



Stockbrokers and Investment  
Advisers Association

Serving the interests of investors

16 May 2025

Email: [data.publication@asic.gov.au](mailto:data.publication@asic.gov.au)

Attention: Christine Binder

RS and IDR Data Publication Project Team  
ASIC  
GPO Box 9827  
Melbourne VIC 3001

Dear Ms Binder

## Reportable situations and internal dispute resolution data publication

The Stockbrokers and Investment Advisers Association (SIAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and wealth management firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

SIAA members represent the full range of advice providers from full-service and online brokers to execution-only participants and they provide wealth advice and portfolio management services.

The history of the stockbroking profession in Australia can be found [here](#).

Thank you for the opportunity to provide feedback on *Consultation Paper 383 Reportable situations and internal dispute resolution and data publication* (Consultation Paper). Our members are subject to the reportable situations and internal dispute resolution provisions of the Corporations Act and will be impacted by these proposals.

### Executive summary

- The proposals:
  - do not meet the requirements and objectives of the reportable situations and IDR regimes,
  - disincentivise licensees from improving their reportable situation and IDR reporting practices,
  - will result in data that is not easily interpreted, and

- will not allow for meaningful comparisons across firms.
- SIAA fundamentally opposes ASIC’s approach to the publication of firm level IDR and reportable situations data that includes firms’ names and licence numbers.
- SIAA does not consider that ASIC has the legislative authority to publicly name and shame licensees in this way as regards their reportable situations data.
- ASIC must reconsider its approach to publication of reportable situation and IDR data.
- We hope that ASIC carefully considers our members’ feedback to this Consultation Paper before finalising its proposals.

## Overview

SIAA fundamentally opposes ASIC’s approach to the publication of firm level IDR and reportable situations data that includes firms’ names and licence numbers.

Using licensees’ data to publicly name and shame them is a completely inappropriate use of data that licensees are required by law to report to ASIC.

SIAA does not consider that ASIC has the legislative authority to publicly name and shame licensees in this way as regards their reportable situations data.

ASIC is not required by the Corporations Act to publicly name and shame licensees in this way as regards their IDR data.

Any additional transparency that may be achieved by these measures is not worth the additional burden that will be imposed on licensees. It does not appear from the Consultation Paper that ASIC has considered the full impact of these proposals.

## **Reporting at a licensee level is not consistent with the purpose of the breach reporting regime**

Our primary concern is that the threshold question of the intended objective of this initiative has not been satisfactorily justified.

The reportable situations regime is intended to facilitate ASIC’s supervisory and enforcement role — not publicly name and shame licensees. We strongly oppose ASIC publicly naming and shaming licensees.

As stated in the Explanatory Memorandum to the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020* (Explanatory Memorandum) breach reporting is a cornerstone of Australia’s financial services regulatory structure. It allows ASIC to detect significant non-compliant behaviours early and take action where appropriate. It also allows ASIC to identify and address emerging trends of non-compliance in the industry (Explanatory Memorandum, paragraph 11.3.)

As set out in ASIC Regulatory Guide 78 (paragraph 4) early detection and reporting of misconduct and breaches of regulatory requirements allows ASIC to:

- (a) monitor the extent and severity of non-compliance and commence surveillance and investigation when necessary
- (b) take law enforcement and regulatory action when warranted, including administrative action to protect consumers of financial products and services, and

(c) identify and respond to emerging threats, harms and trends within the financial services industry, detect significant non-compliant behaviours early, and take the appropriate regulatory response.

We agree with the Consultation Paper that reports about reportable situations are a critical source of regulatory intelligence for ASIC that may enable it to detect significant non-compliance behaviours early and take regulatory action where appropriate.

However, publishing breach reporting data on a name and shame basis does not further any of these regulatory aims.

Supervising licensees is not a role for consumers. It is ASIC's responsibility.

