

12 February 2021

Attention: Clare McCarthy
Senior Manager, Behavioural Research and Policy Unit
Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000

Sent by email: IDRdata@asic.gov.au

Dear Clare,

**ASIC FURTHER CONSULTATION: IDR DATA REPORTING REQUIREMENTS
(Attachments 1 and 2 to ASIC 20-327MR: IDR: Updated draft data dictionary)**

The Insurance Council of Australia (Insurance Council)¹ welcomes the opportunity to comment further on ASIC's proposed internal dispute resolution data reporting framework, as set out in Attachments 1 and 2 to ASIC's Media Release 20-327MR *Internal Dispute Resolution: Updated draft data dictionary*.

On behalf of our members, we attach our answers to ASIC's specific consultation questions regarding the updated draft data dictionary.

Our members welcome the refinements ASIC proposes to reduce the number of categories of IDR data having to be recorded and so general insurers may focus their efforts on resolving complaints at IDR. Our members suggest ways in which the updated draft data dictionary might be further simplified, as well as areas where further explanatory guidance could be provided by ASIC to assist general insurers with consistently and accurately applying the proposed reporting categorisations.

Our members are interested in better understanding how ASIC proposes to scale the IDR reporting framework for smaller general insurance businesses, as well as proposed next steps in terms of projected timeframes for the pilot data program and staggered implementation start dates (see Attachment 1 to ASIC 20-327MR).

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent approximately 95 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

September 2020 Australian Prudential Regulation Authority statistics show that the general insurance industry generates gross written premium of \$51.8 billion per year and has total assets of \$136.5 billion. The industry employs approximately 60,000 people and on average pays out about \$171.4 million in claims each working day.

Any further information regarding ASIC's proposed timing will greatly assist our members with their forward planning, resourcing and staffing allocations for regulatory implementation projects. Our members wish to advise that for 2021 – 2022, they are already working at full capacity to implement the Hayne Royal Commission reform agenda, the changes introduced by ASIC RG 271 for 5 October 2021, as well as bringing to life the updated General Insurance Code of Practice by 1 July 2021.

Further, some of our members inform us that as they are progressing their implementation of RG 271 changes, they are also building IT and systems changes for IDR reporting based on Attachment 2 to ASIC 20-327MR. If ASIC reframes the IDR reporting requirements it ultimately decides to introduce, these members wish to highlight it may not be a simple exercise to make further systems changes.

The Insurance Council and its members welcome the opportunity to further discuss the views expressed in this submission.

If you have any questions about this submission, please feel free to contact Fiona Cameron, General Manager Policy – Consumer Outcomes at [REDACTED]
[REDACTED]

Yours sincerely

Andrew Hall
Executive Director and CEO

RESPONSES TO ASIC QUESTIONS

Q1 Will the draft data dictionary be practical for industry to implement? If not, why not?

The Insurance Council and its members welcome ASIC's proposed adjustments to the draft data dictionary to:

- reduce the overall number of categorisations in the draft data dictionary; and
- give greater flexibility so general insurers are not obliged to collect personal data about complainant demographics when this might be intrusive or impractical.

Our members strongly encourage ASIC to make further reductions to the overall number of categorisations they are required to report against and identify further opportunities for ASIC to clarify and streamline its draft data dictionary, so the categorisations may be applied consistently and accurately across the general insurance sector. (See [Attachment A](#) for our detailed comments on aspects of the draft data dictionary.)

Our members identify the proposed 77 'complaint issue categories' for all financial service sectors as being especially disruptive and challenging for general insurers to implement as it would require aligning entire operational areas. Our members also consider that many of the categories proposed appear to have little or no relevance to general insurance complaints (see Table 3, Attachment 2 to ASIC 20-327MR). The Insurance Council and its members are interested in the particular insights ASIC is expecting to gain by proceeding with these particular categorisations. It would be preferable if the complaint issues for the general insurance industry were instead aligned with a topline approach to complaints issues, see for example how AFCA reports against its 'top 5' complaints issues for general insurance in its Annual Review. It may be worthwhile checking with AFCA, their approach to categorising complaints issues.

Our members wish to point out there is diversity in their operational structures and businesses, and for many the extent of IDR reporting still being proposed by ASIC will be resource intensive and disruptive to meet. Our members are interested in the benefits ASIC anticipates will outweigh the costs for industry of meeting the IDR data dictionary.

Q2 If your financial firm has multiple business units or brands under the one licence, would you prefer to report the complaints data separately or as one single file?

Our members intend to submit their IDR data collectively in a single file consistent with their Australian Financial Services Licence issued by ASIC and their AFCA membership. It will not be possible to segment data by business units or brands under one licence.

Q3 The data dictionary captures multidimensional data by allowing each complaint to have one product or service, up to three issues and up to three outcomes. Where there are multiple issues and outcomes, this is captured using in-cell lists, rather than multiple rows or columns. Is this approach appropriate?

Our members prefer an intuitive user-friendly system that does not require staff to search extensively through menus to be able to select the most appropriate categorisation. For most of our members, it would be undesirable to have multi-faceted issues reported in one cell. Instead, categories could be split into separate columns: for issues A, B and C. For our other members, splitting categories into separate columns will be a resource intensive exercise.

