

# SUBMISSION

## Submission to ASIC — Internal dispute resolution data reporting requirements

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19 February 2021

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19 February 2021

Dear Sir/Madam

**Internal Dispute Resolution (IDR) data reporting requirements**

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to ASIC's request for further feedback on IDR data reporting requirements, as set out in:

- Media Release (20-327MR), dated 16 December 2020 (Media Release)
- Attachment 1 to Media Release (20-327MR) Addendum to Consultation Paper 311 *Internal dispute resolution: Update to RG 165* (Attachment 1)
- Attachment 2 to 20-327MR: *Internal dispute resolution: Updated draft data dictionary* (Attachment 2).

We appreciate the extension of time given for us to make our submission.

**About ASFA**

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$2.7 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 16 million Australians with superannuation.

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If you have any queries or comments in relation to the content of our submission, please contact Julia Stannard, Senior Policy Advisor, on (03) 9225 4027 or by email [jstannard@superannuation.asn.au](mailto:jstannard@superannuation.asn.au).

Yours sincerely

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Director - Policy Operations, Member Engagement & External Relations

## A. General comments

ASFA considers it critical that consumers of financial services have access to a dispute resolution framework that operates effectively and efficiently. As such we recognise the benefits and importance of providing a level of transparency around the volume of complaints received by financial firms and outcomes related data that indicates the firm's complaint-handling 'performance'.

As noted in our response to Consultation paper CP 311, introduction of any new data reporting regime is a significant undertaking that will require a substantial investment of time and effort from ASIC and financial firms. It is critical to allow sufficient time for consultation and a measured development of the proposed internal dispute resolution (IDR) reporting regime, as a rushed implementation is likely to lead to a sub-optimal outcome and a need for remediation. Accordingly, we welcome this further consultation from ASIC in relation to its proposals.

The later sections of this submission address the specific questions raised by ASIC in relation to its revised proposals. By way of general feedback, however, we note there is a need to provide greater clarity around the intended implementation timeframe for the reporting regime and the change management process that will be adopted going forward.

Financial firms will need adequate lead-time to implement the data reporting requirements prior to the 'go-live' for reporting. There are a number of considerations that must be taken into account in understanding what amounts to an appropriate implementation timeframe:

- While some financial firms may have existing requirements to regularly report data through the ASIC Regulatory Portal, that is not the case for most superannuation fund trustees. The implementation of the IDR reporting requirements, and the lodgment of regular reports through the Portal, will therefore involve the development of a completely new reporting interface and process.
- While further detail regarding the interface and the required reporting output is required, it is clear that firms will be required to integrate multiple existing systems in order to generate the required reporting — including their call/contact centre platforms and existing complaint management databases. In some cases, these will be internally controlled applications, while other firms will need to rely on third party providers to update their products and systems. Based on the information available, ASFA members have indicated that a timeframe of nine months will likely be required to operationalise the requirements — involving design, implementation and testing of the necessary systems and process as well as extensive training across all impacted business units.
- Due to the cost and resource outlay involved, it is not prudent for firms (or third-party providers) to undertake meaningful development activity on the basis of draft requirements. Rather, the implementation timeframe must commence from publication of the final data dictionary and associated requirements.
- It is important to avoid creating any need to 'back-capture' data. Where reporting fields are operationalised after the commencement of a reporting period, the back-capture extraction required to report the data is a heavily manual and inefficient process which involves both significant cost and high risk of error. It is critical to ensure time is allowed for industry to implement the reporting requirements before the first reporting period commences.

A clear change management process is also required, to address the future evolution of the IDR reporting requirements.

In this respect, we note the following:

- Attachment 1 refers to ASIC’s intention to extend the data fields “over time”, including through the introduction of free text fields. We welcome ASIC’s recognition that this will need to occur “on the basis of further consultation with firms” and note that changes of any magnitude will require a comparable lead-in time prior to their introduction.
- Many of the proposed data fields are aligned with reporting by the Australian Financial Complaints Authority (AFCA) and, in order to maintain consistency and alignment, there will be a need to update the ASIC requirements whenever the underlying AFCA data fields are changed.
- Our response to CP 311 highlighted the need to ‘future proof’ the reporting format to the extent possible and noted that CSV might not be the optimal format to adopt for a new reporting regime, given its inherent limitations. We reiterate the need to ensure that a robust process exists to adapt to future technological advancements.