A consumer who reads the reportable situations data of a licensee does not have any of ASIC's investigative, supervisory or enforcement powers. ASIC is meant to undertake the analysis of the data. We therefore struggle to understand how publicly naming and shaming licensees helps consumers when it is ASIC that has the responsibility to analyse the data provided, supervise licensees and enforce the law.

We consider that this naming and shaming approach is akin to ASIC handballing its responsibilities to the court of public opinion and abrogating its responsibilities for supervision and enforcement.

### **The law does not require ASIC to publicly name and shame licensees**

Nothing in section 912 D requires data to be published at a licensee level. While section 912 DAD of the Corporations Act requires ASIC to publish information about the reportable situations reports and the *entities in relation to which those reports are lodged* we do not consider that the provision requires ASIC to publicly disclose the licensee's name against their data. As stated in the Consultation Paper, the precise contents and format of the data ASIC publishes are not prescribed by legislation. Accordingly, we consider that ASIC would be exceeding its regulatory remit by publicly naming and shaming licensees in this way.

### **Determining a breach is complex and breach data may not accurately reflect that a breach has in fact occurred**

The Consultation Paper states that ASIC wants to help consumers identify areas where *substantial numbers of significant breaches are occurring*. We are at a loss to understand how a consumer will be able to reach an informed view of what the reportable situations data actually means.

Corporations and financial services regulation is unnecessarily complex and results in substantial and growing compliance costs to licensees seeking to navigate and understand the law.<sup>1</sup>

The breach reporting provisions are complex and rely on licensees forming a view as to whether certain conduct falls within the reportable situations regime. Licensees may arrive at a different decision about whether a matter is a reportable situation depending on the approach they take.

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<sup>1</sup> Australian Law Reform Commission, *Confronting Complexity: Reforming corporations and financial services legislation* ALRC Report 141, November 2023.

As has been seen from judicial cases<sup>2i</sup>, the determination of whether an actual breach of the Corporations Act has occurred is often complex, and a reported breach is not necessarily an actual breach, notwithstanding best endeavours to make that determination before reporting it to ASIC.

This can result in data containing details of reportable situations that are not a breach of the Corporations Act. While ASIC can make further investigation of these reports, the public cannot.

This highlights why publishing licensee names against their breach report data is not actually providing information of value to consumers.

The reports of reportable situations to ASIC are based on the licensees' view of whether a breach or likely breach has occurred. They are not a finding of a court and could in fact turn out not to be a breach. Publication of the data could, in some circumstances, be prejudicial to the licensee, where it has not been objectively determined to be a breach.

### **The reportable situations regime is still under review**

Currently, licensees are automatically required to submit notifications to ASIC about any breach of misleading and deceptive conduct provisions and certain contraventions of civil penalty provisions.

Reporting of these breaches to ASIC has resulted in reports that have very little intelligence value. This reporting also involves a cost for licensees.<sup>3</sup>

In response, and in an attempt to seek a balance between reducing the reporting burden on licensees while upholding the objectives of the reportable situations regime, ASIC recently proposed relief from automatic reporting of certain of these provisions if certain conditions were satisfied, namely:

- the breach has been rectified within 30 days from when it first occurred (this includes paying any necessary remediation), and
- the number of impacted consumers does not exceed five, and
- the total financial loss or damage to all impacted consumers resulting from the breach does not exceed \$500 (including where the loss has been remediated), and
- the breach is not a contravention of the client money reporting rules and clearing and settlement rules.

SIAA provided feedback to ASIC that the proposed exemptions were so narrow that licensees would be unlikely to rely on them, given that all four requirements needed to be met. We cited a typical reportable situation where an error has been made in website material which is assessed as having no financial impact on consumers. In that case, the proposed relief would not apply and the licensee would be required to report because the website error is generally available to potentially hundreds or thousands of clients. This is the type of incident which gives rise to many reports that are of limited benefit due to the minimal impact the breach has on consumers. We made a suggested change to the relief to make it more useful that would reduce the reporting obligation in a more

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<sup>2</sup> In *ASIC V Commonwealth Bank of Australia* [2023] FCAFC 135, the Federal Court of Appeal dismissed ASIC's appeal against the Federal Court decision regarding alleged breaches of the conflicted remuneration provisions of the Corporations Act.