Q4 Do you support quarterly reporting of IDR data? If not, what are the additional costs of reporting data on a quarterly rather than half yearly basis?

Many of our members prefer reporting on a half yearly rather than quarterly basis to more closely align with AFCA's half yearly reporting through its Datacube. General insurers support IDR reporting cycles that would allow for alignment with ASIC's requirements for monitoring complaints data as set out in RG 274 *Product design and distribution obligations*².

Some of our members suggest the reporting requirements could be scaled for smaller businesses by requiring annual reporting instead of half yearly or quarterly reporting, given they anticipate meeting the IDR reporting requirements will be highly resource intensive and it will not be possible to report more frequently. If the timing of annual reporting to ASIC were to be aligned with members' reporting of performance against the General Insurance Code, it could also reduce their compliance burden. These members are interested in why reporting on an annual basis is not being contemplated by ASIC, given the many existing internal and external reporting obligations general insurers are already required to meet. They are also interested in what benefit ASIC considers would be delivered to it and consumers to justify the more frequent reporting.

While our members are unable to specify in dollar terms the exact costs of reporting quarterly compared with half yearly or even annually, our members consider a quarterly reporting frequency would be more likely to involve greater costs in terms of system changes and staff resourcing, than if reporting half yearly or annually.

Q5 Do you support the two proposed additional data elements that would capture consumer vulnerability flags and the channel via which the complaint was received? If not, why not?

Consumer vulnerability flag

If ASIC were to introduce a vulnerability flag as part of IDR reporting, it would only be feasible for our members to report along these lines if the flag is consistent with the general insurance industry's approach to supporting customers experiencing vulnerability in Part 9 of the updated Code.

Our members who are subscribers of the updated General Insurance Code of Practice³ offer support to customers experiencing vulnerability under Part 9 (*Supporting customers experiencing vulnerability*) of the Code. Paragraph 92, of the updated Code acknowledges vulnerability may be due to a range of factors such as age, disability, mental health conditions, physical health conditions, family violence, language barriers, literacy barriers, cultural background, Aboriginal or Torres Strait Islander status, remote location, or financial distress.

While general insurers introduced support for vulnerable customers from 1 July 2020 or earlier in response to COVID-19, full technical compliance with Part 9 commenced on 1 January 2021⁴.

² ASIC RG 274 [Product design and distribution obligations](#) (December 2020)

³ Insurance Council of Australia, [General Insurance Code of Practice \(2020\)](#)

⁴ Insurance Council of Australia News Release [Insurance Council fast-tracks new Code of Practice vulnerability and hardship provisions](#) (7 May 2020); News Release [Insurers boost support for customers experiencing family violence financial hardship and vulnerability](#) (1 July 2020)

It should be noted that certain general insurance products such as medical indemnity insurance are not covered by the Code⁵. Given the highly sensitive nature of these types of complaints, if a vulnerability flag for IDR reporting were to be introduced, similar to the General Insurance Code, it could not apply to medical indemnity insurance complaints.

Our members consider they will only be able to conditionally report on a vulnerability flag if it were to be introduced for IDR reporting. This is because in accordance with the Privacy Act our members may only collect the information they need to make a decision as to whether to insure a customer and they may only record a vulnerability flag if a customer consents. For other insurers, they may only identify whether a customer needs 'extra care' or 'extra support' rather than to flag whether the customer is vulnerable.

If ASIC introduces a vulnerability flag for IDR reporting, we encourage ASIC to consider whether there might be relief from having to conditionally report against other certain complainant demographics proposed in Table 2, Attachment 2 to ASIC 20-327MR (noting complainant demographics do not necessarily indicate vulnerability). Our members are interested in the rationale for ASIC requiring conditional reporting for personal information such as 'Aboriginal or Torres Strait Islander descent', 'complainant gender' and 'complainant date of birth' given the sensitivities in asking for such personal profiling information.

Channel via which the complaint was received

Our members note the 'channel via which the complaint was received' is intended to capture the method of communication channel by which the complaint is received (e.g. call centre, online, social media or in person). Our members consider there may be occasions when brokers or service suppliers receive complaints on behalf of a general insurer and the communication channel may not always be known or easily identifiable. Further there may be a range of diverse and emerging ways that complaints might be received, for example 'in-flight' complaints. It may be preferable to have a default 'unknown' or 'by referral' category to accommodate these situations, if this level of reporting is indeed necessary. Again, it would be helpful to understand what insights ASIC is seeking to gain by requiring the reporting of this data set.

Q6 When we publish the IDR data, how can we best contextualise the data of individual firms? Are there any existing metrics of size and sector that would be appropriate for this purpose?

Our members encourage ASIC to consider alignment with existing metrics already used by AFCA's Datacube to contextualise AFCA members by whether they are a very small – small – medium – large – very large business.

Q7 Which IDR data elements do you think will be most useful for firms to benchmark their IDR performance against competitors?

