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Dear Ms Edmondson

Feedback on internal dispute resolution reporting requirements

The Australian Banking Association (**ABA**) welcomes the opportunity to provide further feedback on the proposed requirements for internal dispute resolution (**IDR**) data reporting in the Addendum to Consultation Paper 311 (**CP 311**). We have developed our response with a focus on ensuring the IDR framework delivers efficient, equitable and effective outcomes for customers.

The ABA supports most items proposed within the data dictionary. We understand that it represents the first stage of the Australian Securities and Investments Commission's (**ASIC's**) data collection program and we look forward to consulting as the program develops.

Please find below:

- key recommendations to improve the proposed framework
- commentary regarding data elements in Appendix A, and
- responses to the questions asked by ASIC in Appendix B.

Design of the reporting framework

The ABA makes the following recommendations to improve the proposed data reporting framework.

Recommendation 1: adopt a customer-centric approach to complaint resolution

ABA members consider it is vital that each complaint can record multiple products and/or services. This functionality would be consistent with the banking industry's customer-centric approach to complaints resolution. It is also consistent with RG 271: Internal dispute resolution (**RG 271**), which recommends that an indicator of the quality of the complaint handling process is the resolution of all related issues.

Our members note that a single complaint often involves more than one product or service just as it often involves more than one issue. Most banks manage a customer's concerns relating to multiple products or services in a single complaint. This allows the institution to better address the customer's financial situation in a manner that is fair in all circumstances. It also reduces the risk of significant issues 'falling between the cracks'.

In our experience, the positive impact of taking a customer-centric view is most likely to be felt by customers whose circumstances of vulnerability are drivers of the complaint. These customers are most likely to find the complaints process challenging at times and should be supported by having their needs and circumstances drive a simple and streamlined process.



Recommendation 2: publication of IDR data needs to be sensitive and fair

The ABA submits that the publication of IDR data should be done in such a way to avoid the potential for misunderstanding the comparative performance of firms. Consideration must also be given to the likelihood of a particular approach reinforcing a positive culture of complaint-handling within the banks.

We contend that reporting should focus on metrics that are representative of quality of outcomes among firms rather than raw volumes. There is a range of maturity and size across the industry and as such, comparisons based mainly on volumes may lead to an incorrect inference that more mature or larger firms are providing worse products or services. A practice of recording complaints may demonstrate a healthy culture focused on customer service, rather than poor performance.

To achieve the most valuable comparisons among firms, the published metrics should be chosen carefully to reflect the efficiency, fairness and quality of complaint processes. The ABA suggests that comparative reporting should be focused on relative measures, such as the:

1. average time to resolve the complaint
2. proportion of complaints that are escalated to the Australian Financial Complaints Authority (**AFCA**)
3. percentage change in complaints compared to previous reporting period for same entity, and
4. proportion of complaints that are resolved in fewer than 5 days.

The ABA suggests that publication of data should be in the form of a descriptive statistical presentation, rather than an overt or implied analysis of potential relationships or causation. The publication of data should also consider any market sensitivity considerations. For example, it should not include the details of the specific products and services that are subject to complaints.

Recommendation 3: consideration needs to be given to complaint referrals

The ABA notes that the draft data dictionary does not explicitly cater for the referral of complaints between firms, for instance when one firm is a distributor, and the other is the product manufacturer.

We submit that the process should allow for some minor amendments in these cases, specifically:

- (1) including an additional code for 'referred to other financial firm' to 'other outcomes', and
- (2) excluding complaints of this type from the data of the referring party for the purposes of reporting and benchmarking. This is to ensure that the same complaints are not double counted across the industry.

Please contact me on [REDACTED] if you require anything further.

Yours sincerely

Jess Boddington
Policy Director



Appendix A – Commentary on data elements

The ABA provides the following commentary regarding the proposed data elements below.