<sup>3</sup> ASIC, *CS 16 Reportable situations – additional relief*, 18 February 2025.

meaningful way for licensees without compromising consumers. We have yet to hear from ASIC as to the outcome of these proposals.

These proposals highlight three important issues concerning the reportable situations regime.

First of all, ASIC is already aware that the current regime requires licensees to lodge reports that have *very little intelligence value* and involves *a cost for licensees*.

Secondly, the regime is still being tinkered with. Presumably ASIC will be advising industry of these proposed changes soon.

Thirdly, our members consider that the proposed changes will not result in any useful reduction in the number of reports and that reports of *little intelligence value* involving *cost to licensees* will continue to be lodged, even after ASIC's proposed changes to the regime.

These reports may misrepresent the adequacy of the compliance arrangements of the licensee. It is difficult for ASIC to argue therefore that publishing this type of data provides benefit to consumers. Naming and shaming licensees for reporting this data has even less value.

Our members report that before increasing the amount of reportable situations data that is publicly available ASIC should review its reporting template. SIAA strongly recommends that the template for breach reporting could be improved and requires updating.

### **Naming and shaming licensees acts as a disincentive to report breaches**

Of considerable concern to us is that public naming and shaming creates a strong disincentive to licensees to fully and frankly report under the regime. Public naming and shaming of licensees runs counter to the objective of the regime which is to enhance accountability and transparency. We consider that public naming and shaming of licensees represents a backwards step.

In a public name and shame regime, licensees considering whether their obligations to report have been triggered will need to consider, as an additional matter, the reputational risk of details of the breach being publicly reported against their name. Firms may change the level of detail they provide in their reports as this reputational risk will disincentivise them from providing additional information. The quality and usefulness of reports to ASIC will decline.

If a situation is a borderline case, the impact of a public name and shame regime will be that the licensee will not report it. This will provide a disincentive to good behaviour.

This runs counter to ASIC's desire for open and transparent communication. It will also have a deleterious and significant impact on the compliance culture of licensees.

### **Licensees will incur additional costs with no corresponding benefit to consumers**

Our members report that public naming and shaming will result in licensees incurring increased legal and compliance costs as they will be more likely to seek legal advice to determine whether a breach or likely breach has occurred and must be reported in accordance with the reportable situations regime. Where currently a licensee may be comfortable in reporting a breach, under the new regime compliance staff will double check because of the risk of the breach becoming public. Licensees will go into self-protect mode.

Licensees will also be forced to incur additional costs changing systems to align with ASIC data points for reporting purposes.

Licensees are paying for ASIC collecting and processing this additional data via the ASIC industry funding levy.

Despite the increased cost burden, there is no empirical evidence that public naming and shaming of licensees will improve outcomes for consumers receiving financial services. ASIC already receives reportable situations reports that enables it to detect significant non-compliant behaviours early and take regulatory action where appropriate.

Ironically, publicly naming and shaming has the greatest impact on those who are complying with their reporting obligations and offers a powerful disincentive for them to do so.

ASIC's proposal for public naming and shaming assumes that perfection is the required standard. This is not the case. Even the Consultation Paper acknowledges that *despite an expectation of compliance, breaches will occur*. Errors happen, even with appropriate compliance measures in place.

Importantly, a breach by a licensee of the Corporations Act does not mean that loss has been incurred by clients or compensation needs to be paid.

The outcome of a public name and shame regime is to punish licensees who comply with the law.

### **Disclosure of licensees' sensitive information**

Our members are deeply concerned about the level of detail that ASIC proposes to publish against their names regarding both reportable situations and IDR data. Information about rectification, remediation and compensation including details about the provisions that may have been breached, estimated financial loss and the use of beneficial assumptions is commercially sensitive and confidential. It is inappropriate that such large amounts of internal and confidential licensee data is published against the licensee's name. It essentially discloses the internal operations of our members' businesses to the world at large.

