

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

14 May 2025

By email: data.publication@asic.gov.au

Dear Project Team,

CONSULTATION PAPER 383: REPORTABLE SITUATIONS AND INTERNAL DISPUTE RESOLUTION DATA PUBLICATION (THE CONSULTATION)

The Mortgage and Finance Association of Australia (**MFAA**) is Australia's peak industry body for the mortgage and finance broking industry with over 15,500 members. More information about the MFAA can be found in **Attachment B**.

OUR SUBMISSION

The MFAA supports the publication of firm-level data, four years on from the introduction of the reportable situations and internal dispute resolution regimes. Making this data public will provide meaningful value to the industry, however it is important the data and the context in which it's published, is easy to understand to ensure a positive user experience.

A general comment is to ensure the data elements proposed to be published reflect aggregate data and average results for the financial firm. As you will find in our detailed responses that follow, some of the proposed data elements infer publication of breach-level or complaint-level data, which we believe not to be the intention of the data dashboard.

The reportable situations regime is a significant regulatory reform introduced in 2021. ASIC recognised¹ its complex nature required licensees to make substantial changes to their systems and processes. ASIC's early approach to meeting its obligation to publish information about the reports that it receives was prudent (Report 740 and Report 775) in which it published aggregate results and insights rather than firm-level data. Those insights have helped both industry and ASIC to improve guidance for licence holders as they continued to embed reporting processes.

The transparent access to this data strengthens the regulatory framework and builds consumer confidence in both the industry and ASIC's oversight. The ability to benchmark both at an industry and at a firm-level, is essential to maintaining high standards and driving continuous improvement. Benchmarking also offers a strong evidence base for member education, policy advocacy, and the

¹ ASIC REP 775 Insights from the reportable situations regime: July 2022 to June 2023.

development of tools to help credit assistance providers meet their obligations and improve customer outcomes.

Where our members are cautious is in relation to the reportable situation regime. As ASIC's previous reports have identified², there have been inconsistencies in reporting practices, which when firm-level data is published, may lead to ineffective benchmarking and reduced value overall.

While the regime is well on its way to maturing, we recommend ASIC provide industry the opportunity to view the data dashboard ahead of its publication so as to assist ensuring it is fit for purpose. As always, our members are happy to participate in focus groups or workshops with ASIC to facilitate a better user experience of the data dashboard.

REMIEDIATING FINANCIAL SERVICES ROYAL COMMISSION LEGISLATION

It would be remiss of us not to reiterate our position with respect to the enabling legislation. We have raised³ with ASIC with Treasury our concerns about the structure of the legislation in relation to breach reporting. We note that whilst licensees are required to report a breach to ASIC, they are not required to share the report with the aggregator in circumstances where the aggregator is not the licensee.

Like the amendment⁴ made with respect to reference checking, the legislation on breach reporting needs to be strengthened to ensure that aggregators have greater visibility of breaches reported to ASIC on brokers that hold their own licenses. The inclusion of aggregators into the breach reporting regime goes hand in hand with the expansion of the reference checking protocol legislated in 2023 and operationalised by ASIC in 2024. To enable aggregators to have a full view of their broker members, and able to respond accordingly will continue to increase the already high levels of trust and confidence that consumers have in the mortgage broking sector.

CLOSING REMARKS

Our responses to the consultation specific questions have been developed in coordination with our aggregator members and Dentons and have been designed to be helpful to ASIC in refining the scope and content of the data to be published. Our responses to the consultation specific questions can be found in **Attachment A**.

If you wish to discuss this submission or require further information, please contact me at

[REDACTED]

Yours sincerely,

[REDACTED]

Executive, Policy and Legal
Mortgage and Finance Association of Australia

² Ibid, page 4.

³ For more information, please see MFAA submissions on the reportable situations regime: 8 April 2021, 3 June 2021 and 21 October 2022, <<https://www.mfaa.com.au/policy-and-advocacy/submissions>>.

⁴ Treasury Laws Amendment (Modernising Business Communications and Other Measures) Act 2023, <https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=r6945>.

