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#### **CP 383 Reportable situations and internal dispute resolution data publication**

The Council of Australian Life Insurers (CALI) is the trusted voice of life insurance in Australia. We support Australians to make informed choices about their future and help them live in a healthy, confident, and secure way.

Our mission is to ensure Australians view life insurance and the industry as accessible, understandable, and trusted. We do this by supporting our members to deliver the protection and certainty Australians need on their best and worst day.

We appreciate the opportunity to comment on ASIC's proposed approach to publication, at a firm level, of:

- data about reportable situations (RS) reports submitted to ASIC; and
- data about internal dispute resolution (IDR) submissions to ASIC.

CALI notes that CALI has not addressed all the questions in CP 383 but would like to make the following observations on ASIC's proposal.

CALI agrees that relevant data that is appropriately presented and contextualised can assist in promoting trust and confidence in the financial system and enable firms and consumers to benchmark performance across the industry. Publishing the proposed data at firm-level also has the potential to have a significant impact on a licensee's business and reputation including because customers, distributors and service providers will use it to make assessments about their compliance cultures and systems.

In light of these impacts, it is important that any publicly reported data is robust and consistently reported across firms. It should also be appropriately contextualised so users can easily understand what it means, how it may impact on customers and are able to readily compare the relative performance of firms on the metrics.

To aid comparability, the publication of any IDR or RS data should take into account firm size. For example, APRA's Reporting Standard LRS 750 uses 'disputes per 100,000 lives insured' to enable comparison between insurers of different sizes. Comparison by market share may also be appropriate in some circumstances. Without this context, larger licensees may appear to perform poorly and users will not be able to easily determine whether a firm is performing poorly relative to their size or number of customers. For life insurance, this will also need to take into account different channels (e.g. group, individual) because complaints relating to group insurance would generally be received by the superannuation trustee.

On IDR data, we agree that significant work between ASIC and industry has occurred to improve and standardise the quality of dispute resolution data. This is supported by ASIC's guidance and the Data Handbook which ensures a consistent approach to reporting by licensees. Related data for life insurers is already published at

firm-level. The Australian Financial Complaints Authority publishes firm-level data on external dispute resolution and firm level data on disputes relating to claims is published by APRA, which is obtained from life insurers responses to LRS 750. We do not have any major concerns with the proposed approach to publishing this data.

For RS data, public reporting should support and not jeopardise the overall objectives of the RS regime to ensure licensees identify compliance issues in a timely way and rectify and remediate issues, including any financial impact for customers. To ensure this is the case, we believe there are a number of issues that require further consideration, including:

- The consistency and accuracy of RS reporting by licensees. CALI believes further work should occur to improve this and ensure reporting presents a fair and accurate comparison between firms;
- The significant number of data points proposed to be reported and the ability to appropriately contextualise the data to avoid misinterpretation. Given the challenges in presenting and explaining the data simply, it is not clear whether consumers will be able to use it to make useful comparison between firms, or form accurate views about a firm's performance; and
- Ensuring publication of data promotes good compliance, remediation and reporting practices and good customer outcomes. This includes considering the risk of creating an additional disincentive for firms to not report compliance issues, either at all or at a high level of detail, or an incentive for licensees to focus on improving specific reported data elements at the expense of overall customer outcomes.

Further detail on these matters is included in Attachment 1.

#### **CALI position**

In developing the final design of the publication, we recommend that ASIC:

- Ensures any IDR or RS data reporting takes into account firm size to enable effective comparison across different sized licensees;
- Narrows the scope of RS data to focus on a small number of measures that can be easily interpreted, are meaningful and comparable on an aggregate or average basis, and limit publication to material breaches;
- Continues to develop consistent reporting of RS data e.g. by revising RG 78 to provide more guidance on what licensees should provide in response to the questions in ASIC Regulatory Portal and/or develop a Data Handbook for RS reports;
- Ensures that the publication of data promotes good compliance monitoring and reporting practices that contribute to the objectives of the RS regime; and
- Undertakes consumer testing of dashboards (possibly as part of a pilot or using de-identified data) to ensure they convey the reported data elements can be easily interpreted and understood and do not lead to confusion.

