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Note: See Section D for guidance on compliance systems and identifying, recording and reporting breaches.

RG 78.60 If, before the end of an investigation, you are satisfied, or have reasonable grounds to believe, based on the information at hand, that the breach was significant and a reportable situation, you must not wait until the investigation is complete to report the matter to ASIC: see Case study 2.

### Case study 2: Unreasonable delay in reporting

An AFS licensee reported a significant breach relating to account opening errors that occurred over an eight-year period. This systemic issue affected over 100,000 clients who could not access the full benefits of their account.

The licensee had been receiving complaints for four years before making the breach report to ASIC. An initial investigation identified only part of the root causes and the complaints continued.

A second investigation revealed more account opening errors, and led to the breach report to ASIC. However, by this stage the licensee had received over 120 complaints.

The licensee's decision to report to ASIC should not have been delayed while awaiting completion of the second investigation because there were reasonable grounds to believe that a reportable situation had arisen after the initial investigation.

As the two investigations had the same subject matter, the investigation effectively commenced at the start of the initial investigation, and became a reportable situation after 30 consecutive days.

RG 78.61 In certain prescribed situations, you must commence an investigation into the nature and extent of certain breaches and loss arising from a reportable situation within set timeframes: see s912EB of the Corporations Act (financial advisers), s51B of the National Credit Act (mortgage brokers).

Note: For information about the investigation, notification and remediation obligations that apply to AFS licensees and credit licensees, see Information Sheet 259 *Complying with the notify, investigate and remediate obligations* ([INFO 259](#)).

RG 78.62 Except for the circumstances described in RG 78.61, there is no express requirement to conduct an investigation, and not all circumstances will require an investigation before reporting to ASIC. In some cases, a reportable situation should be clear to you without an investigation.













## C When and how to report to ASIC

### Key points

As a licensee, you must tell ASIC in writing within 30 calendar days after a reportable situation has arisen or, in limited circumstances, you may tell ASIC within 90 calendar days after a reportable situation has arisen if you have already notified ASIC of a reportable situation.

The reporting period starts on the day you first know that, or are reckless with respect to whether, there are reasonable grounds to believe that a reportable situation has arisen.

You must report to ASIC in the prescribed form, through the [ASIC Regulatory Portal](#).

In certain circumstances, you may be able to notify us of multiple reportable situations in one report and meet your reporting obligations under the law.

Failing to report to ASIC when a reportable situation has arisen can attract both civil and criminal penalties.

### When must you report a reportable situation?

RG 78.83 You must report to ASIC within 30 days after you first know that, or are reckless with respect to whether, there are reasonable grounds to believe a reportable situation has arisen: see s912DAA of the Corporations Act, s50B of the National Credit Act.

RG 78.84 In limited circumstances, where you have already notified ASIC of a reportable situation, you may notify ASIC of a further reportable situation that has the same, or substantially similar, underlying circumstances as the previous reportable situation within 90 days after you first know that, or are reckless with respect to whether, there are reasonable grounds to believe that the further reportable situation has arisen: see s8 of ASIC Instrument 2021/716.

Note 1: ASIC retains a right to direct the reporting of a reportable situation that would otherwise qualify to be reported within 90 days, within a shorter period. For example, ASIC may take this approach where the further reportable situation is relevant to an active investigation.

Note 2: In this guide, we use the term 'reporting period' to refer collectively to the standard 30 day period and the limited circumstances in which reports to ASIC may be made within 90 days.

Note 3: See RG 78.112 for further guidance regarding the underlying circumstances of the reportable situation for the purposes of the relief in s8 of ASIC Instrument 2021/716.











licensee determines that a core obligation has been breached and that breach is significant.

The licensee in this example has both Line 1 and Line 2 risk and compliance functions. However, such structures are likely to vary significantly across licensees, and the time at which an investigation commences is not a subjective determination, but a matter of fact in all the circumstances. What is critical is the nature of the activities being conducted, not which team is conducting them.

- RG 78.105 If the outcome of an investigation that continues for more than 30 days is that there are no reasonable grounds to believe a reportable situation has arisen, you must report this to ASIC: see s912D(1)(d) of the Corporations Act, s50A(1)(d) of the National Credit Act. You must report to ASIC within 30 days after you first know that, or are reckless with respect to whether, there are reasonable grounds to believe that the investigation disclosed there is no breach (or likely breach) of a core obligation.