### **The data will be misunderstood by the public**

It is obvious from the wording of the Consultation Paper that ASIC considers that the information that is publicly reported will be misunderstood by consumers. ASIC is already anticipating this. All the context in the world is not going to assist consumers understand the mass of data that ASIC proposes to publish.

At its heart is the reportable situations regime which consumers are unlikely to understand, particularly licensees' obligations to report likely breaches. It is also highly unlikely that consumers will understand the core obligation provisions behind the breach or likely breach.

Our members report that it can take time for some breaches to be fully investigated. This means that a report can contain information about matters that are still under investigation. A consumer looking at this data does not have the full picture regarding that situation as the outcome of the investigation is not yet known.

A long running IDR issue will impact a number of reports and make a licensee's IDR report figures look a lot worse than what they actually are. It is hard to see how the publication of this level of detail will assist consumers.

If data is downloadable, media outlets will create a 'league table' of firms with the highest number of breaches and complaints. Any context provided to explain how licensees' business models differ from each other will be lost in the noise.

There is often a range of factors that ASIC takes into account when determining whether to take action against a licensee that will not be reflected in the data. Journalists may use the data to apply pressure to ASIC to take action against licensees in cases when ASIC does not consider it necessary or appropriate, thereby diverting ASIC's resources or undermining ASIC's reputation where it does not respond to media pressure.

### **The data does not allow consumers to make meaningful comparisons across firms**

As ASIC acknowledged in *Report 801 Insights from internal dispute resolution data reporting: July 2023 to June 2024* released in December 2024, *firms with a positive complaints culture may record and report more complaints*. This is also the case for reportable situations reporting data and makes it impossible for consumers to make meaningful comparisons across firms.

In our submission to ASIC dated 11 May 2017 on *ASIC Enforcement review: position and consultation paper 1 – breach reporting*, SIAA questioned the need for ASIC to publish breach reporting data at the licensee level and advised that our members did not see any value in comparing their performance against others as the wide variety of business models between entities made any such comparisons largely meaningless. The link to that submission is [here](#). We have not changed our view.

For example, the reportable situations and IDR data does not contain a data set that is unique for our stockbroking member firms. Members who are Market and Clearing and Settlement Participants will have a higher number of breach reports than financial planning licensees as their businesses are very different. Financial planning licensees are not subject to the various Market Integrity and market operating rules that our members are. This makes comparing a stockbroking and investment firm to a financial planning firm challenging. A stockbroking firm that undertakes thousands of securities transactions per day is more likely to have more low-level breaches and complaints than a financial planning firm that may talk to a few clients per day. The result of these different business models is that the data is not comparable across the different licensee types.

The data does not consider licensee size and/or market share. For example, a licensee with more clients is likely to have more complaints than a licensee with fewer clients.

The IDR data does not reflect the entire ecosystem of advice providers. Licensees that provide advice to wholesale-only clients are not subject to the IDR provisions and are not required to report IDR data. This is another example where the data is not comparable across the different licensee types and does not provide a complete picture to consumers of licensees who provide financial advice.

The proposed approach will disclose the reportable situations and IDR data of named licensee firms but not the names of licensees who are individuals. Again, this is not a level playing field. This approach may encourage some firms to change their business model.

### **Potential for misuse of licensees' data by third parties**

ASIC's proposed approach will significantly increase the risk of litigation against licensees as well as the incidence of opportunistic, vexatious and unfounded complaints.

While it is unlikely that consumers will read or understand the detailed reportable situations and IDR data that names and shames licensees, scammers and class action lawyers are certain to do so.