Attachment A – MFAA response to consultation questions

#	Proposal	Question	Response
B1	We propose to publish data in an interactive dashboard that enables users to search and filter the data to obtain insights.	Do you have any comments about the proposed format of the data publication, or any suggestions for the interactive dashboards?	<p>We do not have any comment on the proposed format; however we do suggest ASIC consider the ability for a user to filter the data to help derive relevant insights. For example, as the peak body for the mortgage and finance broking industry, the ability to filter by credit licence classification (credit provider, credit assistance provider, debt management service provider) will help us to obtain useful, industry-level insights pertinent to certain segments of the industry.</p> <p>Our members have told us that filtering the data by firm size will be helpful for the ability to compare insights against their peers.</p> <p>Additionally, aligning filtering capabilities as is currently available in AFCA's Datacube⁵ (for external dispute resolution complaints) to the IDR dashboard will help users to more accurately understand overall firm-level complaints data.</p> <p>We suggest ASIC consider pilot testing the dashboards to gather information on the user experience ahead of publishing the final dashboards.</p>
B2	We propose to make some of the data available for download. Data available for download will not be more granular or detailed than the data published in the	Do you have any comments on this proposal?	No comment.

⁵ Refer Australian Financial Complaints Authority (AFCA) Datacube, <https://data.afca.org.au>.

#	Proposal	Question	Response
	dashboard: see Section C for more detail.		
B3	<p>We propose to provide explanatory information to help users understand and interpret the data elements. This includes:</p> <p>(a) a glossary with definitions and explanations of the differences between certain data elements (such as the difference between the number of RS reports submitted and the number of reportable situations reported);</p> <p>(b) other contextual statements, such as:</p> <p>(i) a statement that a large number of RS reports or IDR complaints for a firm does not necessarily suggest a higher incidence of non-compliance or consumer dissatisfaction, but may in fact reflect stronger compliance systems that can effectively identify and record non-compliance or consumer dissatisfaction;</p> <p>(ii) a statement that no submissions for a firm does not necessarily indicate that there are no reportable situations or complaints; and</p>	Do you have any comments about ASIC using explanatory notes and contextual statements to assist in the interpretation of the data?	<p>Yes – explanatory notes would be prudent to assist viewers with the meaning of the data and/or how to interpret the results and insights.</p> <p>We suggest the proposed statement “<i>that a large number of RS reports or IDR complaints for a firm does not necessarily suggest a higher incidence of non-compliance or consumer dissatisfaction, but may in fact reflect stronger compliance systems that can effectively identify and record non-compliance or consumer dissatisfaction.</i>” may need to be re-written to also reflect that firms may have strong compliance systems that work so well they don’t have many incidences or complaints to report and that’s why they may have a low number of breaches or complaints.</p> <p>In addition, ASIC may wish to note the size, structure and activities of a licensee may also influence the number of reportable situations that are lodged, and that comparisons should only be made between similar businesses.</p>
		Are there any other types of explanatory statements we should also publish, or particular issues they should cover? If so, what are they?	<p>Yes.</p> <p>(a) The glossary</p> <p>We suggest ASIC consider the inclusion of any its expectations (where relevant) in the glossary.</p> <p>We suggest ASIC consider the opportunity to share a draft glossary ahead of formal publication in order to gather feedback</p>

#	Proposal	Question	Response
	<p>(iii) a statement that some breaches or likely breaches are still under investigation and information about them could change from year to year; and</p> <p>(c) descriptions of the scope of data publication (i.e. time periods included or the types of RS reports included and excluded from the publication: see paragraph 30).</p>		<p>from users on its helpfulness. This could be in tandem with pilot test of the dashboards, noted above.</p> <p>(b) Contextual statements</p> <p>We support the use of contextual statements and note the proposed statement (i) is of utmost relevance.</p> <p>(c) Describing the scope of data</p> <p>We agree that explaining the scope of the data publication will be important to the user's experience with the dashboard.</p>
B4	ASIC may, in future, consider whether additional features could be implemented to support the use of the interactive dashboards and the interpretation of the data	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>Yes.</p> <p>Our members have provided the following suggestions for consideration:</p> <ul style="list-style-type: none"> • Ability to identify trends over time (to indicate whether there is an improvement or deterioration in breach or complaints reporting) • The ability to select which annual publication (data) to view • Ability for an ACL to access their own data from the interactive dashboard from within their regulatory portal access

