Insights from the reportable situations regime: July 2022 to June 2023

Report 775 | October 2023

About this report

This is ASIC's second publication of the information provided under the reportable situations regime.

It provides high-level insights into the trends observed in reports lodged by licensees under the regime between 1 July 2022 and 30 June 2023.

Contents

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Executive summary

The reportable situations regime (formerly known as 'breach reporting') requires ASIC to publish information about the reports that we receive from Australian financial services (AFS) licensees and Australian credit licensees (credit licensees) about self-reported matters (reportable situations). This is the second publication of the information provided under the regime.

This publication provides high-level insights into the trends we observed in the reports lodged by licensees between 1 July 2022 and 30 June 2023 (the reporting period), with comparisons to the reports lodged between 1 October 2021 and 30 June 2022 (the previous reporting period).

Key insights from the reporting period

Volume of reports and nature of lodgers

16,836 **reports** were submitted during the period, averaging around 1,403 reports per month. This was a 43% increase in the monthly reporting average from the previous reporting period. Licensees also lodged **6,789 updates**, for a total of **22,789 lodgements to ASIC.**

9% of the licensee population lodged reports. This is still **much lower than expected**, and we will be taking stronger measures to achieve **enhanced compliance with the regime**, including by undertaking **a range of surveillance activities** and potential **enforcement action**.

71% of all reports were lodged by just **21 licensees**. These were generally larger licensees.

Subject of reports and root causes of breaches

32% of reports were about **credit product lines**, closely followed by **general insurance (28%)**. This was a 6 percentage point decrease and a 9 percentage point increase respectively from the previous reporting period.

44% of reports were about issues of **false or misleading statements**, which increased by 10 percentage points from the previous reporting period. This was followed by **general licensee obligations (18%)** and **lending (17%)**.

66% of reports specified a root cause of **staff negligence and/or error**, which continued to be the most common root cause of breaches by a significant margin. Licensees should ensure that there are no other underlying root causes or broader failures in their systems, policies or processes that may be contributing to the high incidence of staff negligence and/or error.

Identification and investigation of breaches

30% of reports involving customer financial loss stated that the breaches **were identified from customer complaints.** This highlights that **further improvement is required to strengthen internal risk management activities** so that breaches can be identified as early as possible.

17% of reports indicated it took the licensee **more than one year to identify and commence an investigation** into an issue after it had first occurred. This was similar to the previous reporting period and continues to be concerning. We expect licensees' systems to promptly identify non-compliance. Delays create challenges for the timely investigation and rectification of issues and can mean that customers wait longer for remediation.

3% of reports indicated it took, or was expected to take, the licensee **more than one year to complete the investigation**. This was a 3 percentage point decrease from the previous reporting period. We expect licensees to allocate sufficient resources to ensure that investigations are carried out in a timely manner.

Customer impact, remediation and rectification

82% of reports indicated customers were impacted (financially and non-financially), with **19% indicating financial loss**.

$448.4m in **cumulative customer financial impact** was reported, which affected a total of 7.2 million customers (i.e. based on last estimates provided in reports as at 30 June 2023). A larger proportion of impacted customers suffered financial loss as a result of the breach compared to the previous reporting period.

247 remediation activities involving compensation took, or were expected to take, **more than a year to complete** (out of 3,171 financial remediation activities in total) after commencement of an investigation. Licensees should properly resource remediation activities and ensure that remediation activities are conducted in a timely manner without sacrificing customer outcomes.

Data publication under the reportable situations regime

Background

The reportable situations regime (formerly breach reporting) is a cornerstone of the financial services and credit regulatory regimes, and the reports are a critical source of regulatory intelligence for ASIC. The regime introduced a new legislative obligation requiring ASIC to publish information about the reports that it receives, to:

- supplement ASIC's existing reporting framework to enhance industry accountability and provide industry with an incentive for improved behaviour
- help licensees and consumers identify areas where substantial numbers of significant breaches are occurring, and
- allow licensees to target their efforts to improve their compliance outcomes in those areas.

Note: See paragraph 11.129 of the Explanatory Memorandum to the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020.

Implementation of the new regime

The reportable situations regime is a significant regulatory reform. It redefined what needed to be self-reported to ASIC and required licensees to make substantial changes to their systems and processes. The scale of the changes and the principles-based nature of the regime have led to challenges in the implementation of the new regime. These implementation challenges have, among other things, resulted in some inconsistencies in reporting practices.

Since delivering the first publication (Report 740 *Insights from the reportable situations regime: October 2021 to June 2022* (REP 740)) on 27 October 2022, we have taken steps to address some of the implementation challenges. This includes:

- clarifying existing guidance and providing new guidance in Regulatory Guide 78 *Breach reporting by AFS licensees and credit licensees* (RG 78) on 27 April 2023, and
- providing additional guidance within the prescribed form for lodging reportable situations via ASIC's Regulatory Portal on how licensees should respond to certain questions on 5 May 2023.

We expect that, over time, these changes will improve the consistency and quality of reporting practices by licensees while also reducing the regulatory burden on industry. We have already started seeing some of the effects of these changes in the data. For example, some licensees started to group similar, related or identical reportable situations into a single report, supporting a greater focus on systemic issues. This has resulted in a decrease in overall reporting volumes from these licensees.

We have also commenced work to drive enhanced compliance with the regime, including by commencing surveillance activities. We may take enforcement action where we consider there has been non-compliance with the reporting requirements.

Our approach to this data publication

The program of work to address implementation challenges is ongoing and we acknowledge that it will take time for licensees to fully operationalise the additional guidance. Accordingly, this publication is limited to high-level insights into trends observed across the reports lodged by licensees during the reporting period.

This publication does not name licensees or provide data with a high degree of granularity. We consider that comparisons between licensees are unlikely to provide meaningful insights given the current inconsistencies in reporting practices.

Our approach to reporting will evolve to include licensee level data as the regime matures. We will consult with stakeholders prior to the commencement of more granular public reporting.

The insights included in this publication should be read in context, considering the number and nature of reports received by (and the nature of licensees who reported to) ASIC in the reporting period.

Further considerations when reading this publication

The data in scope

The data in scope for this publication are the reports licensees lodged with ASIC and under dual reporting arrangements in place with the Australian Prudential Regulation Authority (APRA) during the reporting period about:

- significant breaches of core obligations, or
- situations where the licensee is no longer able to comply with a core obligation and the breach, if it occurs, will be significant (likely significant breaches).

Note: See Appendix 1 for the data that is outside the scope of this publication.

The main concept used in this publication is 'reports'. For information on how this concept applies when updates are provided to a report and how this concept is different from 'reportable situations', see Appendix 1.

Comparison with the previous reporting period

We note that the previous reporting period was only nine months in length due to the commencement of the regime in 1 October 2021. To allow for comparisons against the 12 months of data included in the current reporting period, our approach is to use either quarter-on-quarter comparisons or comparisons between the percentage of total reports where appropriate.

Some figures for the previous reporting may vary from the figures published in REP 740. The differences are primarily due to changes to responses following an update received in the current reporting period (e.g., the provision of a revised estimated number of clients affected). There were also a small number of reports corrected or removed from the dataset because the licensee has since advised us there were errors made (e.g. duplicate reports).

Terminology used in this report

This publication refers to a number of specific terms, which should be kept in mind when reading the sections explaining the key insights. The specific terms used and how they should be interpreted are outlined in Table 1.

Table 1: Specific terminology used in this publication

Term	Meaning in this document
investigation	The process that a licensee conducts to understand if there is a breach, determine the root cause of that breach, and identify all customers affected (and the extent of impact to those customers)
licensee	An AFS licensee or a credit licensee
licensee population	All current AFS licensees and credit licensees as at 30 June 2023
mean	The average calculated by adding all values in the range and dividing by the number of values in the range
median	The middle value in a range of values that is sorted in ascending or descending order

Term	Meaning in this document
previous reporting period	1 October 2021 to 30 June 2022, inclusive
reports	Lodgements about breaches and likely breaches that we have received under the reportable situations regime, based on the scope and methodology outlined in Appendix 1
reporting period	1 July 2022 to 30 June 2023, inclusive

Note: For a full list of the terms used in this report, see the key terms.