#### Example 11: Investigation that continues for more than 30 days

Licensee A suspects a reportable situation may have arisen in relation to conduct by one of its authorised representatives. Licensee A commences an investigation on 1 August 2023. On 31 August 2023 (30 days later) the investigation is still ongoing.

On 21 September 2023, the investigation concludes and on that day Licensee A determines that there is no reportable situation.

The investigation became a reportable situation on 1 September 2023. Licensee A must lodge a report about the investigation within 30 calendar days (i.e. by 1 October 2023). The outcome of the investigation that there is no significant breach of a core obligation must also be reported to ASIC. Licensee A must report this within 30 calendar days (i.e. by 21 October 2023).

Licensee A may notify ASIC of the commencement and outcome of the investigation concurrently between 21 and 30 September 2023.

- RG 78.106 As noted at RG 78.60, if before the end of an investigation, you are satisfied, or have reasonable grounds to believe, based on the information at hand, that the breach was significant and a reportable situation, you must not wait until the investigation is complete to report the matter to ASIC.

## How do you report a reportable situation?

- RG 78.107 You must report to ASIC using the prescribed form, through the [ASIC Regulatory Portal](#): see s912DAA(2) of the Corporations Act, s50C(2) of the National Credit Act. See Table 8 for an overview of the content of the prescribed form, and Appendix 2 for guidance on specific questions in the prescribed form.

Note: For more details, see [How to submit a reportable situation](#) on the ASIC website.

RG 78.108 ASIC's prescribed form asks licensees a series of questions about the nature of what is to be reported, as reflected in Table 8. Depending on your answers, it generates questions that are relevant to what you are reporting to us.

RG 78.109 If you are a licensee regulated by APRA, you may also comply with your obligation by lodging a report with APRA: see s912DAA(5) of the Corporations Act, s50B(6) of the National Credit Act. Your report must:

- (a) be lodged in the required timeframes in RG 78.83–RG 78.106; and
- (b) contain all the information required in ASIC's prescribed form.

Note: Licensees can report to APRA, where relevant, through APRA's website: see [notify a breach](#).

**Table 8: Overview of content of the reportable situation prescribed form**

What to include	Description of content
Date of the reportable situation	<p>You must include:</p> <ul style="list-style-type: none"> <li>• the date that the reportable situation arose or the date you anticipate that you will no longer be able to comply with your obligations; and</li> <li>• the date you first knew that there were reasonable grounds to believe that a reportable situation had arisen.</li> </ul> <p>Note 1: If there is a reportable situation, you must report it to ASIC within the reporting period from the date you first know that, or are reckless with respect to whether, there are reasonable grounds to believe a reportable situation arose. You will need to have a record of that date to ensure timely reporting.</p> <p>Note 2: Your breach register might also include the date that the breach was reported to ASIC and rectified.</p>
Nature of the reportable situation	<p>You must state whether the report relates to:</p> <ul style="list-style-type: none"> <li>• a significant breach of a core obligation;</li> <li>• a likely significant breach of a core obligation;</li> <li>• an additional reportable situation (serious fraud or gross negligence);</li> <li>• an investigation into whether a breach (or likely breach) of a core obligation has occurred that has continued for more than 30 days;</li> <li>• an investigation into whether a breach (or likely breach) of a core obligation has occurred that has continued for more than 30 days that discloses that no reportable situation has occurred; or</li> <li>• a reportable situation about another licensee.</li> </ul>
Description of the reportable situation	<p>You must describe the reportable situation, including the section of the relevant law that sets out the relevant obligation, including any relevant financial services law or credit legislation and any relevant licence condition.</p>
The extent or magnitude of the reported breach (if relevant)	<p>You must specify how many reportable situations relate to the breach or likely breach you are reporting. In certain circumstances you may group related reportable situations in a single report.</p> <p>Note: See RG 78.110–RG 78.115 for guidance about grouping multiple reportable situations.</p>