## B. Comments in relation to the specific questions for feedback

### B.1 The draft data dictionary

Q1. Will the draft data dictionary be practical for industry to implement? If not, why not?

ASFA welcomes the indication that ASIC will introduce upfront validation of the data submitted by financial firms. Validation is an important aspect of data lodgment and should help to minimise basic errors in data submission and to protect the comparability of data across financial firms. We recommend that this validation process should include dependency rules between the ‘*Products and services*’ codes and the ‘*Complaint Issue*’ codes to ensure that data cannot be submitted with incompatible combinations.

ASFA also welcomes ASIC’s inclusion of ‘not stated or unknown’ as a compliant response for various data elements requesting demographic information that may not be held by financial firms. We note that while superannuation trustees continually review the data collected from members — and therefore may over time be in a position to increase the granularity of their reporting for some of these fields — some of the data elements go beyond what funds are currently legally required to collect.

We note that it is important to ensure there is clarity, within the reporting framework, in relation to the entity that bears responsibility to report a complaint. Within the superannuation sector, it is not uncommon for a number of financial firms to be involved in the provision of products and services to fund members. In order to avoid under or over-reporting, it is critical that all firms involved have certainty over their obligations.

Examples of where greater clarity may be required include situations where a complaint relates to life insurance issued by a life insurer through a superannuation product or where the life insurer is also the administrator of the superannuation product.

The inclusion within the IDR reporting requirements of some complaints that have been lodged with AFCA adds some complexity to this consideration. For example, when AFCA joins a trustee to a complaint against an insurer, that is treated for external dispute resolution (EDR) purposes as two separate complaints, rather than a single complaint involving two financial firms. However, if the insurance policy to which the complaint relates is a group policy owned by a superannuation fund trustee, responsibility from an IDR perspective will sit with the trustee. As this has the potential to cause confusion, we recommend that ASIC clarifies its expectations on trustees and insurers in terms of IDR reporting in such cases.

Turning to the specific detail set out in the revised data dictionary, ASFA members have noted that substantial implementation work will be required to redesign data capture systems that will enable reporting in a compliant manner. As a result, it is critical that the final version of the dictionary is settled as soon as possible and made available to financial firms for development and testing purposes. We note that many — if not most — financial firms will require the services of third parties including administrators and software providers to implement the necessary changes. It is important that adequate lead time is provided ahead of the pilot planned for the second half of this year, so the pilot operates as a realistic test of the reporting process.

In addition, members have highlighted some concerns, and/or a need for further clarity, in relation to how some of the specific data elements are intended to be used, both generally and in the context of superannuation complaints.

ASFA considers it important that ASIC provides detailed explanatory notes/instructions to assist financial firms, particularly if the intention is that some elements are only to be used by particular types of financial firms or in relation to particular types of financial products/services. We note, by way of example, the guidance provided by APRA to assist trustees completing the lodgements required under its superannuation reporting standards. The comparability of the data provided by financial firms will ultimately rely on all firms having a clear and common understanding of the circumstances each data element is intended to cover. It is important to avoid situations where firms are required to make a 'best guess' as to which data element applies to a given situation, as is likely to occur where there are multiple options available without explanation.

It is also important to ensure that a balance is struck between having data elements and codes that are granular enough to produce insightful data for supervisory purposes but will not overly impact on customer service, by requiring financial firm staff to work through an excessive number of options with consumers when recording complaints at first contact.

ASFA members have highlighted a need for further clarification in relation to several of the proposed data elements. One common theme is a lack of clarity around whether some of the 'complaint issue categories' in table 13 are intended only to be used in relation to specific types of financial product/service or are available for selection by all financial firms where they are descriptive of the issue raised in a complaint.

Issues raised in relation to specific data elements include the following:

1. Data element 14 – reason for reopening – clarity is required around the appropriate use of code 1 'referred back from AFCA'. ASFA members noted that typically a case would only be reopened due to AFCA refer back if a final response has not been issued — and there would most likely be an open case for such complaints, therefore it would not be necessary to reopen a closed case. If a final response has been issued, the matter would be at EDR stage rather than IDR, and it is unclear why it should be captured as part of this reporting.
2. Data element 15 'AFCA status' — this field is to be marked 'yes' if a complaint is currently or has ever previously been at AFCA. Clarification is required of whether financial firms should include IDR complaints which have been made direct to AFCA prior to the expiry of the IDR timeframe, or only those where the IDR timeframe has expired, and the matter has therefore progressed to formal EDR stage or has been re-opened after an IDR refer back from AFCA. If the latter applies, clarification is needed of whether the 'refer back period' relates to the first stage of EDR, rather than the IDR process.
3. Data element 18 /tables 4-12 – product or service:
  - More flexibility is required to allow for multiple selections to be reflected against a single complaint.