Key insights: Volume of reports and nature of lodgers

Volume of reports

Significant increase in the volume of reports

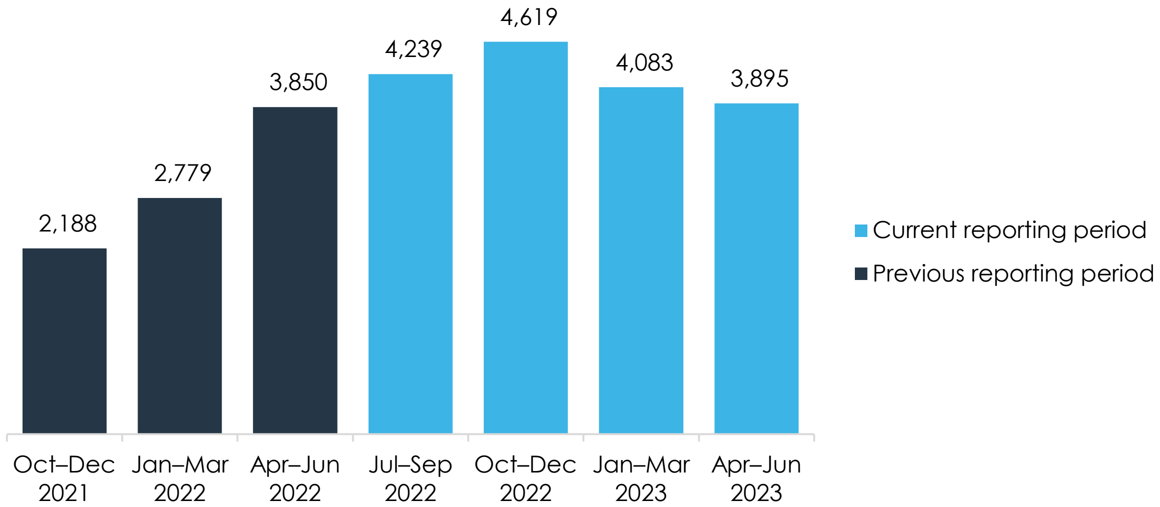
Licensees lodged a total of 16,836 reports during the reporting period. The monthly average reporting volumes increased from 980 reports per month during the previous reporting period to 1,403, representing a 43% increase. Licensees also lodged 6,789 updates during the reporting period, for a total of 22,789 lodgements to ASIC.

Aligned to this increase in reports, we also observed:

- licensees lodging more reports on average, with the average number of reports per licensee increasing to 18 compared to an average of 14 in the previous reporting period, and
- a greater uptake of licensees reporting a breach, with a 46% increase in the number of reporting licensees compared to the previous reporting period.

The volume of reports peaked during the October to December 2022 quarter and decreased towards the end of the reporting period: see Figure 1. The adjustment was influenced by changes in reporting practices for a few of the largest reporting licensees after we followed up with them about reporting methods. After this, licensees grouped similar, related or identical reportable situations into single reports: see RG 78, particularly RG 78.112 to RG 78.118.

Figure 1: Number of reports over the last two reporting periods, by quarter



Note 1: The number of updates per quarter have been excluded from the figure above.
Note 2: For the data shown in this figure, see Table 14 (accessible version).

Who is reporting

Proportion of the licensee population reporting remains low

The reportable situations regime acknowledges that, despite an expectation of compliance, breaches will occur. Licensees have a clear role in lifting general industry standards by identifying and reporting their own problems in a timely manner. Failure to lodge reports is an indicator that some licensees may not have in place the systems and processes required to detect and report non-compliance.

Despite an increase in the overall number of reporting licensees during this reporting period, only 11% of the total licensee population have lodged a report since the commencement of the regime in October 2021.

Since releasing the first public report in October 2022, we have engaged with more than 100 larger licensees across the licensee population who have not lodged a report, to remind them of their obligations under the regime. Following this, a significant proportion of these licensees lodged a report.

We have commenced further work to drive improved compliance with the regime. This includes commencing surveillance activity targeted at licensees who we consider, based on our data analysis, may not be meeting their obligations (e.g. because they are either not reporting, or are reporting significantly less than we would expect, given their size and comparisons to their peers). We may take enforcement action where we consider there has been non-compliance with reporting requirements.

AFS licensees reporting more than credit licensees

Consistent with the previous reporting period, AFS licensees reported more than credit licensees. A total of 813 AFS licensees lodged 11,623 reports (on behalf of 826 licensees, as the licensee can elect to submit on behalf of more than one licensee) and 168 credit licensees lodged a total of 5,711 reports (on behalf of 184 credit licensees): see Table 2. This was a 4 percentage point increase in the percentage of the total AFS licensee population and a 1 percentage point increase in the percentage of the total credit licensee population that had lodged compared to the previous reporting period.

During the reporting period, there were also 473 AFS licensees and 75 credit licensees who reported for the first time under the regime. This indicates that more licensees have embedded the regime into their systems and processes for identifying and reporting breaches.

Table 2: Number of reports, and number and percentage of licensees who have lodged a report, by licence type

Licence type	Number of reports	Number of reporting licensees	Percentage of licensee population in FY22	Percentage of licensee population in FY23
AFS licence	11,623	813	9%	13%
Credit licence	5,711	168	3%	4%
Total	**17,334**	**981**	**6%**	**9%**

Note 1: When lodging a report, a dual licence holder could select whether the report relates to their AFS licence, their credit licence or both. Therefore, the total number of reports do not add up to 16,836 and the total number of reporting licensees do not add up to 934 as the reports lodged relating to 'both licences' have been counted under each licence type.
Note 2: The figure 'Percentage of licensee population' is calculated with reference to the total number of current licensees as per ASIC's AFS licensees register and credit licensees register, as at 30 June 2023: see Appendix 2 for more information.

Significant increase in the proportion of larger licensees reporting

A much higher proportion of larger AFS licensees lodged at least one report during the period. Of AFS licensees with total reported revenue of $1 billion or more, 88% lodged a report during the reporting period. This was a 27 percentage point increase compared to the previous reporting period.

There was also an increase in the proportion of larger credit licensees who had lodged at least one report during the period. Of the credit licensee population who had reported a credit value of $1.8 billion or more in their most recent annual compliance certificate, 73% lodged a report during the reporting period. This was a 5 percentage point increase from the previous reporting period.

While it is mostly the larger licensees that are now reporting under the regime, we expect all licensees, regardless of size, to have robust systems and processes in place to ensure timely detection and reporting of any non-compliance. If there are reasonable grounds to believe that a reportable situation has arisen, it is a legal obligation for licensees of any size to lodge a report with ASIC. Failing to report to ASIC when a reportable situation has arisen can attract both civil and criminal penalties.

Table 3 (for AFS licensees) and Table 4 (for credit licensees) provide a breakdown of reporting by licensee size based on size indicators from recent regulatory lodgements by licensees.

Table 3: Breakdown of AFS licensee reporting by size, based on Form FS70 lodgements

Total revenue	Number of reports	Percentage of reports	Number of lodgers	Percentage of lodgers	Percentage of licensee population in FY22	Percentage of licensee population in FY23
Less than $50m	719	6%	332	41%	5%	8%
$50m–$249m	3,186	27%	371	46%	21%	30%
$250m–$999m	3,493	30%	38	5%	51%	54%
$1,000m or more	4,153	36%	36	4%	61%	88%
No revenue figure available	72	0.6%	36	4%	4%	5%
Total	**11,623**	**100%**	**813**	**100%**	**9%**	**13%**

Note 1: AFS licensees must lodge Form FS70 *Australian financial services licensee profit and loss statement and balance sheet* with ASIC each financial year. The licensee size information is based on the revenue, including tax benefit, specified in the latest Form FS70 lodgement by the relevant AFS licensees as at 30 June 2023.
Note 2: 'No revenue figure available' means that either ASIC has not received any Form FS70 lodgements from the AFS licensee from 1 July 2020 onwards, or the licensees are exempt from lodging.
Note 3: The figure 'Percentage of licensee population' is calculated with reference to the total number of current licensees as per ASIC's AFS licensees register and credit licensees register, as at 30 June 2023: see Appendix 2 for more information.
Note 4: In this report, we round percentages to whole numbers unless below 1%. Percentages in tables may not add up to totals due to rounding.

