



FINANCIAL
SERVICES
COUNCIL

INTERNAL DISPUTE RESOLUTION

Addendum to Consultation Paper 311

Submission to ASIC

10 February 2021

About the Financial Services Council

The FSC is a leading peak body which sets mandatory Standards and develops policy for more than 100 member organisations in one of Australia's largest industry sectors, financial services.

Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advice licensees and licensed trustee companies. Our Supporting Members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses.

The financial services industry is responsible for investing \$3 trillion on behalf of more than 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange and is the fourth largest pool of managed funds in the world.

FSC Submission on CP311

Introduction

In summary, we note that:

- (a) Regulatory Guide 271 was released on 30 July 2020 (effective 5 October 2021).
- (b) In December 2020, Addendum to Consultation Paper 311 Internal Dispute Resolution: Update to RG 165 (**Addendum**) was released.

FSC Members are generally supportive of the intentions of RG271 and the IDR data reporting requirements. In this submission we raise issues of concern and make suggested changes to address these concerns, particularly to the draft data dictionary.

The following paragraphs set out our feedback in response to the specific questions posed in the Addendum:

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

FSC members appreciate the data elements have been reduced from 37 to 23. Members will need to undertake significant work to improve and upgrade systems in order to be able to capture the proposed data elements, particularly for frontline complaints that are resolved within 5 business days and do not undergo the formal IDR process (**Frontline Complaints**).

This will take significant time to implement and members are of the view that any reporting obligations should not commence until at least 12 months after the data dictionary has been finalised.

FSC members understand RG271 requires recording all complaints, including those resolved within 5 business days. However, members would appreciate confirmation those Frontline Complaints will also be required to be reported to ASIC under the IDR reporting requirements and data dictionary.

If Frontline Complaints are to be included, FSC members have real concerns about adverse customer outcomes and the time it will take frontline staff to record the complaint in line with the proposed data elements. This will take them away from servicing customers and is likely to lead to negative customer outcomes. FSC members propose that a simplified data reporting set be mandated for these Frontline Complaints. This simplified data set could include data elements 2, 3, 10, 11, 12, 18, 19, 21, 22 and 23. This proposal would balance the importance of complaints recording / reporting and ensuring the customer experience is not negatively impacted.

FSC members also understand that the data dictionary represents the 'first stage of ASIC's data collection program'. FSC members request that in the event of future changes to the data dictionary, that at least 12 months' notice is provided to allow member's adequate time to update their complaint systems.

Members provide the following feedback in relation to the data elements in the data dictionary:

Data Element Number	Data Element Name	Feedback
6	Aboriginal or Torres Strait Islander descent	FSC members do not collect this information. The Privacy Act confirms the collection of information regarding "racial or ethnic origin" is considered sensitive information which is to only be collected if it is "reasonably necessary, or directly related to, one or more of the entities functions or activities". In addition, the Australian Privacy Principle 3.2, confirms that where this information is not required, it can only be recorded with individual consent.

		<p>As this information does not meet the criteria of APP 3.2 outlined above, FSC members would require consent before recording this information. In addition, it could be seen to be offensive and discriminatory by some customers. It could also open members to discrimination claims by customers. It is for these reasons that FSC members do not believe this should be a data element.</p> <p>If this is a data element, most members have stated that their responses would be code 9 “unstated or unknown” in most cases for the reasons outlined above.</p>
9	Authorised representative or credit representative identifier number	FSC members note ASIC would already have this information and request this data element be deleted as it is an unnecessary burden.
10	Complaint status	<p>Description</p> <p>ASIC should clarify the description to this data element. The current description refers to the “status of the complaint at the time of reporting”. FSC members are of the view that data under this field should be the status of the complaint “at the end of the reporting period” to provide a definite time to report.</p> <p>Codes</p> <p>ASIC should delete codes 2 and 3 “Re-opened” and “withdrawn” as members do not use these categories to label complaint status. In addition, LRS 750 does not include reopened disputes and where possible RG 271 should align with LRS 750 reporting requirements. Once a final response to complaints is provided, complaints are generally not referred back to members by AFCA but rather progressed to case management as an AFCA dispute. If these are codes for this data elements, most members have indicated they will not be used.</p> <p>A withdrawn complaint is a complaint outcome rather than the status of a complaint. A complaint that has been withdrawn will ultimately have a closed status. FSC members understand the intention of ASIC to capture the number of withdrawn complaints, however it is suggested this may be better captured in data element 21. Please refer to our comments to data element 21.</p>

13	Date Re-opened	Please see our feedback in relation to data element 10 above.
14	Reason for re-opening	Please see our feedback in relation to data element 10 above.
15	AFCA Status	<p>Clarification is sought to the intention of this data element and the meaning of “<i>been, at AFCA</i>”. Is this intended to capture complaints that were made by a customer through AFCA, which AFCA has referred back to members to undergo the IDR process?</p> <p>FSC members are of the view that this data element is premature for IDR data reporting as any complaint being managed by members would not be a formal AFCA dispute until it progresses to case management. While a customer may have made the initial complaint through AFCA and an AFCA reference number is provided, AFCA is not directly involved in the IDR process between members and the customers. If this data element is required, most members have indicated their response would be “No” in all cases. FSC members are of the view this data element should be deleted.</p>
16	AFCA reference number	Please see our feedback in relation to data element 15 above. This data element should be deleted.
17	AFCA date	Please see our feedback in relation to data element 15 above. Further, the AFCA received date is not readily provided by AFCA and members would not know the date the complaint was received by AFCA. This data element should be deleted. Otherwise, like data element 5, there should be an option for members if the date is unknown (e.g. unknown code or by entering “01/01/1900”)
18	Product or service	<p>Complaints may relate to more than 1 product or service. For example, a complaint about a missed direct debit premium payment on one life insurance policy may cover 4 products – death, TPD, income protection and trauma. FSC members are of the view that up to 4 products or services should be able to be inputted under this data element.</p> <p>Registering a separate complaint for each product or service would be impractical and artificially inflate complaint numbers. It would also be an additional burden to members leading to a negative customer experience.</p>