A combination of downloadable reportable situations and IDR data will enable third parties to create a list of licensees conducting remediation programs which will attract scammers and potentially transform our member firms into ATMs. Our members have no issues with clients lodging genuine complaints. However, our concern is that people will use the details in the data, including the amounts that have been paid to consumers in compensation to 'farm' complaints. One can easily imagine a social media campaign calling on clients from named firms to contact them if they wish to make a complaint based on the data provided.

One of our member firms reports recently receiving a complaint against it that it suspects has been generated by AI. One can easily see how AI could be used to generate fake complaints using the licensee identified data ASIC proposes to publish.

An increase in vexatious complaints will lead to an increase in compliance and legal costs for licensees. Our members consider that ASIC's approach may also result in increased costs of PI insurance or an inability to obtain PI insurance. This would impact the entire financial services industry because all licensees are required to hold PI insurance.

Overall, the likely misuse of data outweighs any possible benefit to consumers.

### **There is useful data reported elsewhere that identifies licensees or their advisers**

Data about complaints brought against licensees pursuant to their external dispute resolution requirements is published by AFCA via its data cube. This information is helpful but not too granular and enables comparison between firms. Unlike with IDR and reportable situations data, consumers can filter the results to enable them to compare the number of complaints brought against different licensee types such as stockbrokers, for example.

Licensees have greater control over the number of complaints that proceed to AFCA compared to their number of IDR complaints and reportable situations, by ensuring that complaints are resolved at the IDR level and don't proceed to AFCA. This is a better service indicator for licensees, particularly as opportunistic, vexatious and unfounded complaints are less likely to proceed to AFCA.

Details about certain decisions made by the Financial Services and Credit Panel against a Financial Adviser appear on the Financial Adviser Register, as do ASIC banning orders. If a consumer wants to check the bona fides of their adviser, they can look up their details on the Financial Adviser Register. Licensees pay for data on the Financial Adviser Register to be uploaded and maintained.

### **ASIC's approach does not align with comparable overseas jurisdictions**

In the UK, the FCA publishes complaints data every six months. It provides firm-specific data for individual firms reporting 500 or more complaints within a six-month period, or firms reporting 1,000 or more complaints in a year. It provides aggregate market-level complaints data on over 3,000 regulated firms reporting one or more complaints. This data is not firm-specific. The FCA does not publish breach data for licensees.

### **ASIC's approach does not align with other Australian regulators**

Under the Notifiable Data Breaches scheme any organisation or agency the *Privacy Act 1988* covers must notify affected individuals and the Office of the Australian Information Commissioner (OAIC)

when a data breach is likely to result in serious harm to an individual whose personal information is involved.

The OAIC publishes a notifiable data breaches report every six months. It does not publish firm-specific data in that report.

We provide our specific feedback to the questions in the Response tables which are attached to this letter. Our specific feedback is in addition to and is to be read with the feedback provided above.

## Conclusion

If you require additional information or wish to discuss this submission in greater detail please do not hesitate to contact SIAA's policy manager, Michelle Huckel, using the contact details in the covering email.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JF' followed by a stylized 'x' or 'Gx'.

Judith Fox  
Chief Executive Officer

**B1Q1 We propose to publish data in an interactive dashboard that enables users to search and filter the data to obtain insights. Do you have any comments about the proposed format of the data publication, or any suggestions for the interactive dashboards?**

SIAA fundamentally opposes ASIC's approach to the publication of firm level IDR and reportable situations data that includes firms' names and licence numbers.

Using licensees' data to publicly name and shame them is a completely inappropriate use of data that licensees are required by law to report to ASIC.

SIAA does not consider that ASIC has the legislative authority to publicly name and shame licensees in this way as regards their reportable situations data.

ASIC is not required by the Corporations Act to publicly name and shame licensees in this way as regards their IDR data.

Any additional transparency that may be achieved by these measures is not worth the additional burden that will be imposed on licensees.

**SIAA has the following particular concerns:**

**1. Reporting at a licensee level is not consistent with the purpose of the breach reporting regime**

- The threshold question of the intended objective of this initiative has not been satisfactorily justified.
- The reportable situations regime is intended to facilitate ASIC's supervisory and enforcement role not publicly name and shame licensees.
- Publishing breach reports on a name and shame basis does not further the regulatory aims of the reportable situations regime.

