

2 February 2021

Australian Securities and Investments Commission

By email to: IDRData@asic.gov.au

To whom it may concern,

Submission on CP311 – Internal Dispute Resolution Data Reporting Requirements

As the peak national body representing the mortgage broking industry, the Mortgage & Finance Association of Australia (**MFAA**) welcomes the opportunity to provide this submission to the ASIC on the implementation of IDR data reporting.

About the MFAA

With more than 13,500 members, the MFAA is Australia's leading professional association for the mortgage broking industry, with membership covering mortgage and finance brokers, aggregators, lenders, mortgage managers, mortgage insurers and other suppliers to the mortgage broking industry. The stated purpose of the MFAA is to advance the interests of our members through leadership in advocacy, education and promotion. To achieve this aim, the MFAA promotes and advances the broker proposition to a range of external stakeholders, including governments, regulators and consumers, and continues to demonstrate the commitment of MFAA professionals to the maintenance of the highest standards of education and development.

Introduction

Since 2003, the MFAA's Code of Practice has required its members to provide an IDR process in order to resolve disputes promptly and efficiently and to save customers from the need to engage in any extended resolution process. From data released by AFCA, mortgage brokers represent less than half of one percent of complaints received. This indicates that brokers take their responsibility to deal with customer complaints in a serious and satisfactory manner and that they have robust processes currently in place.

While the MFAA and its members recognise the importance of IDR data in identifying complaint trends and systemic issues, and to assist ASIC as regulator of credit, there are some aspects of ASIC's proposal that causes the MFAA and its members some concern.

It is vital that the costs associated with additional administration in reporting complaints be considered. The vast majority of brokers are small businesses and any additional compliance costs imposed on them, including those driven by enhanced reporting obligations, can have a significant impact, which may contribute to negative outcomes for both customers and brokers.

Stages of implementation of data reporting

Attachment 1 to Media Release (20-327MR) Addendum to consultation Paper 311 *Internal dispute resolution: Update to RG 165 (Attachment 1)* states that ASIC will invite financial firms to participate in a pilot test of the data dictionary in the second half of 2021. Given that approximately 60 per cent of all home loans are facilitated by mortgage brokers, we request that this pilot include a sufficiently representative number of participants from the broker industry. This request also acknowledges the importance of brokers for consumers in accessing and obtaining credit, and in maintaining competition in the finance industry, combined with the unique challenges brokers face as small businesses, and as such their participation is vital.

Simpler reporting by smaller firms

Attachment 1 indicates that ASIC is considering a simpler reporting regime for smaller firms, for example by way of a spreadsheet. The MFAA considers that simple reporting for brokers is essential due to the small scale of their businesses and the lack of resources necessary to utilise complex reporting methods.

Data publishing

Attachment 1 indicates that ASIC is considering the most appropriate available metrics of business size and sector to publish alongside firm-level data.

The MFAA supports the principles of openness and transparency in the broking industry, however we re-iterate our position in our previous submissions, being our strong disagreement with the publication of IDR data that identifies firms by name. ASIC has processes in place to publicly identify individuals and firms that breach the law through its disqualified lists and its ban and licence cancellation notices. These publication processes should be sufficient to keep the community informed.

Additionally, a business may suffer many complaints that are a result of economic and geographic circumstances unrelated to the services offered by relevant firms; for example, a downturn in mining production resulting in job losses in a mining town that results in borrower incapacity to continue to service home loans. Similarly, in COVID-19 times, a broker who has assisted a large number of customers impacted by specific sector job losses (for example, hospitality or travel) may receive more complaints as a result, regardless of whether there was any fault on the part of the broker. Publication of this data appears to us unfair in these types of circumstances.

Publishing IDR data, in the absence of useful contextual information about the complaint(s) may also provide an unfair representation of a firm's culture, systems and standard of service. At the least, a comparison of the number of complaints related to the number of transactions of a particular type should be provided. The existence of a complaint should not be considered as evidence of wrongdoing having occurred, it is merely an indication that one individual customer was unhappy with the service they received, or that there was a misunderstanding. It could be crippling for a small business if customers make an assessment of a firm's quality of service or ethical standards based on complaint data that is

published without context, particularly as it is proposed that even minor complaints are to be reported.

In a post-Royal Commission context, the industry's focus is to restore consumer trust in the banking and financial services sector and to deliver improved customer outcomes. We consider that this proposal serves no useful purpose and may further erode customer trust at a time when the industry is making changes which are positive for customers (such as the introduction of the best interest duty and conflicted remuneration rules).

