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Consultation Paper 383: Reportable situations and internal dispute resolution data publication

The Australian Financial Complaints Authority (AFCA) is the independent external dispute resolution (EDR) scheme for the financial services sector. For over 25 years, AFCA and its predecessor schemes have provided a free, fair and independent forum for the resolution of consumer and small business complaints in the financial sector.

We welcome the opportunity to provide comments on ASIC's Consultation Paper 383 *Reportable situations and internal dispute resolution data publication* (CP 383). This submission draws on AFCA's experience in financial services complaints, as well as using and publishing complaints data.

Key observations

AFCA strongly supports the publication of reportable situations (RS) and internal dispute resolution (IDR) data as essential to an end-to-end view of the financial products and services generating consumer and small business complaints. This transparency will support consumers, firms and regulators to understand problems in the sector and brings sunlight and accountability for firms for the management and resolution of the complaints they receive. It will also provide insights for the development and enhancement of industry codes and broader efforts to raise standards and improve consumer outcomes across the financial sector.

AFCA is committed to making our data accessible, transparent, and useful for both financial firms and consumers. In addition to reports to ASIC, our Annual Report, and member benchmark reports, we also publish complaint data on the AFCA Datacube.[1] This interactive dashboard allows users to explore information about financial firms with four or more complaints in a given period, including the number of complaints, the products and services involved, and how those complaints were resolved. AFCA

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[1] The latest version of the AFCA Datacube shows data for financial firms with four or more complaints in the period from 1 July 2023 – 30 June 2024.

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has ongoing work to refresh and update our data offering, including work to increase the frequency of Datacube updates.

When combined with AFCA's data, the publication of RS and IDR data will provide a fuller picture of the life cycle of a complaint. This richer dataset will enhance AFCA's ability to communicate to member firms, consumers and regulators, forecast trends and strengthen our systemic issues role by identifying patterns and root causes more effectively.

AFCA welcomes the publication of the proposed data sets as another important step in the implementation of the Ramsay Review recommendations to enhance the transparency and accountability of financial sector complaints at IDR and EDR.[2]

As ASIC observed during the development of these reforms:

> "…if you combine the new IDR requirements with existing requirements for external dispute resolution and the new breach reporting data, you'll have a full 360-degree consumer data dashboard."[3]

We make some high-level recommendations below, with more detail provided in the response tables in **Appendix 1**. We acknowledge that some opportunities we identify may present technical and logistical challenges which may fall out of scope for this current consultation. We raise them as opportunities to consider for the further evolution of these data sets. We look forward to working with ASIC on progressing this important body of work.

Opportunities and recommendations

To promote consistency across ASIC's IDR and AFCA's EDR data sets and enhance broader transparency in the financial complaints sector, we recommend:

- publishing all IDR data at firm level, including unit level records unless there is a specific reason to exclude them

- publishing IDR data for all firms including those who make a nil submission

- publishing IDR data for corporate authorised representatives (CAR)

- flagging systemic issues arising from data

- developing appropriate sizing metrics

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[2] Recommendation 8 of the Ramsay Review Final Report called for financial firms to report IDR data to ASIC in a standardised format, and the Government Response to the Ramsay Review explicitly supported ASIC publishing the data it received.
[3] ASIC update at the Financial Services Council member webinar | ASIC.

- strengthening reporting and publication of special assistance data

- consideration of alignment of IDR data with the SPF framework.

Publishing unit level data for end-to-end view of complaints

AFCA considers the desired future state for the publication of IDR data (alongside EDR data) is to show the full complaint life cycle for financial sector complaints. In CP 383, ASIC indicates that some IDR data will be aggregated or shown in a range of ways, such as total, mean, median, distribution and highlighting outliers. While aggregated data can offer useful high-level insights, AFCA supports publication of unit level records wherever possible, to enable detailed analysis across the life cycle of a complaint from IDR to EDR.

Proposed exclusions from publication on dashboards

In CP 383, ASIC proposes to exclude certain RS and IDR information from publication, including where:

- a firm does not make any report to ASIC
- a firm makes a report to ASIC but
    - privacy considerations prevent publication
    - ASIC excludes publication because the report was 'made in error'.

We consider that where a firm fails to submit a required report to ASIC, the dashboard should clearly show this and note the total number of firms that failed to make a report for that period to highlight any data gaps. Identifying non-reporting firms supports the key objectives of transparency, accountability and compliance outlined in CP 383.3 and helps users understand the completeness of the data.

CP 383.40 notes that ASIC may exclude data from a dashboard in exceptional circumstances if it becomes aware a report was 'made in error'. It would be useful to understand when this exclusion would apply, for example, whether it is limited to cases where the firm was not required to make a report. If ASIC applies this exclusion more broadly, it may reduce the value of the published data in circumstances where poor quality or inaccurate reporting by a firm could result in that firm's data not being published.