Thank you for the opportunity to contribute to this consultation. If you require further information, please contact me at [REDACTED]

Kind regards,

[REDACTED]  
Chief Executive Officer  
Council of Australian Life Insurers



## Attachment 1: Further comments on RS data reporting

Public reporting of RS data should support and not jeopardise the overall objectives of the RS regime to ensure licensees identify compliance issues in a timely way and rectify and remediate issues, including any financial impact for customers. To ensure this is the case, we believe there are a number of issues that require further consideration, including:

- The consistency and accuracy of RS reporting by licensees. CALI believes further work should occur to improve this and ensure reporting presents a fair and accurate comparison between firms;
- The significant number of data points proposed to be reported and whether they are useful in enabling comparison between firms, and the ability to appropriately contextualise the data to avoid misinterpretation; and
- Ensuring publication of data promotes good compliance, remediation and reporting practices that lead of good customer outcomes. This includes considering the risk of creating an additional disincentive for firms to not report compliance issues, either at all or at a high level of detail, or an incentive for licensees to focus on improving specific reported data elements at the expense of overall customer outcomes.

### Consistency of reporting

Recent ASIC reports on RS reporting have highlighted that there are inconsistencies in what is being reported to ASIC by licensees, including licensees adopting different definitions of a reportable situation and different thresholds for financial impact.<sup>1</sup> Furthermore, insights from RS data for 2023-24 showed that the top 50 licensees accounted for 63% of the total reports in the reporting period. Reporting by smaller licensees is increasing but it appears there may be further work to ensure that all licensees are fully reporting.<sup>2</sup>

With this level of inconsistency there is a risk that licensees that have good compliance systems and reporting practices will look worse compared to those with poorer practices. While breach reporting may never be perfect and some licensees may continue to adopt poor practices, we believe further work should occur to improve consistency in reporting. This could include updating RG 78 to include more guidance on how licensees should answer all questions in the ASIC portal or developing a Data Handbook for RS reporting similar to the one that exists for IDR.

### Scope of data and contextualisation

ASIC is considering a significant number of elements for inclusion in the RS data publication. We believe some of those elements will have limited value in achieving the stated aims of the reporting regime. Some also may not be useful, or may be misinterpreted, without significant additional detail that may be difficult to be included in the proposed publication.

We agree that interactive dashboards are useful for presenting statistical data. However, much RS data does not easily fit into this format due to unique firm-specific factors and limits the ability to compare firms. These include product types, system considerations for impacted policies, the proportion of affected policies/accounts, and challenges in contacting exited policyholders for remediations.

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<sup>1</sup> *Reportable situations: Finding of ASIC's review and how licensees can improve compliance with the regime*, <https://asic.gov.au/about-asic/news-centre/news-items/reportable-situations-findings-of-asic-s-review-and-how-licensees-can-improve-compliance-with-the-regime/>

<sup>2</sup> *REP 800: Insights from the reportable situations regime: July 2023 to June 2024*, <https://download.asic.gov.au/media/vw0pjzow/rep-800-published-31-october-2024.pdf>

For example, aggregate investigation and remediation times will depend on a range of factors, including the nature of the breaches and the age of the issues. Publication of the raw data without that additional detail could inadvertently suggest a firm is slow at remediating when that is not the case. There will also be situations where firms who have acquired businesses may identify issues that are caused by a former licensee many years after the breach. Without additional context, this will reflect poorly on the firm and suggest they have been slow when they are taking responsibility to fix the issue.

From the commentary in Table 1, it is also not clear whether reporting on these metrics will be presented at an aggregate or granular level. Our view is that these should be presented at an aggregate level (which could include use of median or mean measures where appropriate) so that each licensee is comparable at the licensee level over the full range of reports submitted during the period, rather than each report being identified in more specific terms. Our recommendation is that ASIC reduce the number of RS metrics down to a smaller number of key metrics that are meaningful and comparable on an aggregated or average basis. To reduce the volume of data published, and ensure focus on the most significant items, ASIC should only publish detailed RS data on material breaches and exclude reports where there is no financial impact to customers.

Consideration should be given to how explanatory statements accompanying the data assist in achieving the intended outcomes.