Table 4: Breakdown of credit licensee reporting by size, based on Form CL50 lodgements

Licensee credit value	Number of reports	Percentage of reports	Number of lodgers	Percentage of lodgers	Percentage of licensee population in FY22	Percentage of licensee population in FY23
Less than $200m	165	3%	64	38%	1%	2%
$200m–$1,799m	264	5%	50	30%	20%	25%
$1,800m or more	5,281	92%	53	32%	68%	73%
No credit value available	1	<0.1%	1	0.6%	0.9%	0.4%
Total	**5,711**	**100%**	**168**	**100%**	**3%**	**4%**

Note 1: Credit licensees must lodge Form CL50 *Australian credit licence annual compliance certificate* with ASIC for every year that they hold the credit licence. The licensee size information is based on the credit value specified in the latest Form CL50 lodgement by the relevant credit licensees as at 30 June 2023.
Note 2: 'No credit value available' means that either ASIC has not received any Form CL50 lodgements from the credit licensee from 1 July 2020 onwards, or the licensees are exempt from lodging.
Note 3: The figure 'Percentage of licensee population' is calculated with reference to the total number of current licensees as per ASIC's AFS licensees register and credit licensees register, as at 30 June 2023: see Appendix 2 for more information.
Note 4: In this report, we round percentages to whole numbers unless below 1%. Percentages in tables may not add up to totals due to rounding.

As with the previous reporting period, a small number of generally larger licensees submitted the majority of reports. More than 70% of reports were lodged by just 21 licensees: see Table 5. Consequently, the results of this publication are driven, in large part, by reporting from a relatively small number of licensees.

Table 5: Breakdown of reporting volumes by number of reports and number of licensees

Licensee reporting volume	Number of reports	Percentage of reports	Number of licensees	Percentage of licensees
1 report	434	3%	434	46%
2–9 reports	1,355	8%	369	40%
10–25 reports	1,050	6%	67	7%
26–50 reports	916	5%	26	3%
51–100 reports	1,181	7%	17	2%
More than 100 reports	11,900	71%	21	2%
Total	**16,836**	**100%**	**934**	**100%**

Note: An example of how this table should be read is that licensees who had made only one report in the reporting period accounted for 434 reports in total (3% of all reports) and came from 434 licensees (46% of all licensees).

Key insights: Subject of reports and root causes of breaches

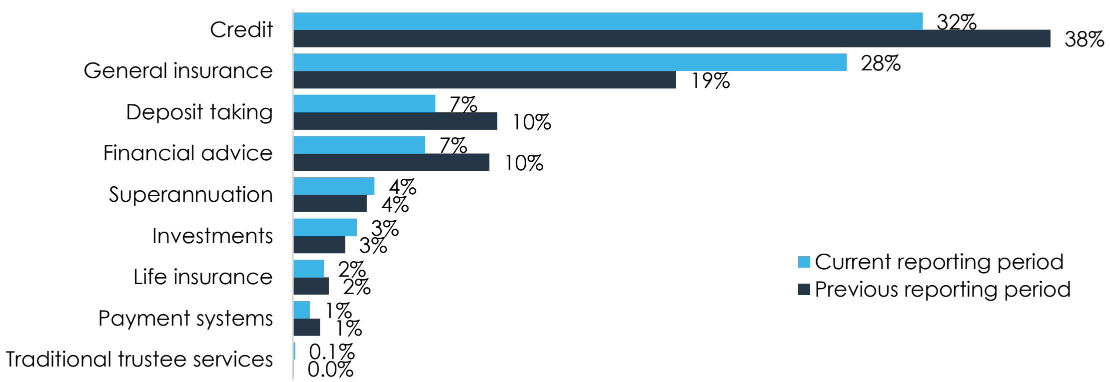
What is being reported

Increase in reports about general insurance products

Approximately 82% of the reports lodged involved reportable situations affecting at least one financial service, credit activity or product line. The reports that did not relate to a financial service, credit activity or product line related to a breach of general licensee level obligations (entered in the report as an 'issue'), rather than a specific product or service.

Similar to the previous reporting period, most reports related to credit (32%), which were primarily about home loan products (20% of total reports). This was followed by general insurance (28%), deposit taking (7%) and financial advice (7%): see Figure 2. The percentage of reports relating to credit decreased by 6 percentage points from the previous reporting period, in large part due to changing reporting practices for a few of the banks reporting the highest volumes following our engagement with these licensees: see section *Volume of reports* above.

Figure 2: Breakdown of reports relating to a financial service, credit activity or product line as a percentage of total reports, by reporting period



Note 1: More than one financial service, credit activity or product line can be selected in a report.
Note 2: For the data shown in this figure, see Table 15 (accessible version).

The percentage of reports relating to general insurance (28%) saw a 9 percentage point increase from the previous reporting period. This increase was primarily driven by an increase in reports about motor vehicle insurance (18% of total reports), home building insurance (8%) and home contents insurance (6%).

We have set out the top 10 products specified in reports in Table 6.

Table 6: Top 10 most reported products

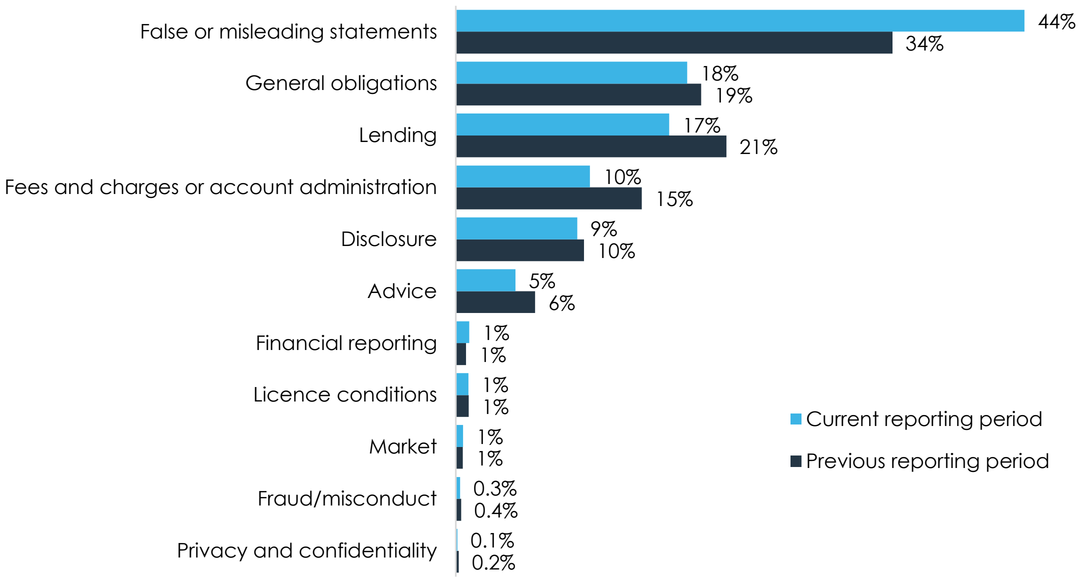
Product	Change in rank from prior period	Percentage of total reports in FY22	Percentage of total reports in FY23
Home loans	No change	25%	20%
Motor vehicle insurance	No change	13%	18%
Home building insurance	+2	4%	8%
Home contents insurance	+3	3%	6%
Credit cards	-1	5%	4%
Superannuation account	+2	3%	4%
Personal loan (other than motor vehicle)	-1	3%	3%
Personal transaction accounts	-5	5%	3%
Business loans	No change	3%	2%
Motor vehicle loan	+3	1%	2%

Note: More than one product can be selected in a report.

Most common issue category remains 'false or misleading statements'

'False or misleading statements' remained the most common category of issues to which the reports related (44%), with a 10 percentage point increase from the percentage of total reports that related to this issue in the previous reporting period. Other categories of issues with significant volumes of reports included – general licensee obligations (18%), lending (17%) and fees and charges or account administration (10%): see Figure 3.

Figure 3: Breakdown of reports relating to issue categories as a percentage of total reports, by reporting period



Note 1: More than one issue category can be selected in a report.
Note 2: For the data shown in this figure, see Table 16 (accessible version).

The increase in the 'false or misleading statements' category was mainly driven by a 9 percentage point increase in 'false or misleading statements' in information or warning statements about products or services (39% of total reports). This category also had the largest number of reports with multiple customers impacted.

We have set out the top three drivers for the top five issue categories in Table 7.