If ASIC applies this exclusion, the dashboard should clearly note the exclusion, specify the number of reports excluded and explain that the exclusion impacts the completeness of the data. Where appropriate, the dashboard should also identify the excluded firms.

We also note that under CP 383.58, ASIC proposes to exclude IDR data for authorised representatives. While we agree that data of individual authorised representatives should not be published for privacy reasons, AFCA considers that the

IDR data relating to CAR should be published in line with transparency and accountability objectives.

AFCA's systemic issues role

Consumer complaints may be indicia of underlying systemic issues within a financial firm. In addition to firms' own obligations to bring a systemic lens to complaints,[4] AFCA also has a role in identifying possible systemic issues in escalated complaints. The early identification and resolution of systemic issues can reduce consumer complaints, help minimise consumer harms and remediate affected customers in a timely way. AFCA's unique lens into systemic trends through both complaints and systemic issue investigations can powerfully connect to firm-level reporting and contribute to regulatory objectives and sector-wide reforms in line with AFCA's statutory role as set out in RG 267.

Access to IDR and RS data will enhance AFCA's ability to detect and respond to systemic issues. More comprehensive data will support AFCA's existing initiatives to more proactively identify patterns in complaints before they escalate and work with firms to address root causes. Greater visibility of IDR complaint trends will help AFCA to plan more effectively, allocate resources efficiently, and improve our forecasting capabilities.

Using IDR and RS data to identify systemic issues

CP 383 does not explicitly identify systemic issue detection or escalation as a key objective or outcome of the RS and IDR data publication frameworks. We think there is an opportunity for ASIC to consider how these data sets could be leveraged to support systemic issue identification, trend analysis and regulatory response.

This could include mechanisms to flag persistent or recurring issues across sectors, enhancing the value of the data for risk detection and proactive oversight.

Incorporating systemic risk indicators into dashboards

While the proposed dashboards aim to contextualise complaint and breach volumes, it is uncertain if ASIC proposes to include indicators or visual clues for identifying potential systemic risks. AFCA suggests that ASIC explore the inclusion of contextual flags, such as repeated breaches over time or similar complaints across multiple firms, to help identify emerging issues. This would support early risk detection.

Inclusion of AFCA complaint escalation data

The IDR data elements include a channel for "Referral from AFCA," but the dashboards do not clearly show how this data is used. We recommend that ASIC considers analysing and publishing escalation rates to AFCA as a useful quality marker of how well firms handle complaints and possible indicator of systemic risk.

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[4] See ASIC's Regulatory Guide 271, *Internal dispute resolution* (RG 271), paragraph 120.

High escalation rates can signal problems with a firm's internal resolution processes or point to deeper issues in product or service design.

Future evolution and opportunities for enhancement

Reporting and publishing IDR and RS data strengthens accountability and transparency in the financial services sector. We believe there are opportunities to expand the scope of ASIC's data reporting over time, including to refine data standards and improve the quality of that reporting.

Development of sizing metrics to enhance data context

We consider sizing metrics will add valuable context to both the IDR and RS datasets, as the size of a financial firm provides important perspective on the scale and significance of reported complaints, enabling more meaningful comparisons across firms and sectors. While these may be out of scope for this first publication cycle, we consider there is merit in introducing sizing metrics for prudentially regulated sectors, as a starting point, with further metrics for other sectors developed over time. We note existing engagement between AFCA and ASIC on this issue.

Enhanced reporting of special assistance data

The collection and reporting of more detailed information about consumer needs and special assistance flags, could help firms, regulators, AFCA and other organisations. Enhanced and more granular data would support better analysis, help target investment, engagement and response to customers in hardship or experiencing other vulnerabilities. For example, AFCA considers the data dictionary should be expanded to include family violence and elder abuse flags, as this is an important area with a paucity of data showing where problems are in specific products and services and to encourage firms to apply that systemic lens to their complaints. Such data could contribute to efforts to lift standards in responses to family violence and elder abuse where current data is often poor.[5]

Expanded IDR data collection and reporting could improve information about issues, products or processes that adversely affect consumers seeking to navigate complaints processes, including by evidencing consumers who drop out of complaints processes and opportunities for early intervention.

Improvement in reporting

In ASIC's Report 801,[6] ASIC reported on the overuse of 'other' product and issue categories for complaints. AFCA supports ASIC's analysis on page 50, that these categories should be used only where a complaint product or issue does not fit into

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[5] Enhanced data could also be useful when addressing issues identified in *Hardship, hard to get help: Findings and actions to support customers in financial hardship*, ASIC Report 782, May 2024.
[6] *Insights from internal dispute resolution data reporting: July 2023 to June 2024*, ASIC Report 801, December 2024.

any specific category. In ASIC's ongoing work to improve IDR data reporting, we would support focus on reducing overuse of 'other' categories.

Aligning IDR data with the Scams Prevention Framework (SPF)

Transparency about the nature, type, volume and outcomes of consumer complaints about scams at both IDR and EDR will be key to building stakeholder confidence in how financial firms respond to scam complaints under the SPF. It will also help shape and inform the SPF's evolution as new sectors are designated. The SPF presents a unique and valuable opportunity to align ASIC's IDR data handbook with respect to scam complaints, including for complaints that fall within and outside of the SPF's scope.