- For example, an insurance complaint in superannuation may relate to the assessment process for both temporary and permanent disablement and income protection cover, and the complaint may be regarding the time taken to make a decision (service) plus the policy terms and conditions (product).
- This information captured in these fields is fundamental to the complaint management process. It is likely that this change will require significant internal system and process changes to align existing categories with the proposed structure. In addition, it is not currently clear where certain types of complaints would fit within the list provided for example, complaints about underwriting, complaints about online products such as mobile apps.

4. Data element 19 / table 13 – complaint issue:

- Are issues 30-34 in relation to ‘financial difficulty’ of general application to all financial firms or are they limited to credit providers? In particular:
  - should issue number 30 ‘decline of financial difficulty request’ be used in relation to claims for release of superannuation on grounds of severe financial hardship?
  - Is issue number 33 (financial entity failure to respond to request for assistance) applicable to superannuation funds, for example in the context of denial or delay in relation to a severe financial hardship claim)?
- When is it appropriate to use issue number 41 (denial of claim) as opposed to one of items 42 – 47 (denial of insurance claim due to specific grounds)?
- ‘Financial entity decision’ sub category — complaint issue code 39 ‘death benefit distribution’ is an extremely high-level descriptor that will not, in ASFA’s view, allow for meaningful comparative reporting. ASFA recommends that ASIC considers expanding the options available in relation to death benefit distributions to reflect a similar breakdown as is proposed for ‘denial of insurance claim’ (codes 42 - 47) with the intention that this sub category can still be rolled up to maintain alignment to AFCA reporting.

ASFA suggests that the following additional options might be appropriate:

- death benefit distribution - not following member wishes
- death benefit distribution - adult children objection against current spouse/de facto
- death benefit distribution - adult children objection against minor children
- death benefit distribution - failing to take into account special needs of dependants
- death benefit distribution - LPR objection seeking distribution to estate
- death benefit distribution - member parents objection to legal guardian of children being trustee for funds
- death benefit distribution - member parents objection against current spouse/ de facto
- death benefit distribution - spouse/ de facto objection against other parties
- death benefit distribution - interested party seeking for dependency status to be amended
- death benefit distribution – other.
- ‘Service’ sub category – this sub-category includes ‘account administration error’ (code 62), but there is no provision to separately report general service delays relating to administration, although that option has been provided in relation to claims handling (code 63) and complaints handling (code 64)
- ‘Transactions’ sub category — this sub-category does not accommodate many common transaction types that are the subject of complaints in superannuation, for example ‘incorrect contribution type’ or ‘incorrect investment or switch’.

5. Data element 22 — 'monetary compensation':

- It is unclear if this would constitute the account balance (and insurance proceeds, where relevant) for superannuation, or if it is intended only to capture a financial settlement in addition to the complainant's base interest/entitlement.
- Confirmation is required that any adjustments made to a superannuation account complaint to restore the member to the position they would have been in had a particular error not been made (for example, incorrect deduction of a fee or insurance premium) would not be considered 'compensation' for reporting purposes.

6. Data element 23 — 'other outcomes' – this element does not provide adequate options to meaningfully capture outcomes relevant to superannuation death benefits. ASFA members suggest that ASIC should consider adding the following additional options:

- death benefit distribution - decision maintained
- death benefit distribution - new decision
- death benefit distribution – negotiation
- death benefit distribution - objection withdrawn.

Q3. The data dictionary captures multidimensional data by allowing each complaint to have one product or service, up to three issues and up to three outcomes. Where there are multiple issues and outcomes, this is captured using in-cell lists, rather than multiple rows or columns. Is this approach appropriate?

Some ASFA members have indicated that the proposed approach may add complexity and cost to the process of recording complaints by financial firms.