Table 7: Drivers of the top five issue categories as a percentage of total reports

Issue category	Top three drivers
False or misleading statements	› Information or warning statements about products or services (39%) › Statements about fees (4%), and › Advertising and related conduct (1%)
General licensee obligations	› Providing services efficiently, honestly and fairly (8%) › Other (5%), and › Claims handling (2%)
Lending	› Responsible lending (12%) › Hardship (4%), and › Debt collection (1%)
Fees and charges or account administration	› Fees and/or costs (6%) › Interest (3%), and › Premiums (1%)
Disclosure	› Disclosure about information or warning statements regarding products or services (7%) › Disclosure about fees (1%), and › Disclosure relating to advertising and related conduct (1%)

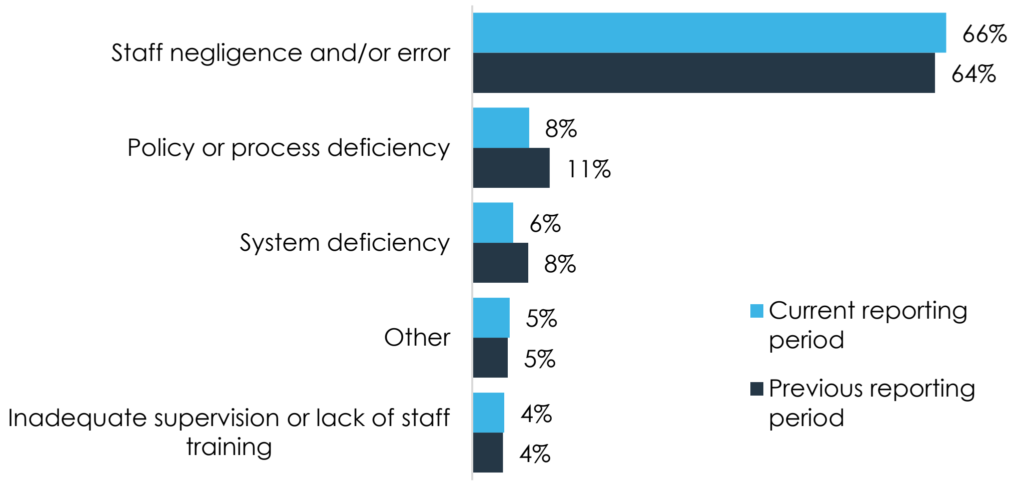
Root causes of breaches reported

Most common root cause of breaches continues to be staff negligence and/or error

As at 30 June 2023, approximately 90% of reports specified at least one root cause for the breach(es). The root cause was still under investigation in 8% of reports. In the remaining 2% of reports, licensees had not determined the root causes at all.

Staff negligence and/or error continued to be the most reported root cause of breaches by a significant margin, with licensees attributing 66% of reports to this root cause. The frequency of the other root causes was also broadly similar to the previous reporting period, with the next most commonly reported root causes being policy or process deficiency (8%) and system deficiency (6%).

Figure 4: Breakdown of the top five categories of root causes as a percentage of total reports, by reporting period



Note 1: More than one root cause can be selected in a report.
Note 2: For the data shown in this figure, see Table 17 (accessible version).

Of concern to ASIC, licensees selected 'staff negligence and/or error' as the sole root cause in 63% of reports that had previous similar breaches and/or when there were multiple breaches grouped into the relevant report. This was a 4 percentage point increase from the already high rate (59%) in the previous reporting period. Licensees should ensure that there are no other underlying root causes or broader failures in their systems, policies or processes that may be contributing to the high incidence of staff negligence and/or error. In April 2023, ASIC released guidance to support licensees in correctly reporting the root cause for a breach or likely breach: see RG 78, particularly RG 78.163 to RG 78.167.

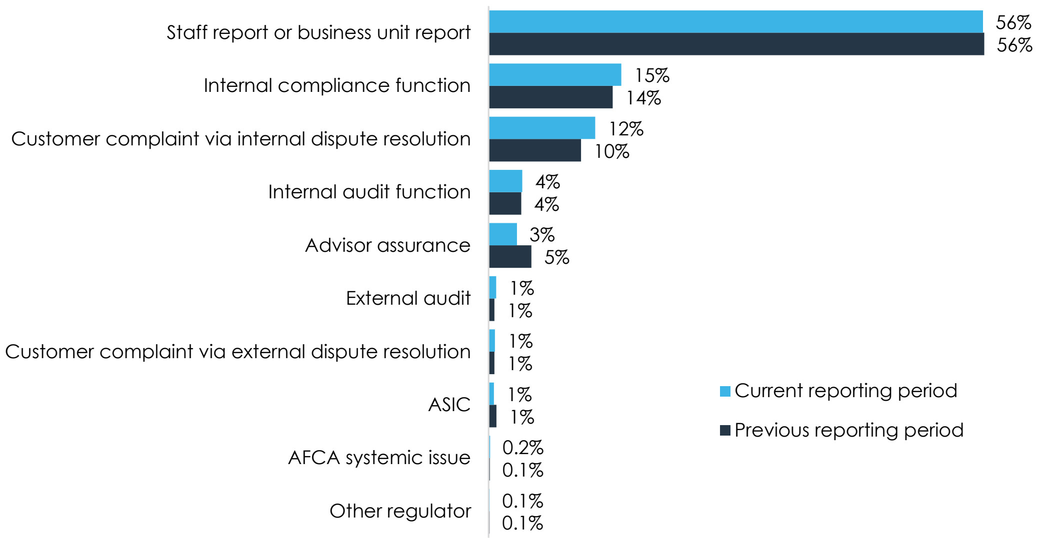
Key insights: Identification and investigation of breaches

Identification triggers

A significant proportion of breaches involving customer financial loss were identified from customer complaints

In general, most breaches were identified through staff reports or business unit reports (56%), followed by the internal compliance function (15%) and customer complaints via internal dispute resolution (12%): see Figure 5. This was relatively consistent with the identification triggers selected by licensees in the previous reporting period.

Figure 5: Top 10 identification triggers as a percentage of total reports, by reporting period



Note 1: This figure does not include reports where the investigation trigger was reported as 'Other'.
Note 2: For the data shown in this figure, see Table 18 (accessible version).

During the reporting period, licensees reported that most breaches were identified from internal sources such as internal compliance activities, with breaches in 78% of reports being identified internally.

However, for reports where customers suffered financial loss, the percentage of reports identified from internal sources was significantly lower (59%). Instead, a much higher proportion of reports involving customer financial loss were identified by customers themselves via internal and external dispute resolution (30%): see Table 8. This highlights that further improvement is required to strengthen internal risk management activities so that breaches are proactively identified. The proactive identification of breaches supports licensees to identify breaches earlier, allowing them to take action earlier to address the breach and therefore minimise customer impact.

Table 8: Top five identification triggers for reports involving customer financial loss

Identification trigger	Source	Number of reports involving customer financial loss	Percentage of reports involving customer financial loss
Staff report or business unit report	Internal	1,557	48%
Customer complaint via internal dispute resolution	External	909	28%
Internal compliance function	Internal	243	7%
Customer complaint via external dispute resolution	External	64	2%
Advisor assurance	Internal	64	2%

Note: This table does not include reports where the investigation trigger was reported as 'other'.

Time taken to identify and commence investigation into breaches

Timeliness for identifying and investigating breaches remains a concern

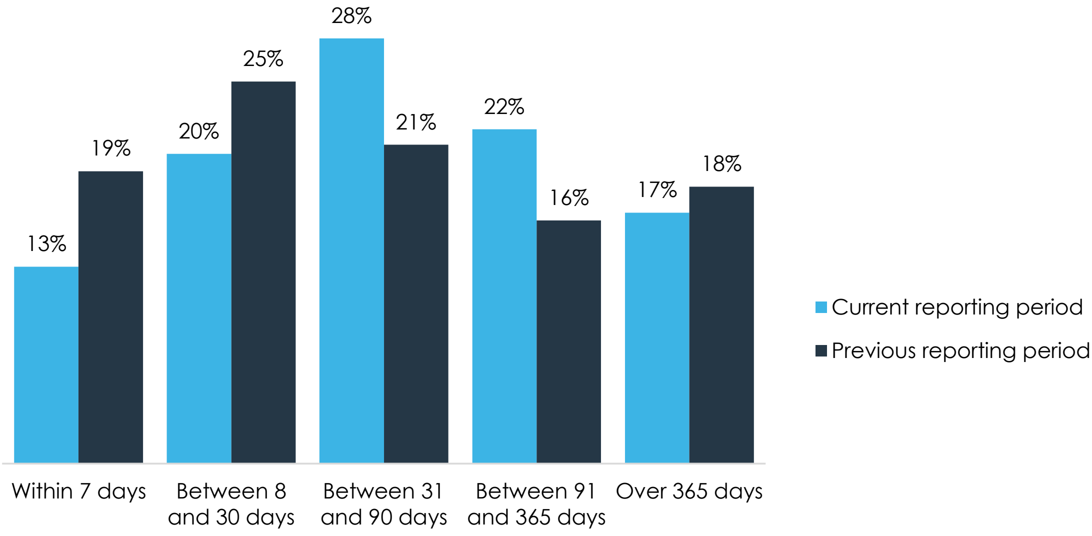
Licensees generally took longer to identify and commence an investigation into a breach compared to the previous reporting period. The median time taken was 55 calendar days (up from a median of 39 calendar days in the prior period), and the mean was 327 calendar days (down from a mean of 396 calendar days in the prior period).