		<p>Table 8</p> <p>The following changes should be made to table 8:</p> <ul style="list-style-type: none"> • CCI is not only an income protection product and members suggest CCI is also added to the 'non-income stream risk' section. • Change the category "Term Life" to "Death benefit" to make it consistent with the categories for superannuation. • Add "Terminal illness" as a category to make it consistent with the categories for superannuation.
19	Complaint issue	<p>Members suggest increasing the number of complaint issues that could be entered to 4 to align with the suggestion to increase data element 18 to 4 products / services.</p> <p>Table 13 does not capture complaint issues in relation to underwriting related complaints. Members recommend another category is introduced to the effect of "Underwriting terms".</p> <p>FSC members also prefer that categories 42 to 47 under Table 13 are deleted to simplify the categories and ensure consistency.</p>
20	Adviser number	<p>Please see our feedback in relation to data element 9 above.</p>
21	Outcome in whose favour	<p>FSC members request confirmation regarding the term "or in part". For example, a complaint may relate to a decision to decline a claim. The overall outcome of the complaint is to maintain the decline decision but provide an ex gratia payment for poor customer service or inconvenience caused. Is this outcome considered in part in favour of the customer? FSC members believe this would be so but would like confirmation to ensure consistency.</p> <p>As indicated in response to data element 10, members suggest a new "code 3 withdrawn" is created to capture those complaints that were withdrawn for whatever reason where codes 1 and 2 would not be appropriate.</p>
22	Amount of monetary compensation	<p>FSC members request confirmation that compensation relates to ex gratia and interest payments and excludes payments of an insurance benefit under a life insurance policy.</p>

Additional Data Element to capture Other Entity Joined.

FSC members note the proposed data dictionary does not capture the duplication of complaints where insurers and trustees are both responding to the same complaint. This could also artificially inflate the total number of complaints.

FSC members propose that additional data elements be added to capture any 'Other Entity Joined' ("yes" or "no") and if yes "Type of Entity Joined". These data elements could be used by insurers and trustees to record the name of the other party joined to the matter (if applicable). These should be conditional fields.

2. If your financial firm has multiple business units or brands under the one licence, would you prefer to report the complaints data separately or as one single file?

FSC members prefer submitting complaints as one single file.

3. 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?

FSC members prefer the use of multiple rows or columns where there are multiple issues and/or outcomes.

4. Do you support quarterly reporting of IDR data? If not, what are the additional costs of reporting data on a quarterly rather than half yearly basis?

FSC members support aligning the ASIC IDR reporting requirements to the APRA and AFCA reporting timetable for life insurers, which are every 6 months. This will provide a consistent approach and set of data.

While members may report internally on complaints, they would not report on all data elements and having to report on a quarterly basis would introduce additional costs to members.

5. Do you support the two proposed additional data elements that would capture consumer vulnerability flags and the channel via which the complaint was received? If not, why not?

FSC members do not support using demographic information to capture "consumer vulnerability" as this could be considered offensive and/or discriminatory by some customers.

While the definition of "consumer vulnerability" is often broad, it can often relate to disability or illness. FSC members note that any information about a member's health is classified as 'sensitive information' in the Privacy Act. FSC members would require consent from customers before recording "consumer vulnerabilities". Customers may not agree with this classification and find it offensive.

Assessing or identifying vulnerability may also be a subjective assessment and not a specific measurable data element. This may lead to inconsistent recording of customer vulnerability within and between organisations.

FSC members appreciate the importance of addressing customer vulnerability, but FSC members do not agree with the proposed data elements and refer to our feedback to question 1.

FSC members have no objection to capturing the channel via which the complaint was received.

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

FSC members suggest utilising AFCA's approach to categorising entities by size and sector as this would provide consistency. We note life insurers and superannuation trustees are categorised as:

- Very Large
- Large
- Medium
- Small
- Very small

7. Which IDR data elements do you think will be most useful for firms to benchmark their IDR performance against competitors?

In relation to life insurers, complaints per 100,000 lives insured is probably the best measure as it aligns with LRS750.

Generally, FSC members suggest that data elements 11 and 12 could be collectively used to measure timeliness when measuring a firm's IDR performance. This could be the average time taken to complaints or the proportion of complaints resolved within specific timeframes (e.g. 0-5 days, 5-30 days, 30-45 days, 45-90 days and 90+ days). Any comparison must strictly be between entities in the same industry and size category (see feedback to question 6 above).

FSC members understand that ASIC will be recording 'monetary outcomes' and 'favourableness of outcome'. However, members do not think these are useful benchmarking indicators and should not be published data elements. These data elements are subjective and dependent on the nature of complaint received.

Other Feedback

Circumstances where the business is being wound down

FSC members would like ASIC to consider their position on complaint data reporting requirements in respect of legacy complaints for AFSLs that no longer authorise representatives. Specifically, members would like to understand ASIC's appetite for relief against the reporting requirements given the costs involved in amending databases that do not currently cater to the new requirements and will be decommissioned once statute of limitation on making claims has expired.

Some banks have sold their wealth businesses while retaining responsibility for dealing with legacy complaints that are commonly lodged by consumers on average 4 to 5 years after the advice has been provided. There will be limited value to collect data that would provide insights and lessons to products and services that these banks will no longer provide.