In particular, it has been noted that in order to report data in this manner, it will be necessary for front line staff receiving and recording complaints to continually refer to a 'reference key' to ensure they understand the code (or combination of codes) relevant to the data elements. It is considered that this will be impractical and will likely force firms to create drop-down lists for their front-line staff that are descriptive in nature but map through to the relevant ASIC codes in the 'back end' of the system.

To address this, feedback from ASFA members suggests it would be preferable to avoid having multiple code options within one column of data, and instead implement 'primary' and 'secondary' complaint category columns, with firms able to select 'not applicable' as an option where there is no 'secondary' issue associated with the complaint.

ASFA members have also noted that a consumer might have more than one product with a financial firm. Often a consumer may raise a generalised complaint that relates to their overall relationship with the financial firm but could, from a legal perspective, be viewed as relying individually to each specific product they hold. The draft data dictionary would require these to be reported as separate complaints. This would appear to be unnecessary duplication and not a true representation of how the consumer views their relationship with the financial firm. We suggest it would be appropriate to allow financial firms to select multiple product types against a single complaint where the issues raised by a consumer apply across all the products they hold in an identical manner.

Q5. Are the two proposed additional data elements — that would capture consumer vulnerability flags and the channel via which the complaint was received — supported? If not, why not?

ASFA members have raised no in principle concerns with the proposed new data element capturing the channel via which a complaint was received. We anticipate that most financial firms already track, for internal management purposes, the volume of complaints received via different channels such as their call/contact centre, online, social media or in person.

It would be helpful for ASIC to provide additional information regarding the proposed data element capturing 'vulnerability' flags, such as when ASIC considers a consumer to be 'vulnerable'. We note that there is not currently any specific requirement on superannuation funds to record whether a fund member, beneficiary or potential beneficiary is 'vulnerable'. This has implications, including:

- the term, as it potentially relates to superannuation, does not have a clear definition and this may affect the comparability of reported data
- firms may take a cautious approach to recording data that may indicate 'vulnerability', given the need to ensure compliance with laws governing the collection, use and disclosure of members' personal information and in particular their sensitive information.

Q7. Which IDR data elements will be most useful for firms to benchmark their IDR performance against competitors?

ASFA members have indicated that they are likely to use several of the specific data elements for benchmarking purposes. These include:

- data element 7 'complainant post code' (for demographical comparison)
- data element 15 'AFCA status' (for comparison on EDR conversion rates across industry)
- data elements 18 'product or service' and 19 'complaint issue' (for comparison on the categories and issues complained about across the industry)
- data element 21 'outcome in whose favour' (for comparison on decision trends across the industry)
- data element 23 'other outcomes' (for comparison on outcome themes across the industry).

In addition, it is likely that ASFA members will also closely examine data published by ASIC that reveals the IDR 'performance' by comparable entities in relation to:

- volume of complaints received and complaints resolved
- response times/timeframe to resolution.

## B.2 Reporting of complaint data where multiple business units or brands are under one licence

Q2. If a financial firm has multiple business units or brands under the one licence, is it preferable to report the complaints data separately or as one single file?

ASFA members have generally indicated a preference to report a single file for all complaint data, with data for each business unit or brand (where applicable) identified separately within that file.

However, ASFA welcomes the indication that ASIC proposes to give financial firms the flexibility to report data for their various business units or subsidiaries in separate files, to reflect how their business is structured, with the requirement to report the name of the subsidiary, brand or superannuation fund to which a complaint relates.



We consider it important to provide a degree of flexibility for firms to produce compliant reporting in the way that is most efficient for them, provided full comparability is retained across the sector(s) in which the firm operates.

What is ultimately critical, in ASFA's view, is that when complaint data is published it is presented at a level that provides an accurate reflection of the consumer experience in relation to specific products offered by a financial firm.

In this respect, we note that consumers are far more likely to recognise the name of the superannuation fund of which they are a member, or the product they hold, than the legal name of the superannuation trustee entity. Accordingly — regardless of the level of flexibility provided to financial firms in the way data is reported to ASIC, data should be published in respect of specific products offered by a financial firm, rather than at the financial firm level overall. In particular, for superannuation, use of the trustee (financial firm) name should be avoided in favour of the name of the specific superannuation fund/product.