The decrease in the mean was primarily due to decrease in the proportion of reports with extremely long timeframes for identification and investigation (e.g. reports where these processes took more than five years). However, there was still an unacceptable number of reports with excessive delays in identifying and commencing an investigation of a breach. For example, in 820 reports (5% compared to 7% in the previous reporting period), it took licensees more than five years to identify and commence an investigation into a breach, which indicates that further improvement is required for licensees to identify and commence investigations into breaches in a timely manner.

The number of reports that took licensees more than a year to identify and commence an investigation into a breach also remained high, with 2,781 reports falling in this category. The distribution of reports can be seen in Figure 6.

Note: The time taken is calculated as the number of days between the reported first instance of a breach and the date on which the licensee reported that they commenced an investigation into whether there was a breach.

Figure 6: Time taken to identify and commence an investigation into a breach as a percentage of total reports, by reporting period



Note: For the data shown in this figure, see Table 19 (accessible version).

The longer taken to commence the investigation, the more customers likely to be impacted

Although there was an improvement from the previous reporting period, there continued to be a strong relationship between the time taken for licensees to identify and commence an investigation into a breach and the number of customers impacted by the breach: see Table 9. Where licensees took more than a year to identify and commence an investigation, they reported a mean of 6,846 customers impacted, compared to 592 customers when it took less than a month to commence an investigation.

The results make clear the importance of early breach identification so that licensees can implement rectification methods to stop the breach from recurring, leading to fewer impacted customers and minimising financial loss to both customers and the licensee.

Table 9: Time taken to identify and commence an investigation into a breach by customers impacted

Number of customers impacted	Median number of days	Change in median days from previous reporting period	Mean number of days	Change in mean days from previous reporting period
1 customer	45	+18	179	- 20
2–9 customers	95	No change	324	- 88
10–99 customers	163	- 3	631	-156
100–999 customers	315	+65	1,030	-130
1,000–99,999 customers	412	-127	1,363	-277
100,000 customers or more	517	-165	1,773	-199

Time taken to investigate breaches

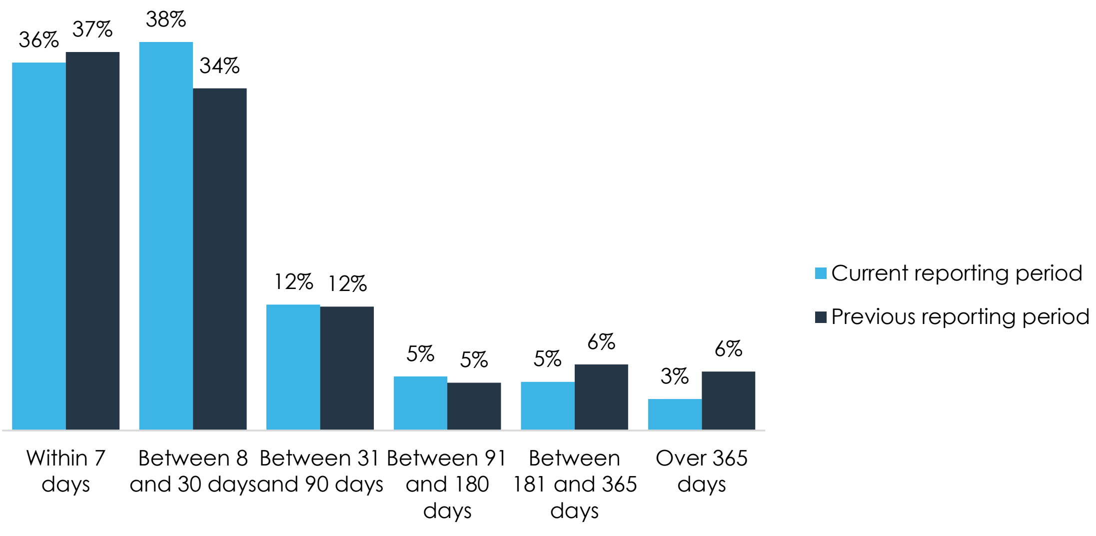
Average investigation time improved but lengthy investigations remain a concern

Overall, licensees completed or expected to complete investigations in a median of 18 calendar days, and a mean of 49 calendar days. Similar to the previous reporting period, licensees completed or expected to complete the investigation into the breach within a month for the majority of reports (74%): see Figure 7. The time taken to complete an investigation includes the time taken to determine that there has been a breach, as well as the time taken to determine the breach's nature, extent and impact (such as identifying the root cause and impact to customers).

There was a reduction in the proportion of breaches which took, or were expected to take, a particularly long time to investigate (i.e., 3% of the reports in the current reporting period taking more than 365 days compared to 6% in the previous reporting period). However, there were still 523 reports where the investigation took, or was expected to take, more than one year to complete in the current reporting period. Licensees should monitor the progress of investigations to ensure the consequences of a breach can be addressed in a timely manner.

Note: The time taken is calculated as the number of days between the start of an investigation and the actual investigation completion date (where the investigation is complete) or the reported expected investigation completion date (where the investigation is incomplete).

Figure 7: Time taken to complete an investigation into a breach as a percentage of total reports, by reporting period



Note: For the data shown in this figure, see Table 20 (accessible version).

The more customers impacted, the longer the investigation took to complete

In general, breaches impacting a greater number of customers tended to take longer to investigate. Reports where 100,000 customers or more were impacted took, or was expected to take, a median of 70 days and a mean of 180 days to investigate.

Aligned to the observations in the section above, the average investigation duration timeframes for reports with impacted customers decreased from the previous reporting period. This decrease was driven by a decrease in the proportion of reports where it took, or was expected to take, a very long time (i.e. more than a year) to investigate.

Table 10: Time taken to complete an investigation into a breach, by customers impacted

Number of customers impacted	Median number of days	Change in days from previous reporting period	Mean number of days	Change in days from previous reporting period
1 customer	9	No change	28	-11
2–9 customers	23	-2	68	-22
10–99 customers	30	-3	97	-48
100–999 customers	57	-26	121	-111
1,000–99,999 customers	89	-27	173	-63
100,000 customers or more	70	-129	180	-103

Key insights: Customer impact, remediation and rectification

Customer impact

Most reports were about breaches that impacted customers

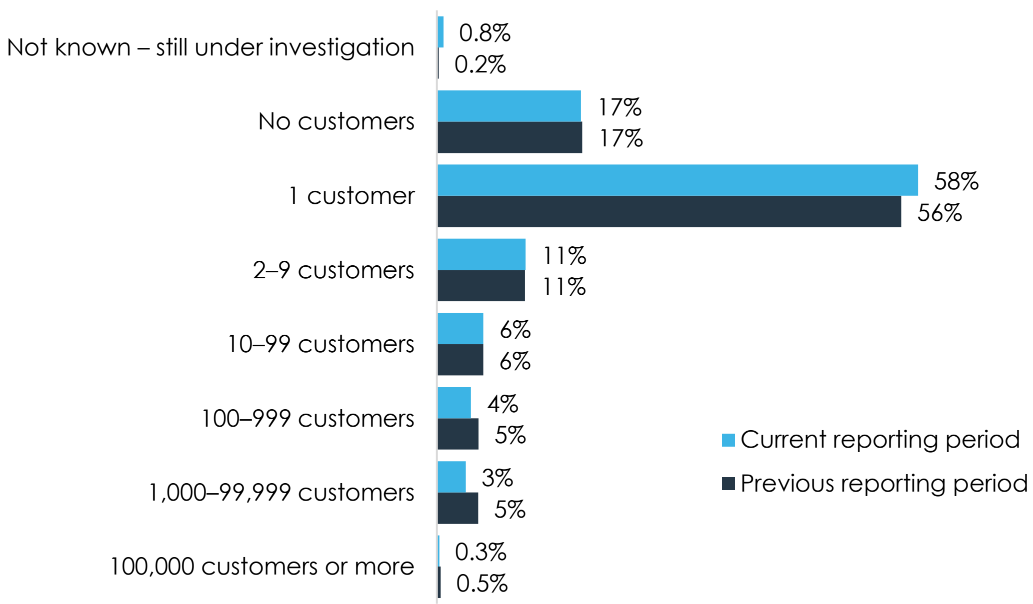
Customers were reported as impacted (financially or non-financially) in 82% of the reports we received during the reporting period. The types of non-financial impact in reports varied widely, and included customer confusion, inconvenience and distress.