As above for Q6. Our members consider there could be a range of other possible ways to benchmark IDR performance amongst those in the general insurance industry, including by:

- Number of IDR complaints per 1,000 complaints
- Number of IDR complaints by policy units

⁵ General Insurance Code of Practice (2020), paragraph 10

- Average number of days to resolve a complaint at IDR
- Complaints by product type
- Complaint resolution outcomes.

ATTACHMENT A: Feedback on updated draft data dictionary

Table 2: Complainant demographics

Number	Data element name	Description	ICA member feedback
3	Complainant type	Who made the complaint	<p>Our members seek clarification as to ASIC's guidance for using 'Code 2 = small business'.</p> <p>For example, is Code 2 intended to apply to a complainant who meets the definition of small business that aligns with AFCA's definition, or the definition in the Corporations Act as recommended by ASIC RG 271.36 – small business means a business that employs:</p> <ul style="list-style-type: none"> (a) less than 100 people, if the business is or includes the manufacture of goods; or (b) otherwise, less than 20 people. <p>Further, is Code 2 intended to apply to when a representative (who may be a small business) is making the complaint on behalf of an individual. Such representatives might include claims agents, insurance brokers, advocacy agents or lawyers.</p>

Table 3: Complaint information

Number	Data element name	Description	ICA member feedback
10	Complaint status	The status of the complaint at the time of reporting	<p>Our members seek clarification as to ASIC's guidance for using 'Code 2 = Re-opened'.</p> <p>For example, does ASIC expect that general insurers will use Code 2 when a complaint has been made to AFCA, but AFCA determines they are unable to consider or decide on the matter further, given AFCA's remit. It would appear Codes 1, 3 and 4 would not cover this situation as presently defined by the guidance for use.</p>
17	AFCA date	The date the complaint was received by AFCA	<p>Our members are of the view that if ASIC wishes to capture this data set, AFCA is best placed to accurately provide this data.</p> <p>This is because general insurers capture the date they receive a complaint, and there may be differences between the date a general insurer, as distinct from AFCA, receives the complaint.</p>

Table 3: Complaint information			
Number	Data element name	Description	ICA member feedback
21	Outcome in whose favour	The overall outcome of the complaint	<p>Our members consider it will be challenging to be able to report the outcome of a complaint against the two options provided by Codes 1 and 2.</p> <p>In recognition of situations when a complaint is closed, but there is no clear outcome in favour of a particular party to the complaint, our members suggest the introduction of new codes for:</p> <ul style="list-style-type: none"> • Code 3 = resolved by agreement; and • Code 4 = unresolved / NFA. <p>This would accommodate situations when the parties reach an agreed resolution, or the complaint cannot be resolved in favour of a particular party to the complaint. The Insurance Council and its members note 'resolved by agreement' is a categorisation reported against in AFCA's Datacube.</p> <p>Further, the Insurance Council and its members note the introduction of RG 271.74 provides for circumstances when a general insurer would only be able to respond to a complaint by providing the complainant with an explanation that no further action can be taken to reasonably resolve the complaint. We are interested in whether ASIC expects these complaints would be captured by 'Code 2 = in favour of the entity' if a new category for Code 4 is not introduced. Having a Code 4 that covers 'No Further Action' will also be useful in circumstances when the complaint is outside the statute of limitations or AFCA's remit.</p>
22	Monetary compensation	Amount of monetary compensation provided	<p>In the context of general insurance, our members continue to seek clarification as to whether ASIC intends that this data set captures the claim settlement amount within the terms and conditions of the customer's general insurance policy, or any monetary compensation above and beyond the policy terms (e.g. to compensate for inconvenience or delay).</p> <p>The Insurance Council welcomes discussing this further with ASIC so ASIC can make monetary compensation comparisons between different industry sectors.</p> <p>We note that general insurers may pay monetary compensation above and beyond the policy terms. However, when a claim settlement amount is paid within the policy terms and conditions, this describes the extent to which the policy responds to the claim, which could also occur through the insurer arranging for repair, replacement or rebuilding.</p>

Table 3: Complaint information			
Number	Data element name	Description	ICA member feedback
			With respect to reporting compensation in rounded Australian dollar amounts, our members consider there might be unintended consequences and sensitivities around complaints resolution if customers were to become aware of rounded dollar amounts paid for general insurance complaints. General insurers encourage ASIC to consider how it might present this data publicly to avoid these unintended consequences, including whether reporting by bandings might be more appropriate.
23	Other outcomes	Whether any other outcomes were provided	Our members are interested in ASIC's expectations as to what 'Code 10 = Other product, service or resolution provided' is intended to cover so it is used appropriately as a catch all.

Table 6: General Insurance	
Product or service category	ICA member feedback
Professional indemnity insurance	<p>Our members seek clarification as to why there is a 'Code 61 = other professional indemnity' insurance when RG 271 only applies to retail insurance products.</p> <p>Medical indemnity insurance is the only retail professional indemnity insurance product mentioned in the Corporations law⁶ for which complaints are within AFCA's remit⁷.</p>

⁶ Corporations Act 2001, section 761G; Corporations Regulations 2001, regulation 7.1.17A

⁷ AFCA [website](#) Insurance products and issues