

11 March 2025

Leah Sciacca
Senior Executive Leader, Financial Advice and Investment Management
Regulation and Supervision group
ASIC

Email: rri.consultation@asic.gov.au

Dear Ms Sciacca

CS 16 REPORTABLE SITUATIONS – ADDITIONAL RELIEF

Chartered Accountants Australia and New Zealand, CPA Australia, Financial Advice Association of Australia, Institute of Public Accountants and the SMSF Association (joint bodies) welcome the opportunity to provide this submission in response to ASIC's proposal to provide additional relief under the reportable situations regime.

We support the objective to provide relief from lodging reports that provide very little intelligence, striking an appropriate balance between reducing the unnecessary regulatory burden on AFS licensees, while preserving the intention of the reportable situations regime.

The resources of ASIC should be focused on identifying and addressing emerging trends of serious non-compliance, including those that could lead to material consumer financial detriment. They should not be consumed on minor compliance breaches which are currently flooding the system, which is a concern for the sector given ASIC is funded via an Industry Funding Model.

Further, the obligation to make a reportable situation report to ASIC involves a significant amount of work and cost, particularly for small business licensees, who are often forced to seek expensive legal or compliance advice to understand their obligations and prepare the report. This effort and cost, represents a significant waste for these businesses, particularly if the matter is immaterial and not something that ASIC has any interest in pursuing.



To better achieve a sensible balance, between the cost of the process and access to meaningful information for ASIC, we recommend the first proposed parameter is amended to the breach has been rectified within 30 days from when it is first identified, not when the breach occurred.

This recommendation is supported by ASIC's Report 800 *Insights from the reportable situations regime: July 2023 to June 2024* (Report 800), which found the median days to identify and commence an investigation into a breach over the last two reporting periods, by quarter, has ranged between 49 and 93.5 days. While we acknowledge that this is the median, not the average, it does imply that most reported breaches are not rectified within 30 days of when they first occurred. This is often the case with financial advice breaches, where non-compliance with the law is often discovered as a result of a complaint or a client file audit. Rarely is it discovered at the time the advice is delivered. This would mean that the benefit to the financial advice sector would likely be limited to administrative matters and licensee level breaches.

We believe this change is needed, or the proposed relief will likely be ineffective in reducing the actual quantum of breaches reported that provide very little intelligence, but consumes ASIC's time and resources, and arguably, wastes AFS licensee resources.

The joint bodies also recommend that the threshold is increased from \$500 to \$1,000 and consequently the maximum number of clients is also increased from 5 to 10. We believe that this provides a sensible balance between what is reported to ASIC, the associated costs and the value of the information to ASIC. Should this recommendation not be accepted, we recommend that the \$500 threshold is at least annually indexed to ensure that it remains effective in reducing low intelligence breaches being reported on mass.

Of relevance, while we have relied on Report 800 to make this recommendation, it is difficult to reconcile the findings of Report 800 with the proposed parameters for relief to assess how effective the proposed relief may be in reducing the number of reports lodged that provide very little intelligence. We also believe that Report 800 provides insufficient detail on the types of breaches that are received from the financial advice sector, which might assist us to assess the likely impact this proposal will have on the financial advice sector.

The joint bodies therefore recommend that ASIC report on the effectiveness of the proposed relief 12 months from implementation and through greater detail being included in the annual report on reportable situations; and continue to consider any further opportunities for relief, especially where there is no or minimal consumer financial detriment.

We also believe that there are further civil penalty provisions that could be excluded by the Government from the reportable situations regime, such as the current penalties that apply to fee consent provisions under sections 962R and 962Z of the *Corporations Act 2001*.



If you have any questions about our submission, please do not hesitate to contact [REDACTED]
[REDACTED], Head of Policy and Advocacy via email
[REDACTED].

Sincerely,

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