As at 30 June 2023, across the reports lodged during the reporting period there were a total of approximately 28 million customers impacted (noting that a customer may be impacted across multiple reports). This is lower than the 43.7 million customers reported to have been affected in reports lodged during the previous reporting period at 30 June 2022.

At 30 June 2023, 8% of reports lodged during the reporting period still had investigations underway. Following completion of these investigations, the number of customers impacted by the reports made is likely to be higher than that reported by licensees so far. For example, updates were lodged between 1 July 2022 and 30 June 2023 relating to reports lodged in the previous reporting period, which identified an additional 1.7 million impacted customers, bringing the total customers impacted in the previous reporting period to more than 45 million.

More than half of all reports impacted an individual customer. Around 13% of reports impacted 10 customers or more: see Figure 8.

Figure 8: Breakdown of number of customers impacted as a percentage of total reports, by reporting period



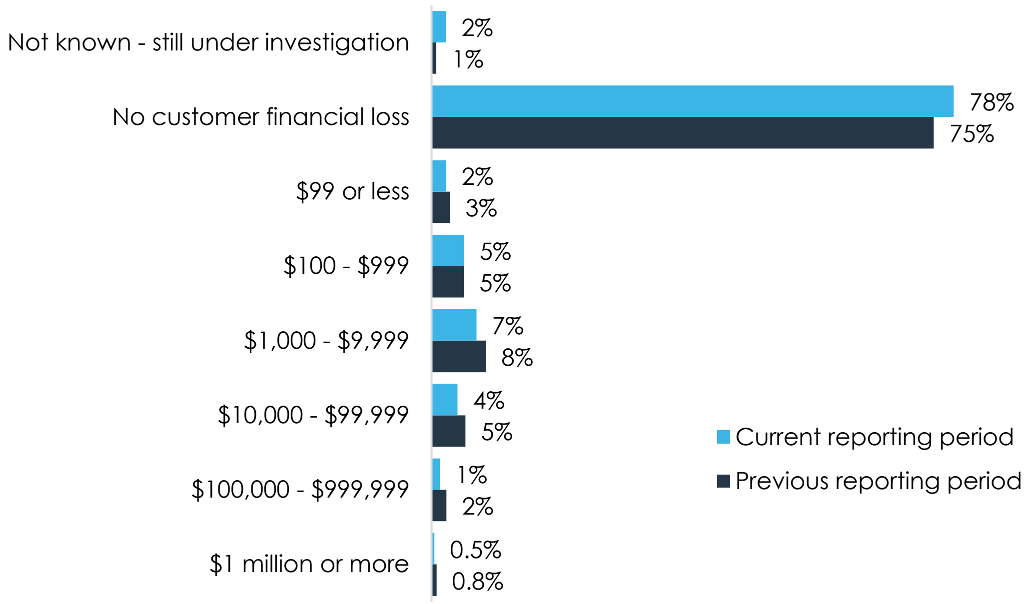
Note: For the data shown in this figure, see Table 21 (accessible version).

Customers lost more financially on average due to breaches

While most reports involved some customer impact, approximately one in five (19%) reported financial loss to customers. The amount of customer financial loss reported during the reporting period was approximately $448.4 million, which impacted a total of 7.2 million customers. Although the total number of customers impacted financially or non-financially was lower compared to the previous reporting period, a larger proportion of impacted customers suffered financial loss as a result of the breach (26% compared to 9% of total customers impacted in the previous reporting period).

In 71% of reports involving customer financial loss, the overall financial loss for all customers impacted in each report was less than $10,000. Figure 9 provides more details on the range of customer financial loss reported.

Figure 9: Breakdown of customer financial loss as a percentage of total reports, by reporting period



Note: For the data shown in this figure, see Table 22 (accessible version).

The reported total customer financial loss could increase as licensees continue to investigate the relevant reportable situations and update their reports for the losses incurred. To put this in perspective, as at 30 June 2022, the reported customer financial loss was approximately $368.5 million. After accounting for updates received up until 30 June 2023, the total customer financial loss for the previous reporting period rose to almost $452 million.

Additionally, there will be cases when the financial loss may not be obvious to the licensee (e.g. when incorrect comprehensive credit reporting information is provided to a credit bureau, leading to customers receiving future credit on less favourable terms). Given this, the numbers above are likely to understate the actual level of financial impact to customers.

Remediation for affected customers

Licensees had compensated or intended to compensate customers in most cases

As at 30 June 2023, licensees reported that they had paid a total of approximately $128.6 million in compensation to just over 1.35 million impacted customers in relation to the breaches reported in the current reporting period. This meant that licensees had paid out approximately 29% of the total customer financial loss reported and had compensated 19% of financially impacted customers for the reporting period.

Note: The $128.6 million figure represents the amount of customer remediation that licensees have reported to ASIC in their most recent lodgement or update prior to 1 July 2023. It is possible that the actual amount of remediation that has been paid as at 30 June 2023 is higher.

Based on the reports involving customer financial loss, licensees either had compensated or intended to financially compensate all impacted customers in 97% of cases. Licensees reported that they did not intend to compensate impacted customers in the remaining 3% of reports. However, most of these reports appeared to be in error as the licensee had outlined in the description that they had reimbursed customers or offered other remediation such as interest or fee waivers or policy alterations.

We expect licensees to return affected customers as closely as possible to the position they would have been in, had the breach not occurred: see Regulatory Guide 277 *Consumer remediation* (RG 277). Following release of RG 277, we have shifted our posture from overseeing remediation programs to considering stronger action where licensees fail to provide fair and timely remediation outcomes to impacted customers (see the article we published calling on licensees to strengthen remediation procedures: *ASIC calls on licensees to strengthen remediation procedures*).

A significant number of remediations are still taking too long to complete

The median time taken, or expected to be taken, to finalise compensation after commencement of an investigation was 22 days, and the mean was 87 days. This was a notable decrease from the previous reporting period, indicating that licensees were taking less time on average to compensate customers.

In more than half (56%) of the reports where licensees had compensated or intended to compensate customers, licensees had either finalised, or intended to finalise, compensation to impacted customers within 30 days after commencing their investigation into the breach. This was an improvement of 9 percentage points since the previous reporting period.

The percentage of reports with remediation activities that took, or were expected to take, more than a year to complete had also dropped by 6 percentage points from the prior period. Nevertheless, there were still 247 reports in this category: see Table 11. Licensees must ensure they dedicate sufficient resources to conduct remediation activities so that impacted customers can be compensated in a timely manner. Further details about ASIC's expectations are outlined in RG 277.

Table 11: Time taken to finalise compensation after commencement of investigation

Time taken	Percentage of reports in FY22	Percentage of reports in FY23	Total compensation paid for reports in FY23
Finalised compensation before commencing investigation	22%	25%	$16,013,990
30 days or fewer (including same day)	25%	31%	$18,439,904
3–90 days	18%	18%	$17,147,759
91–180 days	9%	9%	$9,099,975
181–365 days	11%	10%	$43,569,043
More than a year	14%	8%	$24,374,937

Note: This table uses the actual compensation completion date (where the compensation has been finalised) or the reported expected compensation completion date (where the compensation has not yet been finalised).

Rectification of significant breaches

During the reporting period, licensees had completely rectified the significant breaches in 85% of reports and were intending to rectify in a further 5% of reports. Licensees advised they had no intention to rectify the breach in 3% of reports, and in the remaining 8% of reports, licensees advised that they still had investigations underway, or that the reports were about likely significant breaches.