What to include	Description of content
Why the breach is significant (if relevant)	<p>When relevant, you must identify why the breach is significant. This may involve identifying:</p> <ul style="list-style-type: none"> <li>• that the reportable situation relates to a deemed significant breach; or</li> <li>• the factors in s912D(5) of the Corporations Act or s50A(5) of the National Credit Act that you consider apply in determining whether the breach (or likely breach) is significant and required to be reported to ASIC.</li> </ul>
How the reportable situation was identified	You must provide details of how you found out about the reportable situation. For example, the reportable situation may have been identified through your compliance arrangements, an audit or review, or as a result of a client complaint.
How long the breach lasted	You will need to include details as relevant, including whether the breach is still continuing.
Information about representatives	<p>If an authorised representative or credit representative is involved, you must include:</p> <ul style="list-style-type: none"> <li>• that representative's name and number;</li> <li>• if the representative's authorisation has been revoked or suspended; and</li> <li>• if the representative's work is being monitored or supervised.</li> </ul>
Whether and how the reportable situation has been rectified	<p>If relevant, you must provide details of plans to rectify the breach (or likely breach). This includes:</p> <ul style="list-style-type: none"> <li>• when you expect to complete the rectification (or complete a plan for rectifying the breach); and</li> <li>• how the rectification will be achieved.</li> </ul> <p>If ongoing steps are being taken to rectify the breach (or likely breach), indicate when you expect to send ASIC a report on your progress in rectifying it, as well as a notification that rectification is complete.</p>
Whether and when affected clients have been compensated— Remediation	<p>You must provide details of any remediation program (including preventative measures) that has been or is being developed to compensate clients who have suffered a loss. Include relevant dates or expected dates for the start and conclusion of the remediation program.</p> <p>You should also provide information about completion of remediation.</p>
Future compliance	You must describe any steps that have been, or will be, taken to ensure future compliance with the obligation.

## When can multiple reportable situations be grouped together in a single report (the 'grouping test')?

RG 78.110 In certain circumstances, you may be able to notify us of multiple reportable situations in one report and meet your reporting obligations under the law.

Note: Each individual reportable situation must be reported within the reporting period after you first know that, or are reckless with respect to whether, there are reasonable grounds to believe a reportable situation has arisen—see s912DAA of the Corporations Act, s50B of the National Credit Act and s8 of [ASIC Instrument 2021/716](#). For example, if you choose to report 15 reportable situations (being separate contraventions

of a civil penalty provision) that occurred over a 30-day period on various dates in one single report, you must ensure that you have met the reporting period for each individual reportable situation.

RG 78.111 Reportable situations may be grouped and reported in a single report when both limbs of the following ‘grouping test’ are met:

- (a) there is similar, related or identical conduct—this means conduct involving the same or very similar factual circumstances (e.g. similar representations made about the same type of product(s) and/or service(s)); and
- (b) the conduct has the same root cause—this means the underlying cause of the breach (e.g. a specific systems error or process deficiency).

Note: Reportable situations that satisfy both limbs of this ‘grouping test’, will amount to reportable situations with ‘underlying circumstances that are the same as, or substantially similar to, the underlying circumstances relating to the reportable situation’ for the purposes of the relief in s8 of [ASIC Instrument 2021/716](#); see the [Explanatory Statement](#).

RG 78.112 You should exercise your professional judgement to determine what situations are appropriate to report together. Table 9 provides examples that apply the grouping test.

RG 78.113 You may group individual reportable situations on the basis that they involve similar, related or identical conduct even when each reportable situation involves a separate occasion of staff negligence or human error as the root cause. However, when there are multiple reportable situations attributable to human error by different staff members, licensees should be satisfied that there is no broader failure or other relevant root cause (e.g. relating to training, policy, process and/or systems) that is the actual underlying cause of the breach. For examples applying this approach, see Examples 12(a), 12(d) and 12(e) in Table 9.

RG 78.114 If you are reporting a reportable situation on behalf of one or more related entities, and provided that the conduct relates to the same root cause, there is an opportunity in the prescribed form to identify and list the relevant licensees and their licensee numbers. The related entities do not need to separately report to us. Similarly, if you are reporting for both an AFS licensee and a credit licensee, this can be specified in the form and two separate reports are not required.

RG 78.115 After you have lodged your breach report, you may identify further reportable situations that relate to similar, related or identical conduct and arise from the same root cause. These reportable situations may be reported within 90 days after you first know, or are reckless with respect to whether, there are reasonable grounds to believe a reportable situation has arisen if the relief under s8 of [ASIC Instrument 2021/716](#) is available. Rather than submit

a new report, you may report these to us in one update: see Example 12(c) in Table 9.

RG 78.116 You may provide us with this update using the update functionality available on the [ASIC Regulatory Portal](#) provided that the original reportable situation does not yet have an event status of complete. This update functionality is accessible from the original reportable situation event created when you lodged the initial report, and will prompt you for appropriate information depending on what is being reported.