Data element	Response
Complainant type	It may be the case that, in most cases, this data is recorded as 'not stated'. This is because there are likely to be situations that are challenging for case management staff to identify accurately (i.e., to record whether the affected customer is an individual as opposed to a business entity).
Complainant gender, Aboriginal or Torres Strait Islander descent and date of birth	<p>Many of our member banks do not currently record this information within their complaint management systems. We consider that collecting information about gender, race or ethnic origin could be viewed as unnecessary and prejudicial to the impartial assessment of complaints.</p> <p>For racial and gender information, Australian Privacy Principle 3.2 (APP 3.2) requires the collection be reasonably necessary for one or more of the banks' functions or activities. If these fields are to remain mandatory, then we request that a 'not stated/not known' option is available.</p>
Fields related to authorised representatives, advisers, and credit representatives	<p>We note there is a level of complexity involved in identifying and recording this information through the complaint handling process. Due to this complexity, we seek guidance from ASIC in relation to the specific requirements of this reporting element.</p> <p>For example, our members' concerns include:</p> <ul style="list-style-type: none">• In the same way that one complaint may relate to multiple products, one advice complaint may relate to multiple advisers (i.e., service over time). This is problematic from a 'capture' perspective and would be onerous for both customers and banks to capture and record.• There are challenges with the identification of authorised representatives who are no longer on the licence.• Consumers struggle to differentiate between a credit representative and any other bank employee. This may lead to false positives being recorded.
Reasons for reopening	<p>There are several reasons why a complaint may need to be re-opened. We submit that it is not practicable for the case manager to accurately discern and record the reason for doing so.</p> <p>It would be operationally complex to incorporate additional changes to enable accurate classification between 'additional information received or known' and 'other'. We would propose to ASIC that this data point should be simplified to indicate only whether a complaint was re-opened due to external dispute resolution (EDR) vs 'other'.</p>
AFCA status and date	<p>This field requires a firm to record 'the date the complaint was received by AFCA'. We note that this is a data point maintained by AFCA rather than the banks and suggest that the field be removed.</p> <p>The inclusion of this data element also raises the question of whether ASIC proposes that IDR data reporting obligations (and also the provisions of RG 271) extend to complaints that are referred back to a financial firm from AFCA. We consider that the 'refer back period' is the first stage of EDR, and not IDR. Several of the paragraphs in RG 271 would be difficult to translate in the context of complaints that are</p>



referred. For instance, the minimum content requirements for IDR responses, which require AFCA details to be provided.

Product or service

This information is fundamental to the complaint management process. As such, it is likely that banks will have to undertake significant internal system and process changes to align existing categories with the proposed granular structure. The complexity of this mapping process may lead to a level of inaccuracy at the more granular level requested, lowering the quality of comparative reporting.

In some cases, existing internal categories would not map clearly to one of the granular categories. For example, there is a significant level of detail within the proposed taxonomy in relation to superannuation, investment and insurance products that may not be able to be clearly delineated. We encourage ASIC to consider initially simplifying this element of the data request to focus on only the higher-level categories.

We also seek guidance as to whether ASIC intends to review and refine the taxonomy through the pilot process to ensure completeness of the categories and to minimise mapping inaccuracies in the data provided. For example, it is not clear where certain types of complaints would fit within the taxonomy provided (e.g., complaints about staff on the phone or complaints about online products, such as mobile applications).

Complaint issue

Many banks have spent significant time selecting and refining complaint issue categories, based on an interpretation from CP311 that they would have the flexibility to design and apply their own issue classifications. These classifications are based on their previous experience handling complaints and are tailored to business requirements.

For example, more granular categories may be used by firms, such as in relation to 'branch closure' and 'account closed without notice or in error'. As noted within the response on 'product or service', the level of system and process changes to align to the proposed granular structure are expected to be significant.

We suggest ASIC consider initially simplifying further the element of the data request to focus on only higher-level categories. This would allow for a firm's flexibility in applying a second tier of complaint types that best suits their service offerings, business types and customer base.

Additionally, any comparative reporting based on the issues presented by customers may lead to inaccuracies in understanding the service proposition offered. For example, complaints about inappropriate advice are complex and, while financial or other outcomes may be appropriate, the final position may be that advice was not in fact inappropriate.

Outcome in whose favour

The ABA suggests that this field is not required and may lead to unintended consequences in complaint resolution processes.

For example, this classification might discourage positive complaint resolution practices, such as willingness to make concessions without admission of liability, in order to allow the parties to meet their respective starting positions. To encourage complaint resolution that supports openness to different perspectives, encourages compromise and reasonableness, and actions driven by compassion, it is helpful to see resolution of that type as a positive outcome for both parties.

Further, the proposed categorisation may be seen to imply that a decision of the customer is not in favour of the firm. We are conscious that there may be a degree of inconvenience to the customer, or a



relationship that the firm wishes to restore. As a result, the firm may be incentivised to make a goodwill gesture. We submit that it may not be appropriate or desirable for an implication of an admission of wrongdoing or liability to be attached to such an outcome.

We acknowledge that AFCA may categorise the outcomes of complaints in this style. Such an approach is appropriate in that context, considering that AFCA provides a determination with respect to the dispute.

