

Kit Legal Pty Ltd – Response to proposals for reportable situations and IDR data publication

6 May 2025

RS response table (feedback questions B1Q1 to B4Q1)

B1Q1 Do you have any comments about the proposed format of the data publication, or any suggestions for the interactive dashboards?

We encourage the enhancement of accountability, transparency and incentives for improved behaviour. However, ASIC should not waste resources building ‘interactive dashboards’ to report RS data.

The existing industry level reporting by ASIC is sufficient to support the enhancement of accountability, transparency and incentives for improved behaviour. The data ASIC publishes can be tailored and contextualised to address any particular issues ASIC can see emerging. It is also unable to be misused by industry competitors or the media in a way that damages individual firms.

Rather than building infrastructure for RS data to be available, ASIC should improve its existing technology systems to enable better usability, interactivity and alerts to prompt further ASIC supervision/investigation.

ASIC should also be using resources to spot checks firms that are not reporting RS, ask to see their internal incident registers and for evidence of how incidents are being identified, captured and determined to be not reportable. There is still a sizeable issue in the industry with determining when situations are reportable and actually reporting.

ASIC’s existing industry level reporting meets its reporting obligation and the nature of the reports and the data reported can be used to further enhance accountability, transparency and incentives for improved behaviour without naming specific firms. The data already published by ASIC enables benchmarking against other firms, no further data is required for this.

We do not believe consumers will in any way benefit from an interactive dashboard to be published by ASIC. Most consumers are unaware of ASIC and unlikely to visit ASIC’s website or use a data dashboard for useful information or decision-making. The data from the dashboard could however be misused by competitors or the media who may misinterpret or present information in a way that could adversely impact firms who are doing the right thing.

B2Q1 Do you have any comments on this proposal?	As above.
B3Q1 Do you have any comments about ASIC using explanatory notes and contextual statements to assist in the interpretation of the data elements? B3Q2 Are there any other types of explanatory statements we should also publish, or particular issues that they should cover? If so, what are they?	<p>As above, we are against the publishing of interactive data and data referring to specific firms.</p> <p>Giving explanatory statements will in no way assist the ordinary person's understanding of the complexity of data involved and the landscape in which it is generated. We believe consumers are unlikely to use the data directly; however, competitors and media might. The end result is that if a consumer does see firm level data, there is a real risk they could be misled. With the level of non-compliance reported in ASIC's previous industry level reporting, firms that are doing the right thing by reporting will be unfairly prejudiced. It is clear that disclosure alone is unlikely to assist with a consumer's understanding and ability to navigate complex data in terminology that is unfamiliar to them. The likely outcome will be that firms become even more reluctant to report, which undermines the very purpose of the legislation in the first place.</p>
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 above, we do not believe a dashboard is required at all.

Table 1: RS response table (feedback questions D1Q1 to D1Q3)

Data element #	Data element	Do you have any comments on the proposed data element?	Are there any reasons why the data element should not be published?	Are there any specific contextual statements that may help users to interpret the data element?
RS-DE 1.1	Licensee name	Should not be included.	<p>Publishing a licensee name and identifying information will detract from the enhancement of accountability, transparency and incentives for improved behaviour for the following reasons:</p> <ol style="list-style-type: none"> 1. We are aware many firms remain reluctant to report RS to ASIC in the first place. This is not assisted by the complexity in both the determination of what needs to be reported and the form of the report itself. Publishing a licensee's name and identifying details will further disincentivise firms to self-report. 2. The main categories of RS that would be useful for consumers to know about (gross negligence and fraud) will not be included. This means the provision of data (if it eventually ends up with a consumer) is incomplete and of little benefit. The provision of disclaimers and context provides no protection from the harm to licensees who are doing the right thing in reporting and the ordinary person could not be expected to understand the complexity of the RS regime and the fact that reporting is largely a good thing. 3. Industry level reporting already meets ASIC's reporting obligations. To improve accountability and incentives for improved behaviour ASIC should actively and regularly undertake spot checks on firms that are not reporting RS, ask to see their internal incident registers and ask for evidence of how incidents are being identified, captured and determined to be not reportable. Knowing that ASIC is looking at this will further incentivise compliance. 	No.

Data element #	Data element	Do you have any comments on the proposed data element?	Are there any reasons why the data element should not be published?	Are there any specific contextual statements that may help users to interpret the data element?
RS-DE 1.3	Licence number	Should not be published.	As above.	No.
RS-DE 1.4	ABN	Should not be published.	As above.	No.
RS-DE 1.5	ACN	Should not be published.	As above.	No.
RS-DE 1.6	Licence to which the breach relates	Should not be published.	As above.	No.

Table 2: RS response table—Additional elements that you think should be published (feedback question D1Q4)

Data element	Please provide detailed reasons why the data element should be published
N/A.	The industry level data and the way in which ASIC already publishes it is sufficient.

Table 3: IDR response table (feedback questions E1Q1 to E1Q3)

Data element #	Data element	Do you have any comments on the proposed data element?	Are there any reasons the data element should not be published?	Are there any specific contextual statements that may help users to interpret the data element?
IDR-DE 1.1	Financial firm name	Should not be published.	<p>Complaints that are not resolved proceed to AFCA. AFCA cases are already publicly available.</p> <p>The definition of 'complaint' is largely subjective and interpreted differently across the industry. This leads to a prejudicial outcome for those firms who are taking pro-consumer view of the definition of complaint and capturing a wide range of interactions in the IDR process. It will positively impact firms that are not properly identifying or classifying complaints.</p> <p>As above, we do not believe the dashboard will be used by consumers but has the risk of being used by competitors or the media.</p>	No.
IDR-DE 1.3	Licence number	Should not be published.	As above.	No.