Note: For further information on other circumstances in which you should use the update functionality, see Q3 in Appendix 2.

**Table 9: Determining whether you may group multiple reportable situations in a single report**

<p><b>Example 12(a): Reportable situations identified by a quality assurance process that involve similar, related or identical conduct</b></p>	<p>A bank conducts a routine quality assurance process over its assessment of home lending applications. It identifies 20 files (out of 1000 files reviewed) where the bank failed to verify liabilities in line with the bank's policy. For each of those files, the failure was caused by staff members missing a key detail provided in the customer's documentation.</p> <p>The bank determines that 17 of these failures resulted in reportable contraventions of the licensee's responsible lending obligations. The bank must report these 17 reportable situations to ASIC.</p> <p>This scenario may be grouped into a single report and reported to ASIC as both limbs of the grouping test are met.</p> <p><i>Similar, related or identical conduct</i></p> <p>The contravention in question relates to identical conduct—failure to verify a customer's liabilities. Even if the 17 contraventions were made by different representatives at different points in time, this conduct would still be considered similar or related.</p> <p><i>Same root cause</i></p> <p>As above, the licensee investigated the root cause and determined that these 17 contraventions were caused by human error. Further investigation revealed that training provided to those staff members was adequate, the underlying policy and process in place was sound, and the errors were isolated mistakes.</p>
<p><b>Example 12(b): Reportable situations that involve different products but similar, related or identical conduct</b></p>	<p>A fee for Product A is charged in error due to a system deficiency. The licensee identifies that the same fee-charging error occurs for Product B.</p> <p>The conduct can be grouped into a single report if both limbs of the grouping test are met. The licensee should consider:</p> <ul style="list-style-type: none"> <li>• <i>whether it is similar, related or identical conduct</i>—for example, does the fee-charging error relate to the same type of fee, and does the error occur in similar circumstances?</li> <li>• <i>whether it is the same root cause</i>—for example, is the fee-charging error on Product B caused by the same system deficiency as Product A?</li> </ul>
<p><b>Example 12(c): Using the update functionality to report multiple additional reportable</b></p>	<p>A licensee identifies a systems error that resulted in a customer being overcharged a particular fee and reports this to ASIC. The licensee is not able to immediately stop overcharging the fee and 25 additional customers</p>







## Our regulatory and enforcement response to reports

- RG 78.119 We may contact you to discuss how to improve your compliance systems or to determine how to remedy or minimise any damage resulting from the breach. In appropriate circumstances, we may resolve outstanding compliance concerns by conducting a formal surveillance to test your compliance procedures or check whether there is a systemic compliance problem.
- RG 78.120 The legislation for which we have jurisdiction sets out the remedies available to us, including criminal action, civil action and administrative action. We can use these remedies in combination. Guidance about factors underlying our decisions about whether to take enforcement action are set out in Information Sheet 151 *ASIC's approach to enforcement* ([INFO 151](#)).
- RG 78.121 Reporting to ASIC in accordance with your legal obligations will not influence the action we may take. However, we may take into account a situation where a report should have been made to ASIC and you failed to do so, as this is a further contravention and may indicate your general approach to compliance.
- RG 78.122 We may make further inquiries to ensure there is ongoing compliance with your licence obligations and that you take reasonable steps to ensure that you comply with the law. Depending on the outcome of any inquiries, we may take administrative action. For example, we may seek to address any issues identified by imposing additional conditions on your licence.

Note: For guidance on procedures for monitoring, supervision and training of representatives, see [RG 104](#) and [RG 105](#) for AFS licensees and [RG 205](#) for credit licensees. For further guidance about our approach to taking administrative action against financial services industry participants, see Regulatory Guide 98 *ASIC's powers to suspend, cancel and vary AFS licences and make banning orders* ([RG 98](#)) and Regulatory Guide 218 *Licensing: Administrative action against persons engaging in credit activities* ([RG 218](#)).

