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From: [redacted]
Sent:
To: RRI Consultation
Subject: Submission to ASIC on Reportable Situations - Additional Relief

[redacted]. Learn why this is important

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Submission to ASIC on Reportable Situations - Additional Relief

Date: 11 March 2025

To: ASIC Reportable Situations Consultation

Email: rri.consultation@asic.gov.au

I welcome the opportunity to provide feedback on ASIC's proposed additional relief to further assist financial services and credit licensees in complying with the reportable situations regime.

Opposition to Additional Reporting Relief

ASIC's proposal to further reduce reporting obligations on banks is premature and deeply concerning, given the widespread non-compliance with existing requirements. While I support reducing regulatory burdens where enforcement is stronger, ASIC has yet to demonstrate an effective enforcement regime.

However, before considering any reduction in reporting obligations, it is critical to acknowledge the longstanding and systemic failures of large banks and financial institutions to comply with breach reporting requirements.

Identified Failures in Breach Reporting

The Banking Royal Commission (2017-2019) and numerous parliamentary inquiries have repeatedly found that breaches are frequently not reported, reported years late, or deliberately concealed. These failures have had severe consequences for consumers, particularly by preventing them from taking action within statutory time limits. Instead of improving their compliance with breach reporting obligations, financial institutions appear to act with impunity, using these delays to their advantage to avoid legal and financial consequences.

Systemic Failures in Breach Reporting

1. Deliberate Delay in Reporting

- The Banking Royal Commission Final Report highlighted that banks consistently failed to report breaches within the required timeframe, often delaying by years.
- The Australian Law Reform Commission (ALRC) reported that 72% of significant breaches took more than five years to be identified and reported.
- ANZ, CBA, NAB, and Westpac all admitted during the Royal Commission to extensive delays in reporting breaches, in some cases by over a decade.

2. Impact on Consumers' Rights

- Statute of Limitations Manipulation: Delayed reporting directly prevents customers from exercising their legal rights, as claims often expire before they become aware of the breach.
- Financial and Psychological Harm: Victims of banking misconduct have suffered devastating financial losses, emotional distress, and in some cases, loss of their homes or businesses.

3. Regulatory Failures and Lack of Accountability

- ASIC's own enforcement track record demonstrates that few penalties have been imposed on banks for failing to report breaches.
- The current enforcement regime lacks meaningful deterrence, allowing banks to treat breach reporting as an administrative inconvenience rather than a legal obligation.

Before any relief is granted, banks should first:

1. Demonstrate substantial and sustained improvement in breach reporting compliance, particularly by eliminating long delays.

2. Implement real-time reporting measures to ensure breaches are reported as soon as they occur, not years later.

3. Face serious penalties for non-compliance, including automatic financial penalties for late or non-reported breaches.

The proposal to reduce reporting obligations should not proceed until ASIC can demonstrate that financial institutions have made significant improvements in their breach reporting practices and that these practices are sound. Currently, large banks continue to delay, manipulate, and ignore their obligations, and consumers are paying the price.

ASIC must prioritise stronger enforcement, real accountability, and real penalties before any reduction in reporting obligations is considered.

Sincerely,

[redacted]