Further, from an industry perspective, the information must be contextualised so that aggregators and lenders do not make assumptions about a broker based solely on complaints data which may result in lenders or aggregators not wishing to deal with that particular broker noting that a lender can cancel a broker's accreditation for any reason. We therefore ask that ASIC uses extreme caution and consideration in determining this issue.

MFAA comments on ASIC's current position on the IDR data reporting requirements

Below we set out our comments on ASIC's current position on the questions asked in CP 311.

B4Q1. Do you agree that firms should record all complaints that they receive? If not, please provide reasons.

We note that ASIC's current position is that all complaints must be reported. This will include complaints resolved within 5 days.

As stated in our previous submission, we consider that this requirement is particularly onerous and unnecessary and will increase administrative costs for businesses, particularly for sole traders and small businesses that have limited personnel resources. Further, if brokers outsource this activity this will impose additional financial constraints on an industry sector that is already facing rising costs and declining revenues particularly when some complaints can be dealt with quickly and may result from a mere misunderstanding.

We suggest this concern can be addressed by providing guidance through a definition of an 'actionable' complaint which excludes minor, frivolous, and promptly resolved complaints.

B5Q1. Do you agree that financial firms should assign a unique identifier, which cannot be re-used, to each complaint received? If no, please provide reasons.

We support ASIC's proposal that each complaint be given its own unique identifier.

B5Q2. Do you consider that the data set proposed in the data dictionary is appropriate? In particular:

(a) Do the data elements for 'products and services line, category and type' cover all the products and services that your financial firm offers?

(b) Do the proposed codes for 'complaint issue' and 'financial compensation' provide adequate detail?

MFAA supports these changes and in particular the alignment with those data categories used by AFCA.

B6Q1 Do you agree with our proposed requirements for IDR data reporting? In particular:

(a) Are the proposed data variables set out in the draft IDR data dictionary appropriate?

The MFAA is pleased to see that the number of data variables has been reduced by 14, and that variables where the firm may not reasonably know the correct data (that is, some customer demographic information) has an option for the response to be 'not stated or unknown', or some other indicator that the information is not known (for example, listing the date of birth as 01/01/1900 if the date is unknown). It will be important that ASIC makes all instructions for submitting data very clear with unambiguous instructions.

(b) Is the proposed maximum size of 25 MB for the comma-separated values (CSV) files adequate?

The MFAA considers this file size is appropriate.

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

The MFAA has no comment on this proposal.

Specific questions for feedback

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

We consider that the changes made to the draft dictionary will assist for practical implementation.

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?

As the broking industry is comprised of aggregators (who manage brokers and provide access to lenders) and brokers, and the brokers may be credit representatives of the aggregator, or may hold their own licence (and may, or may not, operate under the name of the aggregator) we consider that aggregators should have a choice for each of their brokers whether the data will be submitted at aggregator level or broker level. This will allow flexibility for different business structures and arrangements.

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?

We consider that this is appropriate and we assume that the result is that the number of reported complaints will not be artificially inflated.

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?

Due to the additional time and cost, particularly for small business and sole traders, we consider that reporting should be half yearly. This will ensure that the reporting

requirement is not too onerous on businesses that have recently become subject to a large volume of new requirements.

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?

The MFAA supports these additional data elements so long as the response is based solely on the information **actually** known to the broker at the time of the report, and the broker is not required to make any further inquiry of the complainant which can expose those in vulnerable circumstances to further risk of harm. If this proposal proceeds, a clear definition of vulnerability will need to be provided by ASIC.

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?

Please see our comments above. The MFAA remains concerned about this component of the proposed reporting requirements in light of the enormous impact publication could have on a small business.

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

As indicated above, there are many factors that may lead to one brokerage having higher complaint figures than another brokerage – and these may be out of the brokerage’s control and not reflective of the service they provide.

However, for complaints data that is only given to industry and not published to the public, for comparison purposes only, it may be most useful for firms to have an understanding of the size, transaction numbers and complaint resolution time frames. Nevertheless, as discussed above, we ask that ASIC further considers the issue of IDR data publication as even IDR that is only published to industry may be unfairly damaging to businesses of businesses are named, particularly given the reliance brokers have on aggregators and lenders agreeing to deal with them.

Should you require further information to supplement this submission, please do not hesitate to contact me on [REDACTED]

Yours sincerely

Mike Felton
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Mortgage & Finance Association of Australia