## What are the consequences of failing to report to ASIC?

- RG 78.123 If there are reasonable grounds to believe that a reportable situation has arisen, you must lodge a report with ASIC. This is a legal obligation. Failing to report to ASIC when a reportable situation has arisen can attract both civil and criminal penalties.
- RG 78.124 The maximum civil penalty for not reporting a reportable situation in accordance with your obligation as a licensee is:
- (a) *for an individual*—the greater of 5,000 penalty units, and three times the benefit derived and detriment avoided; and
  - (b) *for a body corporate*—the greatest of 50,000 penalty units, three times the benefit derived and detriment avoided, and 10% of the annual turnover for the 12-month period ending at the end of the month in























## Appendix 2: Frequently asked questions about how to complete ASIC's reportable situations form

RG 78.152 ASIC has prescribed a form that licensees must use when reporting reportable situations to ASIC: see RG 78.107. The form is available via the [ASIC Regulatory Portal](#). The information gathered through this prescribed form provides regulatory intelligence to ASIC, and is used to consider what action, if any, will be taken in response to the report: see RG 78.117–RG 78.122. This appendix addresses some FAQs about how to answer questions on this form.

### Q1: What information am I required to provide to ASIC as part of a reportable situation?

RG 78.153 Conditional logic in the [ASIC Regulatory Portal](#) generates only relevant questions depending on the nature and type of reportable situation being lodged. ASIC requires minimal free text information and does not require additional attachments.

RG 78.154 The following 'wireframes' contain all of the questions that appear in the prescribed form available from the ASIC Regulatory Portal together with the conditional logic that is applied:

- (a) [Reportable situation by licensee](#) (PDF 1.4 MB)
- (b) [Reportable situation by another licensee](#) (PDF 767 KB).

RG 78.155 There is also information available from the [ASIC Regulatory Portal](#), including step-by-step guidance, FAQs and videos.

### Q2: Does the ASIC Regulatory Portal have bulk/batch upload capability?

RG 78.156 Yes, ASIC has released the Reportable Situations Application Programming Interface (API), which provides a machine-to-machine interface solution to submit reportable situation transactions: See [Application Programming Interface \(API\) for Reportable Situations](#).

















What to select	Description of investigation trigger
Regulator—ASIC Regulator—APRA Regulator—AUSTRAC Regulator—other	<p>The issue was identified or an investigation commenced as a result of inquiries made, work undertaken or findings by a regulator.</p> <p>This includes where a regulator requests that a licensee undertake a review in relation to a particular matter, and that review results in the licensee becoming aware of or commencing an investigation into the reportable situation.</p>
Other	<p>The issue was identified or an investigation commenced for reasons that cannot be explained by any one or combination of the other investigation trigger categories in this list.</p> <p>Selecting this option will provide a free-text field for your response.</p>

## Q7: Can I withdraw or correct a report that I have submitted to ASIC?

- RG 78.175 Once you submit a breach report to ASIC, there are limited circumstances in which you may withdraw or correct that report. The [ASIC Regulatory Portal](#) does not allow you to correct a submitted report. These limits are intentional. We expect licensees to lodge complete and accurate reports.
- RG 78.176 For examples of breach report correction requests that we will consider, see Table 13–Table 14. When we correct a report, we will remove it from the ASIC Regulatory Portal view. While information from the transaction that was originally submitted will not be published (see RG 78.127–RG 78.131), the original, uncorrected version of reports will be retained in ASIC’s systems.
- RG 78.177 If the limited circumstances for correction apply to your situation, you may request a correction by emailing [feedback.breach@asic.gov.au](mailto:feedback.breach@asic.gov.au). These requests are considered on a case-by-case basis and, if approved, will be processed manually.
- RG 78.178 To minimise delays, a request for correction must include the:
- submission ID of the report;
  - date of submission; and
  - basis for the correction request, in line with the examples listed in Table 13, with specific details of the nature of any errors that have been made.
- RG 78.179 Typically, we will acknowledge such request(s) within three business days, and if approved, we will endeavour to process such request(s) within two weeks.