D1 ASIC propose to publish information relating to the RS data elements outlined in Table 1 to Table 7

Response table:

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?
RS-DE 1.6	Licence to which the breach relates	Yes – it implies granularity in the dashboard. Should it instead read as <i>Licence to which the breach(es) relate?</i>		For this and Data element RS-DE 1.7, explaining the difference between a report, reportable situation and breach will be important.
RS-DE 1.7	Who committed the breach (licensee or representative)	<p>Yes – in some circumstances, users may be able to infer the name of the representative.</p> <p>Guidance proposed in CP 383, paragraph 34, indicates <i>the dashboards will not include the names, licence numbers or submitted data of licensees who are individuals</i>. This is particularly relevant where the information makes reference to a breach by a credit representative and the licensee only has one credit representative. The number of credit representatives that a licensee has, and exactly who they are, is searchable via the ASIC website.</p>		If this is adopted, then it will need to be supported with a contextual statement.

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?
		We suggest this data element be made public only in cases where an ACL has more than one (1) representative.		
RS-DE 1.8	Reports submitted on behalf of more than one related licensee	Yes – we agree that where the report made relates to another licensee, but is not made on behalf of that licensee, that it is excluded.		
RS-DE 2.1	Number of reports			We recommend a statement that describes the total number of reports refers to those that have an initial submission date from within the time period of the publication (dashboard) and does not include the number of updates to a report after it has been initially submitted.
RS-DE 2.2	Product	Yes – we agree to limit publication to a breakdown of the first-tier product option.		
RS-DE 2.3	Issue	Yes – we agree to limit publication to a breakdown of the first-tier option.		

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?
RS-DE 3.4	Number of reportable situations	Yes – we recommend inserting this data element into Table 2 after RS-DE 2.1 rather than being in Table 3. We then suggest Table 3 be renamed to solely <i>Impact of breaches</i> .		
RS-DE 3.1	Customers impacted	Yes – consider amending Data element to <i>Number of customers impacted</i>		We recommend a statement that describes the total number of customers impacted may be actual or an estimate.
RS-DE 3.2	Customer financial loss	Yes – consider amending Data element to <i>Aggregate customer financial loss</i>		We recommend a statement that describes the value reported is the total actual or estimated financial loss.
RS-DE 3.3	Number of instances			We recommend a statement similar to the example provided in the consultation.
RS-DE 3.5	Reports that have impacted the firm's ability to provide services under its licence	Yes – consider amending Data element to <i>Number of reports that have impacted the firm's ability to provide services under its licence</i>		
RS-DE 4.1	Time taken to identify and commence investigation into breaches	Yes – consider amending Data element to reflect the definition of time – for example, the average time taken.		We recommend a statement be included that describes how the time taken was calculated by ASIC.

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?
RS-DE 4.2	Time taken from first instance of the breach to discovery of the breach	Yes – see comment for RS-DE 4.1.		We recommend a statement be included that describes how the time taken was calculated by ASIC.
RS-DE 4.3	Time taken from discovery of the breach to the start of the investigation	Yes – see comment for RS-DE 4.1.		We recommend a statement be included that describes how the time taken was calculated by ASIC.
RS-DE 4.4	Investigation timeframe			We recommend a statement that describes how the investigation timeframe was calculated by ASIC and a statement to describe a firm may report an estimated investigation completion date.
RS-DE 4.6	Investigation completion status			We recommend a statement that explains ASIC will not publish information where ongoing investigations continue for more than 30 days (or similar), based on the guidance provided in CP 383, paragraph 71.
RS-DE 5.1	Time taken to complete compensation	Yes – see comment for RS-DE 4.1.		We recommend a statement be included that describes how the time taken was calculated by ASIC. The data should be reflective of the reports where Compensation Status (data

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?
				<p>element referred to in RS-DE 5.4) is</p> <ul style="list-style-type: none"> - "compensated" and - "no reported customer loss" <p>We suggest adding a statement also, that time taken is influenced by many factors including whether the customers are still existing customers. ASIC should provide commentary around why compensation times may be longer in certain scenarios.</p>
RS-DE 5.2	Customers compensated to date	Yes – we recommend amending the data element to <i>Total number of customers compensated to date</i>		We recommend a statement be included that describes "to date" refers to the reports lodged during the dashboard reporting period.
RS-DE 5.3	Amount of compensation paid to date	Yes – we recommend amending the data element to <i>Total amount of compensation paid to date</i>		We recommend a statement be included that describes "to date" refers to the reports lodged during the dashboard reporting period.
RS-DE 5.4	Compensation status	Yes – we assume the data to be published will be a number per status.		We recommend a statement be included that describes the compensation status that can be selected by the reporting firm.