**2. The law does not require ASIC to publicly name and shame licensees**

**3. Determining a breach is complex and breach data may not accurately reflect that as breach as in fact occurred**

- We are at a loss to understand how a consumer will be able to reach an informed view of what the reportable situations data actually means.
- The breach reporting provisions are complex and rely on licensees forming a view as to whether certain conduct falls within the reportable situations regime. Licensees may arrive at a different decision about whether a matter is reportable depending on the approach they take.
- The determination of whether an actual breach of the Corporations Act has occurred is often complex, and a reported breach is not necessarily an actual breach, notwithstanding best endeavours to make that determination before reporting it to ASIC.
- This can result in data containing details of reportable situations that are not a breach of the Corporations Act. While ASIC can make further investigation of these reports, the public cannot.
- This highlights why publishing licensee names against their breach report data is not actually providing information of value to consumers.
- Publication of the data could, in some circumstances, be prejudicial to the licensee, where it has not been objectively determined to be a breach.

**4. The reportable situations regime is still under review**

- Changes recently proposed by ASIC will not result in any useful reduction in the number of reports and reports of little intelligence value involving cost to licensees will continue to be lodged.
- These reports may misrepresent the adequacy of the compliance arrangements of the licensee. It is difficult for ASIC to argue therefore that publishing this type of data provides benefit to consumers. Naming and shaming licensees for reporting this data has even less value.

#### **5. Naming and shaming licensees acts as a disincentive to report breaches**

- In a public name and shame regime, licensees considering whether their obligations to report have been triggered will need to consider, as an additional matter, the reputational risk of details of the breach being publicly reported against their name. Firms may change the level of detail they provide in their reports as this reputational risk will disincentivise them from providing additional information. The quality and usefulness of reports to ASIC will decline.
- If a situation is a borderline case, the impact of a public name and shame regime will be that the licensee will not report it. This will provide a disincentive to good behaviour.
- This runs counter to ASIC's desire for open and transparent communication. It will also have a deleterious and significant impact on the compliance culture of licensees.

#### **6. Licensees will incur additional costs with no corresponding benefit to consumers**

- Public naming and shaming will result in licensees incurring increased legal and compliance costs as they will be more likely to seek legal advice to determine whether a breach or likely breach has occurred and must be reported in accordance with the reportable situations regime. Where currently a licensee may be comfortable in reporting a breach, under the new regime compliance staff will double check because of the risk of the breach becoming public. Licensees will go into self-protect mode.
- Publicly naming and shaming has the greatest impact on those who are complying with their reporting obligations and offers a powerful disincentive for them to do so.
- The outcome of a public name and shame regime is to punish licensees who comply with the law.

#### **7. Publication will result in the disclosure of licensees' sensitive information**

- Information about rectification, remediation and compensation including details about the provisions that may have been breached, estimated financial loss and the use of beneficial assumptions is commercially sensitive and confidential.
- It is inappropriate that such large amounts of internal and confidential licensee data is published against the licensee's name. It essentially discloses the internal operations of our members' businesses to the world at large.

#### **8. The data will be misunderstood by the public**

- It is obvious from the wording of the Consultation Paper that ASIC considers that the information that is publicly reported will be misunderstood by consumers. ASIC is already anticipating this. All the context in the world is not going to assist consumers understand the mass of data that ASIC proposes to publish.
- At its heart is the reportable situations regime which consumers are unlikely to understand, particularly licensees' obligations to report likely breaches. It is also highly unlikely that consumers will understand the core obligation provisions behind the breach or likely breach.