There remains a significant body of policy work to complete prior to implementation of the SPF and AFCA welcomes the opportunity to work with ASIC and other SPF regulators in relation to IDR and EDR data standards for scam complaints.

Appendix 1: Response tables

Table 11 – B1Q1 to B4Q1

Feedback questions	AFCA's responses
B1Q1 Do you have any comments about the proposed format of the data publication, or any suggestions for the interactive dashboards?	N/A
B2Q1 Do you have any comments on this proposal?	We would request that this be available for download using csv and xls.
B3Q1 Do you have any comments about ASIC using explanatory notes and contextual statements to assist in the interpretation of the data?	The size of entity is an important contextual statement across both RS and IDR, and higher incidence of reporting can certainly reflect larger size and strong compliance. While RS require a licensee to self-report (and therefore stronger compliance systems will lead to more self-reporting), complaints by consumers are a direct reflection of dissatisfaction with the licensees about the product or services provided. We would therefore suggest that IDR data *should not* have a contextual statement that "higher incidence is not necessarily reflective of consumer dissatisfaction."
B3Q2 Are there any other types of explanatory statements we should also publish, or particular issues they should cover? If so, what are they?	AFCA suggests developing contextual statements for potential systemic issues. For example, where data shows repeated breaches or issues over a certain period or multiple complaints about similar issues across different financial firms, this may indicate a systemic issue.

Feedback questions	AFCA's responses
B4Q1 Do you have any suggestions on potential features that ASIC should consider in future? Please provide details, including the benefits that suggested features would provide.	As outlined in the systemic issues section above, we think there is an opportunity to utilise IDR and RS data to inform systemic issue identification, trend analysis and regulatory response. Additionally, ASIC could develop contextual or visual flags for potential systemic issues in its dashboard data. As outlined in the 'Future evolution and opportunities for enhancement section above, we think there are opportunities to enhance data reporting and publication, including: • Including firm size and sizing metrics to provide context to data sets. • Enhancing the collection, reporting and publication of special assistance data, such as family violence, elder abuse and financial hardship. • Aligning IDR data with the SPF framework. AFCA also links related AFSL/ACLs and brand names in our Datacube, due to the interlinked nature of AFSLs and ACLs. ASIC should aim to link these in their data sets in future.

Table 12/13 (combined) – D1Q1 to D1Q4

Data element #	Data element	Do you have any comments on the proposed data element?
RS-DE 2.2	Product	Support inclusion and encourage including second-tier product information.

Data element #	Data element	Do you have any comments on the proposed data element?
RS-DE 2.3	Issue	Support inclusion and encourage including second-tier issue information due to the general nature of some first-tier options.
RS-DE 2.4	Root cause	Support inclusion.
RS-DE 3.1		
RS-DE 3.2	Customer financial loss	Support inclusion.
RS-DE 3.3	Number of instances	Support inclusion.
RS-DE 5.1	Time taken to complete compensation	Support inclusion.
RS-DE 5.2	Customers compensated to date	Support inclusion.

Data element #	Data element	Do you have any comments on the proposed data element?
RS-DE 5.3	Amount of compensation paid to date	Support inclusion.
RS-DE 5.4	Compensation status	Support inclusion.
RS-DE 5.5	Remediation arrangement	Support inclusion.
RS-DE 6.1	Time taken to complete rectification	Support inclusion.
RS-DE 6.2	Rectification method	Support inclusion.
RS-DE 6.3	Rectification status	Support inclusion.
RS-DE 6.4	Is the breach continuing?	Support inclusion.

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Data element #	Data element	Do you have any comments on the proposed data element?
RS-DE 6.5	Reports with previous similar reportable situations	Support inclusion.
RS-DE 6.6	Prevention status	Support inclusion.

Table 14a – EQ1 to E1Q3

Feedback questions	AFCA's responses
E1Q1 Do you have any comments on this proposal?	AFCA suggests the data elements outlined in Tables 8 to 10 should be expanded to cover requests for special assistance in IDR. RG 271 already requires financial firms to proactively identify people who might need additional assistance in the course of a complaint. (See RG 271.131 and .177 and relevant material in RG 271.148, .150 and .173.) However, the Handbook does not require this identification to be reported to ASIC.
E1Q3 Are there any specific contextual statements that may help users to interpret the data elements?	

Table 14b – Data elements in Tables 8 to 10

Data element #	Data element	Do you have any comments on the proposed data element?
IDR-DE 3.2	Nil submission	Support inclusion. This data will provide AFCA with useful comparison to our own data set.
IDR-DE 3.8	Is the complaint about the authorised representative of an AFS licensee or an authorised credit representative?	Support inclusion. We encourage the inclusion of Corporate Authorised Representatives in reporting.