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?
RS-DE 6.1	Time taken to complete rectification			<p>We recommend a statement be included that describes how the time taken was calculated by ASIC and that it's based on those reports where the firm select the Rectification status (refer to Data element RS-De 6.3) as "Rectified".</p> <p>As was noted earlier for RS-DE 5.1, we suggest adding a statement also, that time taken is influenced by many factors including whether the customers are still existing customers. ASIC should provide commentary around why compensation times may be longer in certain scenarios.</p>
RS-DE 6.3	Rectification status	Yes – we assume the data to be published will be a number per status.		We recommend a statement be included that describes the rectification status that can be selected by the reporting firm.
RS-DE 6.4	Is the breach continuing?	Yes – we recommend renaming this data element to better reflect that the user will see the share of breaches that continue to impact customers.		We recommend a statement be included that describes the data reflects the number of breaches the firm report as continuing.

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?
RS-DE 6.6	Prevention status	Yes – we assume the data to be published will be a number per status.	This data element appears an indicator to rectification and doesn't add value to this Table. If a breach has been rectified, it infers that preventative measures have been undertaken or may not have been relevant. Where rectification is still underway, then preventative measures may be required.	We recommend a statement be included that describes the prevention status that can be selected by the reporting firm.
RS-DE 7.1	Number of total submissions			We recommend a statement be included that describes the number reflects the total number of reports and any update provided during the reporting period of the publication (dashboard).

E1 ASIC propose to publish information relating IDR complaints data in Table 8 to Table 10.

Response table:

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?
IDR-DE 3.5	Date received		<p>IDR-DE 3.7 provides for the number of days taken to resolve the complaint. This is the key insight for users of the dashboard and noted by ASIC in CP383 that is the key indicator of IDR performance.</p> <p>Knowing when a complaint was received then closed appears redundant data.</p>	
IDR-DE 3.6	Date closed		<p>Knowing when a complaint was received then closed appears redundant data.</p> <p>Rather, we recommend the data element instead reflect the total number of complaints closed, and the total number of complaints not closed.</p>	
IDR-DE 3.7	Number of days taken to resolve the complaint	Yes – amend the data element to be the <i>Average number of days taken to resolve the complaint</i>		We recommend a statement that describes how the investigation timeframe was calculated by ASIC.

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?
IDR-DE 3.9 to IDR-DE 3.12		Yes – will this data be presented at the aggregate level? ASIC comments noted against these data elements suggest the data will be published at the complaint level. We suggest ASIC seek to clarify this.		

Attachment B – About the MFAA

The MFAA's membership includes mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage and finance broking industry.

Over time, consumers have increasingly sought the services of a mortgage and finance broker with the latest MFAA quarterly market share showing mortgage brokers facilitated 76% of all new residential home loans⁶ and approximately four out of ten small business loans⁷ in Australia.

The MFAA's role, as an industry association, is to provide leadership and to represent its members' views. We do this through engagement with governments, financial regulators and other key stakeholders on issues that are important to our members and their customers. This includes advocating for balanced legislation, policy and regulation and encouraging policies that foster competition and improve access to credit products and credit assistance for all Australians.

⁶ MFAA media release, *More Australians turn to mortgage brokers for expert home loan guidance*, <<https://www.mfaa.com.au/news/more-australians-turn-to-mortgage-brokers-for-expert-home-loan-guidance>>, 3 April 2025.

⁷ Productivity Commission, *Small business access to finance: The evolving lending market Research paper*, September 2021, <<https://www.pc.gov.au/research/completed/business-finance/business-finance.pdf>>, pg 44.