**Table 13: When ASIC may approve a request to correct a report**

<p><b>Example 15(a): Material factual errors on a report</b></p>	<p>This includes scenarios such as:</p> <ul style="list-style-type: none"> <li>• the incorrect licensee has been selected;</li> <li>• duplicate notifications have been submitted; and</li> <li>• an incorrect selection on a key field has been made (e.g. specifying the type of reportable situation)</li> </ul> <p>We will not process a change to a discrete field. Rather, we may remove the incorrect report from the ASIC Regulatory Portal view and ask the licensee to submit a new report with the correct information. If the error is minor in nature, see Example 16(b).</p>
<p><b>Example 15(b): A change is required to a field that has been greyed out</b></p>	<p>The update functionality is available on the ASIC Regulatory Portal in certain circumstances. However, there are a range of fields that will appear ‘greyed out’ (unavailable for selection) and licensees will not be able to make amendments to these fields. These limits are intentional. We consider them to be appropriate controls reflecting our expectations regarding information that licensees should be aware of at the time of reporting.</p> <p>If you would like to view all of the questions and their response options in the sequence they appear on the form, together with the conditional logic (which includes the sequencing of the questions that will be posed), see the wireframes at RG 78.154.</p> <p>If you require an amendment to a field that is now locked and inaccessible via the update functionality, you may request this in the manner set out above in Example 15(a).</p>
<p><b>Example 15(c): Additional or more accurate information comes to light</b></p>	<p>Licensees should not mark their investigations as ‘complete’ until all required information is available and provided to ASIC.</p> <p>If after your investigation is marked complete, you uncover additional or more accurate information, and you are unable to access the update functionality, you will need to make a correction request to ASIC to notify us of these changes. In these circumstances, we may cancel the most recent transaction from the ASIC Regulatory Portal view and ask you to submit an update with the correct information.</p>



## Key terms

Term	Meaning in this document
additional reportable situation	<p>A reportable situation as set out in s912D(2) of the Corporations Act or s50A(2) of the National Credit Act, including when the licensee or its representative:</p> <ul style="list-style-type: none"> <li>engages in conduct constituting gross negligence in the course of providing a financial service or engaging in a credit activity; or</li> <li>commits serious fraud</li> </ul>
AFS licence	<p>An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services</p> <p>Note: This is a definition in s9 of the Corporations Act.</p>
AFCA	Australian Financial Complaints Authority
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
AML/CTF Act	<i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ASIC Instrument 2021/716 (for example)	An ASIC instrument (in this example numbered 2021/716)
ASIC Regulations	<i>Australian Securities and Investments Commission Regulations 2001</i>
authorised representative	<p>A person authorised by an AFS licensee, in accordance with s916A or 916B of the Corporations Act, to provide a financial service or services on behalf of the licensee</p> <p>Note: This is a definition in s9 of the Corporations Act.</p>
Ch 7 (for example)	A chapter of the Corporations Act (in this example numbered 7)
client	May refer to a retail client of financial services, a consumer of credit products or a member of a superannuation fund
consumer	Includes an existing, potential or prospective client

Term	Meaning in this document
core obligation	A core obligation has the meaning given to it by s912D(3) of the Corporations Act or s50A(3) of the National Credit Act. For a summary of the core obligations for AFS licensees and credit licensees, see Appendix 1 to this guide
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	<i>Corporations Regulations 2001</i>
Credit Guide	A document that must be provided to a consumer by a credit provider, credit service provider, credit representative or debt collector under the National Credit Act
credit licence	An Australian credit licence under s35 of the National Credit Act that authorises a licensee to engage in particular credit activities
credit licensee	A person who holds an Australian credit licence under s35 of the National Credit Act
credit representative	A person authorised to engage in specified credit activities on behalf of a credit licensee under s64(2) or 65(2) of the National Credit Act
Criminal Code	Schedule to the <i>Criminal Code Act 1995</i>
deemed significant breach	A breach or likely breach of a core obligation that is taken to be significant under s912D(4) of the Corporations Act or s50A(4) of the National Credit Act
Explanatory Memorandum	Explanatory Memorandum to the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020
Explanatory Statement	Explanatory Statement to ASIC Instrument 2023/589
Financial Sector Reform Act	<i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i>
Financial Services Royal Commission	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
FSG	A Financial Services Guide—a document required by s941A or 941B to be given in accordance with Div 2 of Pt 7.7 of the Corporations Act  Note: This is a definition in s9 of the Corporations Act.
grouping test	Refers to the test described at RG 78.111 to help licensees identify the circumstances in which multiple reportable situations may be grouped together in a single report
IDR	Internal dispute resolution

