiring financial firms to report data on a six monthly basis. ATHOC considers that quarterly reporting will increase the administrative burden for financial firms as well as reducing the usefulness of the data given there will be a larger number of open complaints whose status has not changed since the last reporting period.</p> <p>ATHOC submits that six monthly IDR data will provide financial firms and consumers with data which is suitably current to identify complaint trends,</p>

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	common issues, etc.	
5	ASIC is proposing two additional data elements relating to complainant vulnerability and the channel by which the complaint was received.	<p>ATHOC has no objection to the additional data elements proposed by ASIC. However, ATHOC recommends there should be a 'Not stated or unknown' option for the vulnerability data element and, depending on the list of complaint channels identified by ASIC, an 'Other' option for complaint channels.</p> <p>This is particularly important for the vulnerability data element as, for the same reasons articulated for the collection of demographic information, this information may not be provided by a complainant and it may be intrusive or impractical for a financial firm to ask such information.</p>
6	Publication of data	<p>ATHOC reiterates its earlier submission that a key guiding principle for publication of IDR data should be the confidentiality of the identity of the financial firm. The purpose of the data should be to provide information about the nature, number, status, etc. of complaints which can be analysed by sector, product type, etc.</p> <p>ATHOC submits that identifying the financial firm is not necessary in order to provide financial firms and consumers meaningful information regarding complaints. In particular, if the IDR data published includes complaint issue, complaint type and resolution (including if the outcome was in favour of the consumer, the amount of monetary compensation paid and the nature of other outcomes provided) and the identity of individual firm, it may lead to some consumers and service providers using this information to lodge complaints based on what they consider will provide the desired outcome rather than making a complaint about the issue causing concern to the consumer.</p> <p>In 20-327MR, ASIC refers to the 'Compare the firms' page on AFCA's Datacube as an example of how complaints data is reported. While AFCA identifies the individual financial firm, the data provided by AFCA primarily relates to the process (i.e. the number of complaints which proceeded to each stage of AFCA's process) and the ultimate outcome and does not provide any detail on the nature of the resolution (i.e. monetary compensation, etc.) or</p>

		<p>the specific details of the complaint. Therefore, while publication of the name of the financial firm may be appropriate for AFCA’s reporting purposes, if ASIC proposes to publish details of nature of the resolution (i.e. monetary compensation, etc.) and/or the specific details of the complaint, for the reasons articulated above, ATHOC submits it would be inappropriate for ASIC to identify individual financial firms in publishing IDR data.</p> <p>Also, given the limited number of financial firms who operate timeshare schemes, if the IDR data includes complaint issue, complaint type and resolution ATHOC submits, for the same reasons outlined above for the non-publication of individual firms, that the IDR data should be reported at ‘product or service category’ level (i.e. managed investments) and not at ‘product or service type’ level (i.e. timeshare schemes).</p>
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