#### **9. The data does not allow consumers to make meaningful comparisons across firms**

- Firms with a positive complaints culture may record and report more complaints. This is also the case for reportable situations reporting data and makes it impossible for consumers to make meaningful comparisons across firms.
- Our members do not see any value in comparing their performance against others as the wide variety of business models between entities made any such comparisons largely meaningless.
- The reportable situations and IDR data does not contain a data set that is unique for our stockbroking member firms. Members who are Market and Clearing and Settlement Participants will have a higher number of breach reports than financial planning licensees as their businesses are very different.
- The data does not consider licensee size and/or market share. For example, a licensee with more clients is likely to have more complaints than a licensee with fewer clients.
- The IDR data does not reflect the entire ecosystem of advice providers. Licensees that provide advice to wholesale-only clients are not subject to the IDR provisions and are not required to report IDR data. This is another example where the data is not comparable across the different licensee types and does not provide a complete picture to consumers of licensees who provide financial advice.
- The proposed approach will disclose the reportable situations and IDR data of named licensee firms but not the names of licensees who are individuals. Again, this is not a level playing field. This approach may encourage some firms to change their business model.

#### **10. There is the potential for misuse of licensees' data by third parties**

- ASIC's proposed approach will significantly increase the risk of litigation against licensees as well as the incidence of opportunistic, vexatious and unfounded complaints.
- While it is unlikely that consumers will read or understand the detailed reportable situations and IDR data that names and shames licensees, scammers and class action lawyers are certain to do so.
- A combination of downloadable reportable situations and IDR data will enable third parties to create a list of licensees conducting remediation programs which will attract scammers and potentially transform our member firms into ATMs. Our members have no issues with clients lodging genuine complaints. However, our concern is that people will use the details in the data, including the amounts that have been paid to consumers in compensation to 'farm' complaints.

	<ul style="list-style-type: none"> <li>• One can easily see how AI could be used to generate fake complaints using the licensee identified data ASIC proposes to publish.</li> <li>• An increase in vexatious complaints will lead to an increase in compliance and legal costs for licensees. Our members consider that ASIC's approach may also result in increased costs of PI insurance or an inability to obtain PI insurance. This would impact the entire financial services industry because all licensees are required to hold PI insurance.</li> <li>• Overall, the likely misuse of data outweighs any possible benefit to consumers.</li> </ul> <p><b>11. There is useful data reported elsewhere that identifies licensees or their advisers</b></p> <p><b>12. ASIC's approach does not align with comparable overseas jurisdictions or with other Australian regulators</b></p>
<p><b>B2Q1 We propose to make some of the data available for download. Do you have any comments?</b></p>	<p>We do not consider that the information should be downloadable. We disagree fundamentally with the publication of firm level data.</p> <p>This data belongs to our members. They are required to provide it to ASIC under the Corporations Act. They do not wish their data to be made publicly available in the manner proposed by ASIC. SIAA does not believe that ASIC has the legislative authority to make reportable situations data publicly available in a way that identifies the data against the licensee.</p> <p>A combination of downloadable reportable situations and IDR data will enable third parties to create a list of licensees conducting remediation programs which will attract scammers and potentially transform our member firms into ATMs. Our members have no issues with clients lodging genuine complaints. However, our concern is that people will use the details in the data, including the amounts that have been paid to consumers in compensation to 'farm' complaints.</p>
<p><b>B3Q1 We propose to provide explanatory information to help users understand and interpret the data elements including a glossary, other contextual statements and descriptions of the scope of data publication. Do you have any comments about ASIC using explanatory notes and contextual statements to assist in the interpretation of the data elements?</b></p> <p><b>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?</b></p>	<p>The suggestion that explanatory notes and statements including glossaries, contextual statements and descriptions of the scope of data publication would be needed to help users understand and interpret data elements proves that the data will be misunderstood by the public for the reasons we have set out above. We don't consider that any explanatory notes or statements will assist consumers due to the complexity of the provisions. The recent Australian Law Reform Commission review of Chapter 7 of the Corporations Act noted that even lawyers and those in compliance roles can struggle to understand compliance obligations, due to the complexity of the law, so it is not feasible to expect that consumers can understand the provisions to make sense of the data, even with explanatory notes and statements.</p> <p>All the context in the world is not going to assist consumers understand the mass of data that ASIC proposes to publish.</p> <p>At its heart is the reportable situations regime which consumers are unlikely to understand, particularly licensees' obligations to report likely breaches. It is also highly unlikely that consumers will understand the core obligation provisions behind the breach or likely breach.</p> <p>SIAA's members firms will ultimately be required to pay for ASIC collecting and processing this additional data, including any explanatory information via the AISC industry funding levy.</p>