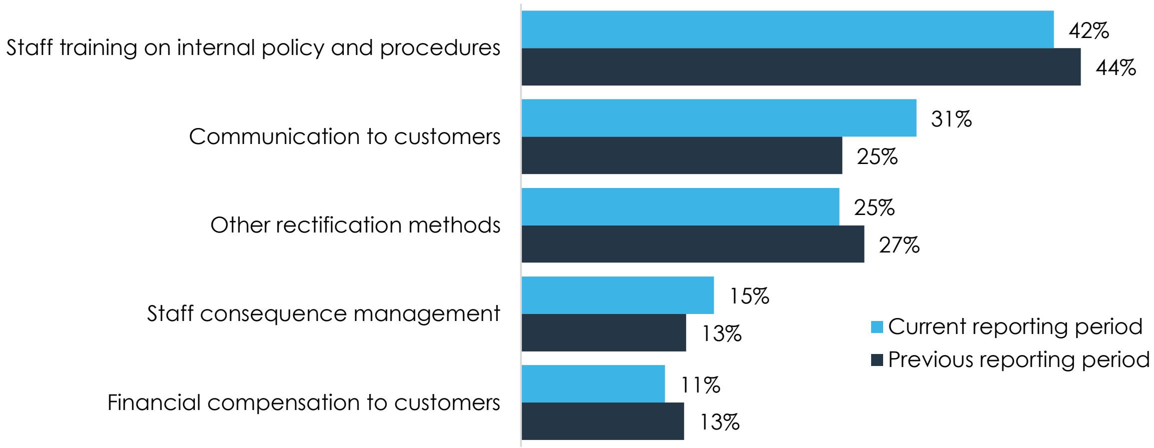
Similar to the previous reporting period, many of the 3% of reports where licensees indicated they had no intention to rectify appeared to be in error (e.g. because the description outlined some rectification steps). In other cases, this response was provided because the licensee is no longer offering the product or service or, for staff-caused issues, employing the person. We expect licensees to take timely action to fix and prevent the recurrence of issues.

Increase in communication with customers as a rectification method

Staff training on internal policy and procedures remained the most common method selected by licensees to rectify a breach (42%). This was expected given that licensees had identified staff negligence and/or error as one of the root causes in the vast majority of reports. The second most common rectification method was communication to customers (31%). This was a 6 percentage point increase from the previous reporting period.

The five most common rectification methods that licensees had taken or planned to take are outlined in Figure 10.

Figure 10: Top five rectification methods as a percentage of total reports, by reporting period



Note 1: More than one rectification method can be selected in a report.
Note 2: For the data shown in this figure, see Table 23 (accessible version).

Significant variability in the time taken to complete rectification

There was significant variability in the time taken to rectify a significant breach depending on the complexity of the breach and the underlying root cause(s). For example, reports where staff negligence and/or error was identified as a root cause were predominantly rectified immediately, often before the licensee had even commenced an investigation into the breach. By contrast, reports involving system deficiency as a root cause took, or were expected to take, a median of 28 days and a mean of 63 days to rectify.

Overall, there was a reduction in the time taken to complete rectification from the previous reporting period. However, there were 112 reports lodged during the reporting period where licensees took, or were expected to take, more than a year to completely rectify the breach after commencing their investigation: see Table 12. It is important that licensees rectify breaches effectively and within a reasonable timeframe to minimise further harm to customers.

Table 12: Time taken to rectify a significant breach after commencement of investigation

Time taken	Number of reports	Percentage of reports
Rectified before commencing investigation	6,335	38%
7 days or fewer (including same day)	3,248	19%
8–30 days	2,633	16%
31–90 days	1,595	9%
91–180 days	670	4%
181–365 days	377	2%
More than a year	112	1%

Note 1: This table uses the actual rectification completion date (where the rectification is complete) or the reported expected rectification completion date (where the rectification is not yet complete).
Note 2: This table does not include reports about likely significant breaches or significant breaches that were under investigation as at 30 June 2023.

Preventative measures undertaken in most reports

Licensees advised that they had undertaken preventative measures in 78% of reports and had intended to undertake preventative measures in a further 2%. Licensees indicated they did not intend to undertake preventative measures, or believed preventative measures were not relevant, in approximately 13% of reports. The remaining 8% of reports related to open investigations or likely significant breaches (i.e. where the breach had not yet eventuated).

ASIC expects that licensees will consider the underlying root cause(s) for breaches they report and put in place appropriate preventative measures to reduce the likelihood of similar breaches occurring.

Appendix 1: Scope and methodology

Scope of this publication

The reportable situations legislation requires ASIC to publish information from reports lodged by licensees about breaches and likely breaches of core obligations during the financial year. This includes reports lodged with the Australian Prudential Regulation Authority (APRA) by dual-regulated licensees or their auditors and actuaries.

Reports included in this report

The data in scope for this publication are the reports lodged with ASIC and APRA between 1 July 2022 and 30 June 2023 about:

- significant breaches of core obligations, or
- situations where the licensee is no longer able to comply with a core obligation and the breach, if it occurs, will be significant (likely significant breaches).

  Note: These reports are lodged with ASIC by licensees, and with APRA by licensees and their auditors and/or actuaries.

Reports excluded from this report

The following data is outside the scope of ASIC's legislative reporting obligation, and therefore has not been included in this publication:

- reports that are only about additional reportable situations (gross negligence and serious fraud)
- reports about investigations that have not yet concluded that a significant breach of a core obligation has occurred or will occur

  Note: During the reporting period, there were 837 reports where the initial lodgements were out of scope as the investigation had not concluded that a significant breach of a core obligation has occurred or would occur. However, later updates in relation to these 837 reports confirmed that a significant breach or likely significant breach had occurred. Therefore, these 837 reports were brought into scope and have been included in both the number of reports figure and the number of updates figure on page 7.

- reports about investigations that have concluded that a significant breach of a core obligation did not or will not occur
- reports made to ASIC about another licensee
- reports made under the previous breach reporting obligation (as in force immediately before 1 October 2021) using the previous ASIC Regulatory Portal form, and
- reports made to APRA with a first awareness and instance date before 1 October 2021 and not involving a continuing breach.

In addition, the publication excludes a small number of reports that were made in error (e.g. duplicates, where the wrong form was used, or where the report was submitted under the wrong licensee).

Methodology and reporting concepts

This publication has been prepared based on analysis of the reports within scope (as set out above), supported by relevant extrinsic data (e.g. other licensee lodgements, as appropriate).

The main concept used in this publication is 'reports'. This section outlines how this concept applies when updates are provided to a report. It also outlines how this concept is different from 'reportable situations'.

Definition of 'updates'

ASIC's systems allow a licensee to provide updates to a report after it has initially been submitted. Where there have been one or more updates to a report, our approach is to take data from only the latest lodgement (as at 30 June 2023).

Example: Dealing with multiple updates

On 1 December 2022, a licensee lodges a report about an investigation of a possible significant breach. Subsequently:

- on 20 February 2023, they lodge a further report (by way of update) confirming that there is a significant breach and that, among other things, customers suffered a financial loss of $900 as a result of the breach
- on 30 March 2023, they lodge a further report (by way of update) that revises the total customer financial loss to $1,000, and
- on 8 July 2023, they lodge a further report (by way of update) that revises the total customer financial loss to $1,200.

For the purposes of this publication, our approach is to treat these lodgements as one report and use the data from the latest lodgement in our reporting period ending on 30 June 2023. In this case, it would mean only using the data from the 30 March 2023 lodgement.

During the July 2022 to June 2023 reporting period, licensees lodged 2,882 updates about reports first lodged with ASIC during the previous reporting period (October 2021 to June 2022). For the purposes of this publication, our approach is to use the initial lodgement date to determine the relevant reporting period. This means these updates will be considered as part of the previous reporting period.

Example: Treatment of updates lodged across multiple reporting periods

On 1 March 2022, a licensee lodges a report about a significant breach of a core obligation and that, among other things, 50 customers were impacted by the breach. Subsequently:

- on 20 June 2022, they lodge a further report (by way of update) that revises the total customers impacted to 80

- on 1 August 2022, they lodge a further report (by way of update) that revises the total customers impacted to 100, and
- on 3 February 2023, they lodge a further report (by way of update) that revises the total customers impacted to 130.

Similar to the above, our approach is to treat these lodgements as one report and use the data from the latest lodgement in our reporting period ending on 30 June 2023. As the licensee made the initial lodgement on 1 March 2022, we would treat this report as part of the previous reporting period but use only the data from the latest lodgement on 3 February 2023.