ASIC proposes that explanatory information could include 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'. While this is an accurate statement, it does not assist users to know whether they should feel confident that a particular firm has strong compliance systems or concerned that they are not effectively recording non-compliance. This does not achieve the intended outcome of publication.

In addition, the proposed contextual statement that 'no submissions for a firm does not necessarily indicate that there are no reportable situations or complaints' could be adapted to include 'or indicate that an entity is fully compliant with its financial services laws'.

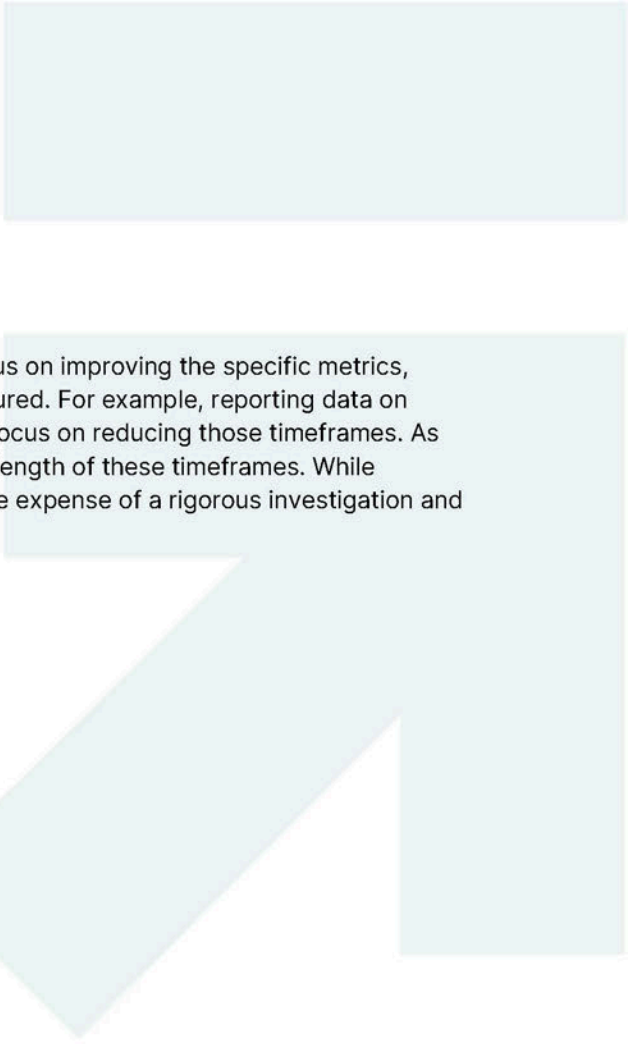
Overall we believe a large number of explanatory notes are likely to be required e.g. "breaches that are open for a long time may not be a result of inaction by the provider but may reflect the need to attempt to contact customers for updated details." In practice, these may not be read or considered as users of data. Given the large number that are likely required, and users' focus on the raw data, there is concern that it may be misinterpreted.

#### Promoting good practices

We believe careful consideration should also be given to the incentives created by publication of firm-level data to ensure it will not undermine the objectives of the RS regime.

For firms that currently have poor breach reporting practices, publication of firm-level data may create an additional disincentive to continue to improve their reporting. As ASIC notes in paragraphs 39-40 of CP 383, it is providing metrics based on actual reports submitted and expects licensees to obtain their own advice to ensure that all reports as submitted meet the relevant thresholds. There is a risk that the public reporting regime itself could lead firms to adjust that assessment, or the nature of the data included in those reports by some firms, particularly those with less mature risk and compliance systems. Ensuring public reporting is structured at an aggregate level may assist in addressing this issue.





When data is publicly reported there is also a tendency for firms to focus on improving the specific metrics, possibly at the detriment of other factors which are not so easily measured. For example, reporting data on investigation timeframes or remediation timeframes may lead firms to focus on reducing those timeframes. As discussed above there will be a range of factors that contribute to the length of these timeframes. While reducing these timeframes should always be the goal, if it is done at the expense of a rigorous investigation and remediation process, it may lead to poorer customer outcomes.