Finally, while it is important to ensure that all complaints are captured, it is equally important to avoid duplication or double counting of complaints where different financial firms may be involved in the provision of services to a customer. For example, a consumer may make a complaint which — from their perspective — relates to their 'superannuation' however the subject matter of the complaint may in fact involve an external life insurance provider or financial adviser. Greater clarity is required in relation to how ASIC will treat such complaints when it publishes IDR data.

### **B.3 Frequency of reporting for IDR data**

Q4. Is quarterly reporting of IDR data supported? If not, what are the additional costs of reporting data on a quarterly rather than half yearly basis?

ASFA is of the view that six-monthly reporting, as proposed in CP 311, should be retained. We note that this would provide alignment with the reporting of EDR data by AFCA and would minimise the impact on financial firms.

We submit it would be appropriate to conduct a review of the effectiveness of the IDR reporting regime after it has been in operation for 18 months, and this could include consideration of whether more frequent reporting is warranted. To the extent that this review highlights a need for any changes to data collection — including in relation to the format or content of the collection — industry consultation should occur prior to their implementation (noting the lead time necessary for financial firms to begin collecting new data elements).

### **B.4 Publication of IDR data**

6. When the IDR data is published, how can ASIC best contextualise the data of individual firms? Are there any existing metrics of size and sector that would be appropriate for this purpose?

It is important that the data reported by ASIC is simple, unambiguous and helpful to stakeholders, and presented in a manner which minimises the risk that the data will be misinterpreted or misapplied.

Given recent developments such as the Royal Commission and the Productivity Commission's review of superannuation, the sector is currently under intense scrutiny from government, the regulators, consumers, industry commentators and analysts as well as the mainstream media. It is, in ASFA's view, imperative that ASIC accompanies the launch of its public reporting with material educating all stakeholders on how to meaningfully interpret and apply the data.

In particular we see a need to accompany the initial and ongoing publication with material clearly explaining the data sets and emphasising the significance of the *outcomes adjusted data*. It is, in ASFA's view, important to avoid an undue level of focus on the *raw number* of complaints made to a financial firm during a reporting period.

While the raw complaints data is a relevant indicator of the level of complaint activity, it is not a meaningful indicator of the IDR 'performance' of any superannuation trustee and does little to inform consumers' decision making about superannuation products they may hold currently or may consider acquiring.

Members of superannuation funds may make complaints to their fund trustee for a number of reasons. In a significant proportion of these cases, the decision or conduct of the superannuation trustee will not have been unfair or unreasonable but will have been dictated by regulation or by the governing rules of the fund. While many complainants are accepting of that explanation, many others will choose to exercise their legal right to pursue EDR — particularly given there is no cost to the consumer to make a complaint to AFCA. Statistics reported by AFCA confirm that for a significant proportion of complaints made in relation to superannuation, the trustee's decision is upheld. Consumer dissatisfaction with the decisions or conduct of a superannuation trustee is always regrettable, but it should not automatically be assumed to stem from some non-compliance by the trustee.

An undue focus on the raw number of complaints made in relation to individual superannuation trustees may, in ASFA's view, create a misleading impression of the performance of those trustees. It also risks potentially causing unwarranted reputational damage to those trustees and to the sector more broadly. Accordingly, ASFA strongly encourages ASIC to ensure that messaging accompanying the initial and ongoing publication of IDR data draws appropriate focus to outcomes adjusted data and avoids highlighting raw complaints data.

In terms of metrics to contextualise the data, ASFA notes that a purely financial measurement of business size is not necessarily the most meaningful metric for consumers and may be incorrectly interpreted. Unless the complaint data for each financial firm is contextualised against the number of customers/members/product holders, the data could be open to misinterpretation, thereby potentially exposing firms to reputational damage.

On that basis, we consider the size and sector metrics adopted by AFCA would be appropriate to contextualise the data published by ASIC in relation to IDR. While they are not perfect, adoption of the metrics used by AFCA would also avoid unnecessary complexity for financial firms while ensuring consistency when comparing IDR and EDR 'performance' and the rate of IDR to EDR conversion.

Finally, in launching any new data on the performance of the financial services industry, ASFA considers it critical to ensure the clarity, transparency and effectiveness of that data is maximised and that it is truly fit for purpose. An important aspect of this, in ASFA's view, involves ensuring that it is able to be understood by consumers and that it is a relevant and meaningful aid to consumers' decision making. ASFA encourages ASIC to conduct consumer testing before settling the content and format for its data publication.