Term	Meaning in this document
INFO 151	An ASIC information sheet (in this example numbered 151)
Insurance Contracts Act	<i>Insurance Contracts Act 1984</i>
licensee	An AFS licensee or credit licensee
likely breach	The situation where a licensee or a representative of the licensee is no longer able to comply with a core obligation and the breach, if it occurs, will be significant  Note: See s912D(1)(b) of the Corporations Act or s50A(1)(b) of the National Credit Act.
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
National Credit Code	National Credit Code at Sch 1 to the National Credit Act
National Credit Regulations	<i>National Consumer Credit Protection Regulations 2010</i>
PI insurance	Professional indemnity insurance
reg 7.6.04(1)(i) (for example)	A regulation of the Corporations Regulations or National Credit Regulations (or other regulations) as specified (in this example numbered 7.6.04(1)(i))
registered scheme	A managed investment scheme that is registered under s601EB of the Corporations Act
regulations	Corporations Regulations and National Credit Regulations
REP 594 (for example)	An ASIC report (in this example numbered 594)
reportable situation	Has the meaning given by s912D of the Corporations Act or s50A of the National Credit Act
reporting period	Means the 30 or 90 day period that a licensee has to tell ASIC in writing after first knowing that, or being reckless with respect to whether, there are reasonable grounds to believe a reportable situation has arisen.  Note: See s912DAA(3) of the Corporations Act, s50B(4) of the National Credit Act and s8 of <a href="#">ASIC Instrument 2021/716</a> .
representative (of an AFS licensee)	Means: <ul style="list-style-type: none"> <li>• an authorised representative of the licensee;</li> <li>• an employee or director of the licensee;</li> <li>• an employee or director of a related body corporate of the licensee; or</li> <li>• any other person acting on behalf of the licensee</li> </ul> <p>Note: This is a definition in s9 of the Corporations Act.</p>





[INFO 259](#) *Complying with the notify, investigate and remediate obligations*

## Reports

[REP 515](#) *Financial advice: Review of how large institutions oversee their advisers*

[REP 594](#) *Review of selected financial services groups' compliance with the breach reporting obligation*

## Legislation

AML/CTF Act, s123

ASIC Act, Pt 2, Div 2; s12DA, 12DI

ASIC Regulations

Corporations Act, Ch 5C, 5D, 6, 6A, 6B, 6C, 6D, 7, 8A, 9; Pt 7.6, Div 3; Pt 7.7A, Div 2; s9, 311, 601FC, 601HG, 761A, 769B, 798G, 798H, 910A, 912A, 912B, 912D, 912DAA, 912DAB, 912DAD, 912EB, 941B, 961B, 961G, 961L, 990K, 994G, 1017G, 1041H, 1100A, 1317E, 1671A

*Corporations (Passport) Rules 2018*, s12

Corporations Regulations, regs 7.6.02A, 7.6.04

*Criminal Code Act 1995*, Criminal Code, s5.3, 5.4

Financial Sector Reform Act

Financial Sector Reform (Hayne Royal Commission Response) Bill 2020

Financial Sector Reform (Hayne Royal Commission Response—Breach Reporting and Remediation) Regulations 2021

Insurance Contracts Act, s33C, 58

*National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*

National Credit Act, Ch 2; Pt 2-2, Div 5; s5, 47, 48, 50A, 50B, 50C, 50D, 51B, 53, 113, 160D, 324

National Credit Code, s23, 85, 111

National Credit Regulations, regs 9, 12A, 12B

Note: See also the legislation listed in RG 78.148(c).

*Retirement Savings Accounts Act 1997*, s47

*Superannuation Industry (Supervision) Act 1993, s101*

## **ASIC legislative instruments**

[\*ASIC Corporations and Credit \(Reference Checking and Information Sharing Protocol\) Instrument 2021/429\*](#)

[\*ASIC Credit \(Breach Reporting—Prescribed Commonwealth Legislation\) Instrument 2021/801\*](#)

[\*ASIC Corporations, Credit and Superannuation \(Internal Dispute Resolution\) Instrument 2020/98\*](#)

[\*ASIC Corporations and Credit \(Amendment\) Instrument 2023/589\*](#)

[\*ASIC Corporations and Credit \(Breach Reporting—Reportable Situations\) Instrument 2021/716\*](#)

[\*ASIC Corporations \(Internal Dispute Resolution Data Reporting\) Instrument 2022/205\*](#)

[\[CO 14/923\]](#) *Record-keeping obligations for Australian financial services licensees when giving personal advice*

## **ASIC market integrity rules**

[\*ASIC Market Integrity Rules \(Securities Markets\) 2017\*](#), Rules 5.6.1, 5.6.3, 5.7.1, 5.11.1

[\*ASIC Market Integrity Rules \(Futures Markets\) 2017\*](#), Rules 3.1.2, 3.6.1

## **Pro formas**

[PF 209](#) *Australian financial services licence conditions*

## **Other references**

Financial Services Royal Commission, [Final report](#), 4 February 2019

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