Monetary compensation

It is our view this field is not required and may drive unintended consequences. If this category is retained, the ABA considers there should be greater clarity around the types of compensation to be captured in this field. For example, we submit that this category should also capture the total financial payments or waivers made as part of the resolution. This may promote simplicity and give a better indication of the total value of the resolution of the complaint.

If the field is to be retained, the ABA recommends it should be limited to:

- compensation for direct financial loss e.g., if a customer has incurred costs because of delay of settlement
- refund or waiver of a fee/charge
- debt waiver or reduction
- compensation for non-financial impacts – otherwise termed as ‘stress and inconvenience’ by AFCA (e.g., for privacy breaches or debt collection errors), and
- goodwill gestures, including debt waivers or direct payments where no decision has been made as to liability.

Other types of compensation are difficult to quantify and should be excluded. For example, these might include the release of guarantee or a decision not to pursue one borrower for a debt where there are joint borrowers. We also suggest that consideration of net present value does not need to be captured (i.e., relating to extensions of time).

Other outcomes

The ABA requests ASIC include the following item types: ‘referred to other financial firm’, ‘correct the record’, ‘cease legal or other action’ and ‘provide a commitment to review the issue’. In addition, we suggest that the outcome two, ‘apology’, should be supplemented by the addition of a further separate code for ‘explanation’ to ensure both limbs of RG 271.71 are covered.



Appendix B – Response to specific questions

The ABA's response to the questions asked by ASIC is contained below.

Question	Feedback
1. Will the draft data dictionary be practical for industry to implement? If not, why not?	We support most items proposed within the draft dictionary. Detailed comments are provided in the letter and appendices.
2. 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?	<p>The ABA is supportive of having the flexibility to report data for various business units and/or subsidiaries in separate files, to reflect how our members' businesses are structured.</p> <p>However, we expect that licensees that are not structured into multiple brands will not be disadvantaged because of this. For example, any data publication should be made at a licensee level or make clear the connection between the licensee and brand.</p>
3. 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?	<p>As noted in the letter, our members support an approach that allows them to manage all issues within a single complaint, irrespective of whether they relate to more than one product or service.</p> <p>To enable this, we suggest:</p> <ol style="list-style-type: none">1. Where multiple issues and outcomes are recorded, capture the information in additional columns rather than in-cell lists.2. Allow the capture of up to three products for each complaint, using the multiple column approach.
4. 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?	<p>We note that reporting extracts may require several weeks of operational effort across multiple teams and with oversight checks. While this is expected to be shortened over time, it is likely to require a higher level of resourcing for an interim period. As such, we support half-yearly reporting to manage potential operational impacts.</p> <p>In addition, the ABA recommends that ASIC consider aligning the reporting cycle with the timeframe for breach reporting to the Banking Code Compliance Committee (BCCC).</p>
5. 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?	Whilst we support the objective of providing additional support to customers in vulnerable circumstances, some members consider it may be difficult or inappropriate to apply a vulnerability 'flag'. In the absence of industry consistency regarding the definition of vulnerability and the application of a flag across firms, we suggest ASIC will be unable to produce useful, comparative reporting and, therefore, do not support inclusion of this data element.



It is important to recognise that recording information about vulnerability can also constitute sensitive information under privacy laws. For example, vulnerability is often tied to the presence of a medical condition. Disclosing this information may involve serious confidentiality and legal considerations. There is a risk that to minimise privacy impacts, there would be so little detail associated with the application of the flag that it would be of limited use and difficult to validate.

Our members are highly aware of the need to be responsive and flexible to individuals as their needs change over time. The ABA suggests that firms should be able to demonstrate within the management of complaints that vulnerability and sensitivity factors are being considered appropriately. In addition, other qualitative factors could include the pathways available for appropriate support within the firm, as well as externally.

6. 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?

See letter for comments on this issue.

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

See letter for comments on this issue.

8. Do you agree with our proposed requirements for IDR data reporting?

The ABA notes that Attachment 1 to CP311 suggests that the level of complaints detail required would include only open complaints as at the reporting period. This would not provide a full view of the complaints received.

When the status of an open complaint has not changed over multiple reporting periods, should the complaints be reported to ASIC for the periods when there has been no change in status?

However, we anticipate that this may not be ASIC's intention given the inclusion of the closure date within the data dictionary.

We suggest that ASIC require firms to report all complaints that have been open for any period of time during the reporting cycle (with the exception of complaints that are referred to the manufacturer – see letter for more details).

9. What principles should guide ASIC's approach to the publication of IDR data at both an aggregate and firm level?

See letter for comments on this issue.