



15 May 2025

RS and IDR Data Publication Project Team
Australian Securities & Investments Commission
GPO Box 9827
Melbourne VIC 30001

By email data.publication@asic.gov.au

Dear RS and IDR Data Publication Project Team

Re: Consultation Paper 383 Reportable situations and internal dispute resolution data publication (CP 383)

AFMA welcomes the opportunity to provide feedback to Consultation Paper 383 Reportable situations and internal dispute resolution data publication (CP 383).

AFMA recognises ASIC's statutory requirement under section 912DAD of the *Corporations Act 2001* (Cth) to publish breach and complaints data, effective since 1 October 2021 following the introduction of the Reportable Situations (RS) regime under the *Financial Sector Reform Act 2021* (Cth).

We understand that ASIC has to this point fulfilled this obligation by releasing thematic industry-level reports on RS data and that ASIC has 'broad discretion as to what RS data elements [it] publish[es]'¹. ASIC now intends to transition to the publication of firm-level data from late 2025.

We do not support the reporting of firm-level data for Reportable Situations reporting, particularly for wholesale clients.

Members suggest that the level of public disclosure proposed by ASIC is inconsistent with the practices of other regulators internationally. To the best of their knowledge, no equivalent publication scheme exists in comparable jurisdictions such as the United Kingdom and the United States.

Firm level publication of self-reported breaches of companies in good standing is incompatible with making Australia attractive as a financial centre and is not in the national interest.

Identifying, managing, and dealing efficiently with breaches is a normal part of the business for financial services providers globally. As such, it should be treated by

¹ Consultation Paper 383, p. 16.

regulators in a manner that does not invite excessive or sensationalised attention, does not damage Australia's well-deserved reputation as a high-quality and trustworthy market, and does not discourage business participation in the jurisdiction.

While ASIC has suggested it will add 'contextual statements' that appear intended to address some of the misconceptions that will be invited by the data. We do not believe these statements can be sufficient to address the issues inherent in publishing firm-level data.

The arrangements proposed will be a substantial disincentive for firms to base operations, or a larger scale of operations in Australia. The proposed publication regime will make Australia less competitive as a jurisdiction. We understand this to be contrary to the Government's policy to attract more financial business.

The proposed publication of firm-level data would create a strong disincentive to reporting that may discourage maximal openness.

AFMA does not believe the publication of RS data appropriate for wholesale business, who are already well-placed to make informed decisions about the compliance of financial service firms and drive improvements where appropriate. Wholesale business was not the focus or intention of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services, which was focussed on retail matters. As recognised in other aspects of Australian financial services regulation, wholesale matters often warrant distinct treatment.

On IDR data we agree with ASIC that 'on its own, the number of complaints is not a reliable indicator of IDR performance'². We do not agree that the inherent suggestion in publishing this data that it is in fact a key indicator can be addressed by 'requir[ing] user interaction before it is displayed in some views'³, or by other measures.

Similarly to our concerns with RS data, we caution that the proposed firm-level IDR data publication may discourage 'a positive complaints management culture and robust IDR process'⁴ which ASIC acknowledges tend to drive a higher number of complaints than a poor IDR process and culture.

The proposal on IDR data is also detractive from the attractiveness of Australia as a financial centre and could be damaging in an unwarranted way to our reputation.

We thank you for considering our views.

Yours sincerely



Damian Jeffree

Head of Financial Markets, Exchanges and Digital

² Consultation Paper 383, p. 32.

³ *Ibid.*

⁴ *Ibid.*

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

AFMA does not have any concerns about the proposed *format* of the data publication.

B2Q1 Do you have any comments on this proposal?

AFMA does not have any comments on this proposal.

B3Q1 Do you have any comments about ASIC using explanatory notes and contextual statements to assist in the interpretation of the data elements?

The sample contextual statements generally are positively intentioned additions to the reporting.

We suggest that this statement be made more generic – e.g. ‘a statement that some breaches or likely breaches ~~are~~ *may be* still under investigation and information about them could change from year to year’.

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?

We do not believe contextual statements can adequately address the inherent issues associated with publication of firm-level data.

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.

AFMA would be unlikely to support features that further added to the reporting burden of firms. Information on the size of firms, for example, would have its own costs to report and would be redundant given publicly available proxies.

D1 We propose to publish information relating to the RS data elements outlined in Table 1 to Table 7 below.

D1Q1 Do you have any comments on the proposed data elements in Table 1 to Table 7?

AFMA does not support the publication of these elements on a firm-level basis.

D1Q2 Are there any reasons why these data elements should not be published?

AFMA is of the view that, consistent with the treatment in our peer jurisdictions, firm-level information should not be published.

- Identifying, managing, and dealing efficiently with breaches is a normal part of the business for financial services providers globally. As such, it should be treated by regulators in a manner that does not invite excessive or sensationalised attention, does not damage Australia's well-deserved reputation as a high-quality and trustworthy market, and does not discourage business participation in the jurisdiction. We believe the proposed publication does not meet this test.
- The proposed publication of firm-level RS data would create a strong disincentive to reporting that may discourage maximal openness. *Regulatory Guide 78 Breach reporting by AFS licensees and credit licensees* outlines that robust breach reporting systems are integral to a licensee's compliance and risk management framework. In our view, the current guidance under RG 78 effectively supports the RS regime's objectives by enabling firms to identify trends and implement measures to prevent future breaches. The proposed publication could discourage this approach.
- Publication of RS matters is not needed by wholesale investors who are already well-placed to make decisions around firm compliance and drive improvements where appropriate. In a wholesale context, appropriate transparency concerning relevant breaches goes directly to clients under individual client agreements. Notifications of breaches may be communicated to clients through regular compliance letters, due diligence sessions, or upon client request. Communication with impacted wholesale clients is more appropriate, measured and effective than via publicly accessible dashboards.

D1Q3 Are there any specific contextual statements that may help users to interpret the data elements?

While we do not object to contextual statements, as noted above they are insufficient to address the invitation to misinterpret that is inherent the publication of these data.

D1Q4 Are there other data elements that you think should be published? Please provide detailed reasons.

AFMA does not support publication of other data elements at the firm level for similar reasons.

E1 We propose to publish information relating to the IDR data elements outlined in Table 8 to Table 10.

E1Q1 Do you have any comments on this proposal?

AFMA does not support the publication of firm-level data.

E1Q2 Are there any reasons why these data elements should not be published?

While we agree with ASIC that ‘on its own, the number of complaints is not a reliable indicator of IDR performance’, we do not agree that the inherent suggestion in publishing this data that it is in fact a key indicator can be addressed by ‘requir[ing] user interaction before it is displayed in some views’⁵, or by other measures.

We caution that the proposed firm-level IDR data publication may discourage ‘a positive complaints management culture and robust IDR process’⁶ which ASIC acknowledges tend to drive a higher number of complaints than a poor IDR process and culture.

The proposal on IDR data would detract from the attractiveness of Australia as a financial centre and could be damaging in an unwarranted way to our reputation.

E1Q3 Are there any specific contextual statements that may help users to interpret the data elements

While we do not object to contextual statements, as noted above they are insufficient to address the invitation to misinterpret that is inherent the publication of these data.

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