**B4Q1 ASIC may, in future, consider whether additional features could be implemented to support the use of the interactive dashboards and the interpretation of the data. 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.**

If ASIC wants to assist licensees to comply with the reportable situations regime, rather than share the data with the general public, a more sensible option would be for ASIC to make the data available to licensees on a confidential basis. The reportable situations regime is not simple. Firm level data would be invaluable to licensees to review.

SIAA strongly recommends that ASIC change its approach to make the data available to licensees rather than consumers, as this would facilitate compliance, which ASIC states is its goal.

Licensees are paying for ASIC to collect and process this additional data via the ASIC industry funding levy. We do not support ASIC adding any additional features or elements.

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

<b>Data element #</b>	<b>Data element</b>	<b>Do you have any comments on the proposed data element?</b>	<b>Are there any reasons why the data element should not be published?</b>	<b>Are there any specific contextual statements that may help users to interpret the data element?</b>
1.1 to 1.8	Licensee name, Licence type, Licence number, ABN, CAN, Licence to which the breach relates, who committed the breach, reports submitted on behalf of more than one related licensee	Yes	SIAA opposes ASIC's approach to the publication of firm level reportable situations data that identifies licensees for the reasons set out above.	No. See our comments above.

## General comments

ASIC is proposing publishing an overwhelming amount of our members' data but it is unclear what positive outcomes will be achieved. We consider that very few consumers will access the data and if they do, more will be confused than informed. Our members are deeply concerned about the level of detail that ASIC proposes to publish. Information such as the

provisions that may have been breached, estimated financial loss and the use of beneficial assumptions is both commercially sensitive and confidential.

Disclosing compensation amounts will result in an increased number of complaints as well as an increase in amounts claimed. Publishing this compensation and remediation data will create a 'how to manual' for making a complaint.

We have reviewed *ASIC Report 800: Insights from the reportable situations regime: July 2023 to June 2024*. We consider that this report contains helpful information for consumers, reporting as it does at a high level. We do not consider that the proposal of making large amounts of licensee data publicly available by way of a data dump will be useful for consumers or licensees.

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

Data element	Please provide detailed reasons why the data element should be published
	Licensees are paying for ASIC to collect and process this additional data via the ASIC industry funding levy. We do not support an increase in the amount of data published or any increased granularity in reporting.

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

Data element #	Data element	Do you have any comments on the proposed data element?	Are there any reasons the data element should not be published?	Are there any specific contextual statements that may help users to interpret the data element?
1.1 to 1.3	Financial firm name, type, licence number	Yes	SIAA opposes ASIC's approach to the publication of firm level IDR data that identifies licensees for the reasons set out above.	No.
2.1 to 2.4	Complainant type, gender, age and postcode	Yes	Our members do not consider that there is any value in publishing this level of data.	No

## General comments

The comments that we have made concerning ASIC's approach to reportable situations data is equally applicable to ASIC's proposals to publish our members' IDR data.

Publication of the dollar value of the monetary remedy provided will significantly increase the risk of litigation against licensees as well as the incidence of opportunistic, vexatious and unfounded complaints. It will enable third parties to create a list of licensees conducting remediation programs which will attract scammers and potentially transform our member firms into ATMs. People will use the details in the data, including the amounts that have been paid to consumers in compensation to 'farm' complaints. One can easily imagine a social media campaign calling on clients from named firms to contact them if they wish to make a complaint based on the data provided.

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