Definition of 'reportable situations'

The number of reports is different to the number of reportable situations.

We allow licensees to notify ASIC of multiple reportable situations (i.e. breaches) by lodging a single report. Due to this, a single report could involve:

- one reportable situation (e.g. a single occasion where a licensee's employee provided incorrect information to a customer), or
- many thousands of reportable situations (e.g. a system error causing thousands of customers to be overcharged, which might involve multiple breaches of multiple legal provisions).

To date, licensees have adopted differing approaches to calculating and reporting the number of reportable situations. For this reason, as well as to ensure comparability with the previous reporting period, we have decided not to publish the number of reportable situations this year.

Appendix 2: Number of licensees during the reporting period

Licensees must maintain their details on ASIC's registers. Information contained on these licensee registers are made available for the public to search via the ASIC Connect website. The number of licensees varied during the reporting period due to approvals for new licences, cancellations and suspensions. The number of licensees as at 30 June 2022 and as at 30 June 2023 are set out in Table 13.

Table 13: Current licensees during the reporting period

Licensee status	AFS licensees	Credit licensees	Total licensees
Licensees as at 30 June 2022	6,288	4,720	11,008
Licensees as at 30 June 2023	6,311	4,665	10,976

Appendix 3: Accessible versions of figures

Table 14: Number of reports over the last two reporting periods by quarter

Reporting period	Quarter	Number of reports
Previous reporting period	October to December 2021	2,188
Previous reporting period	January to March 2022	2,779
Previous reporting period	April to June 2022	3,850
Current reporting period	July to September 2022	4,239
Current reporting period	October to December 2022	4,619
Current reporting period	January to March 2023	4,083
Current reporting period	April to June 2023	3,895

Note: This is the data shown in Figure 1.

Table 15: Breakdown of reports relating to a financial service, credit activity or product line as a percentage of reports, by reporting period

Financial service, credit activity or product line	Proportion of total reports in FY22	Proportion of total reports in FY23
Credit	38%	32%
General insurance	19%	28%
Deposit taking	10%	7%
Financial advice	10%	7%
Superannuation	4%	4%
Investments	3%	3%
Life insurance	2%	2%
Payment systems	1%	1%
Traditional trustee services	<0.1%	0.1%

Note: This is the data shown in Figure 2.

Table 16: Breakdown of reports relating to general categories of issues as a percentage of total reports, by reporting period

General category	Proportion of total reports in FY22	Proportion of total reports in FY23
False or misleading statements	34%	44%
General obligations	19%	18%
Lending	21%	17%
Fees and charges or account administration	15%	10%
Disclosure	10%	9%
Advice	6%	5%
Licence conditions	1%	1%

General category	Proportion of total reports in FY22	Proportion of total reports in FY23
Financial reporting	1%	1%
Market	1%	1%
Fraud/misconduct	0.4%	0.3%
Privacy and confidentiality	0.2%	0.1%

Note: This is the data shown in Figure 3.

Table 17: Breakdown of the top five categories of root causes as a percentage of total reports, by reporting period

Root cause	Proportion of total reports in FY22	Proportion of total reports in FY23
Staff negligence and/or error	64%	66%
Policy or process deficiency	11%	8%
System deficiency	8%	6%
Other	5%	5%
Inadequate supervision or lack of staff training	4%	4%

Note: This is the data shown in Figure 4.

Table 18: Top 10 investigation triggers as a percentage of total reports, by reporting period

Investigation trigger	Proportion of total reports in FY22	Proportion of total reports in FY23
Staff report or business unit report	56%	56%
Internal compliance function	14%	15%
Customer complaint via internal dispute resolution	10%	12%
Internal audit function	4%	4%
Advisor assurance	5%	3%
External audit	1%	1%
Customer complaint via external dispute resolution	1%	1%
ASIC	1%	1%
AFCA systemic issue	0.1%	0.2%
Other regulator	0.1%	0.1%

Note: This is the data shown in Figure 5.

Table 19: Time taken to identify and commence an investigation into a breach as a percentage of total reports, by reporting period

Time taken	Proportion of total reports in FY22	Proportion of total reports in FY23
Within 7 days	19%	13%

Time taken	Proportion of total reports in FY22	Proportion of total reports in FY23
Between 8 and 30 days	25%	20%
Between 31 and 90 days	21%	28%
Between 91 and 365 days	16%	22%
Over 365 days	18%	17%

Note: This is the data shown in Figure 6.

Table 20: Time taken to complete an investigation into a breach as a percentage of total reports, by reporting period

Time taken	Proportion of total reports in FY22	Proportion of total reports in FY23
Within 7 days	37%	36%
Between 8 and 30 days	34%	38%
Between 31 and 90 days	12%	12%
Between 91 and 365 days	5%	5%
Between 181 and 365 days	6%	5%
Over 365 days	6%	3%

Note: This is the data shown in Figure 7.

Table 21: Breakdown of number of customers impacted as a percentage of total reports, by reporting period

Number of customers impacted	Proportion of total reports in FY22	Proportion of total reports in FY23
Not known – still under investigation	0.2%	0.8%
No customers impacted	17%	17%
1 customer	56%	58%
2–9 customers	11%	11%
10–99 customers	6%	6%
100–999 customers	5%	4%
1,000–99,999 customers	5%	3%
100,000 customers and over	0.5%	0.3%

Note: This is the data shown in Figure 8.

Table 22: Breakdown of customer financial loss as a percentage of total reports, by reporting period

Amount of customer financial loss	Proportion of total reports in FY22	Proportion of total reports in FY23
Not known – still under investigation	1%	2%
No customer financial loss	75%	78%
$99 or less	3%	2%
$100–$999	5%	5%

Amount of customer financial loss	Proportion of total reports in FY22	Proportion of total reports in FY23
$1,000–$9,999	8%	7%
$10,000–$99,999	5%	4%
$100,000–$999,999	2%	1%
$1 million or more	0.8%	0.5%

Note: This is the data shown in Figure 9.

Table 23: Top five rectification methods as a percentage of total reports, by reporting period

Rectification method	Proportion of total reports in FY22	Proportion of total reports in FY23
Staff training on internal policy and procedures	44%	42%
Communication to customers	25%	31%
Other rectification methods	27%	25%
Staff consequent management	13%	15%
Financial compensation to customers	13%	11%

Note: This is the data shown in Figure 10.

Key terms and related information

Key terms

AFS licence	An Australian financial services licence under s913B of the *Corporations Act 2001* that authorises a person who carries on a financial services business to provide financial services **Note:** This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the *Corporations Act 2001*
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ASIC Regulatory Portal	The internet channel that allows authenticated regulated entities to interact securely with ASIC, which can be accessed at the ASIC Regulatory Portal landing page
credit licence	An Australian credit licence under s35 of the National Consumer Credit Protection Act 2009 that authorises a licensee to engage in particular credit activities
credit licensee	A person who holds an Australian credit licence under s35 of the *National Consumer Credit Protection Act 2009*
investigation	The process that a licensee conducts to understand if there is a breach, determine the root cause of that breach, and identify all customers affected (and the extent of impact to those customers)
licensee	An AFS licensee or a credit licensee
licensee population	All current AFS licensees and credit licensees as at 30 June 2023
mean	The average calculated by adding all values in the range and dividing by the number of values in the range
median	The middle value in a range of values that is sorted in ascending or descending order
previous reporting period	1 October 2021 to 30 June 2022, inclusive
reports	Lodgements about breaches and likely breaches that we have received under the reportable situations regime, based on the scope and methodology outlined in Appendix 1
reportable situation	Has the meaning given by s912D of the Corporations Act 2001 or s50A of the *National Consumer Credit Protection Act 2009*
reporting period	1 July 2022 to 30 June 2023, inclusive
RG 277 (for example)	An ASIC regulatory guide (in this example numbered 277)

Related information

Headnotes

AFS licence, Australian credit licence, Australian financial services licensees, breaches, credit licensees, reportable situations

Legislation

Explanatory Memorandum to the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020, paragraph 11.129

ASIC documents

21-213MR *ASIC's approach to new laws reforming the financial services sector*

Form CL50 *Australian credit licence annual compliance certificate*

Form FS70 *Australian financial services licensee profit and loss statement and balance sheet*

REP 740 *Insights from the reportable situations regime: October 2021 to June 2022*

RG 78 *Breach reporting by AFS licensees and credit licensees*

RG 277 *Consumer remediation*