



3 May 2019

Mr Michael Ridgway
Executive General Manager – Corporate Strategy and Services
Australian Financial Complaints Authority
GPO Box 3
Melbourne VIC 3001

Email: comparativereporting@afca.org.au

Dear Mr Ridgway,

Re: Consultation – Proposed AFCA arrangements for comparative reporting of complaint data

In brief:

AIST strongly believes that the public comparative reporting of complaint data is an important component of the financial services system. Accordingly, AIST has recommended that the public report contains additional data such as which sector generated complaints. AIST seeks a roundtable to discuss any draft of the public report including a suitable reporting model for extended services or groups. There should be a biennial review of the report.

AIST would like to thank AFCA for the opportunity to make this submission. We also appreciate the release of the consultation paper - *Proposed AFCA arrangements for comparative reporting of complaint data* (the Consultation Paper). It is vital that the reporting of complaint data assists with building confidence and trust in the financial services industry.

This submission covers:

1. Objectives underpinning analysis of complaints.
2. What the comparative reporting needs to contain
(this section addresses the first 3 questions raised within the Consultation Paper).
3. Possible uses for the comparative reporting data.

1. Objectives underpinning analysis of complaints

It is necessary to consider why an analysis of complaints is important before examining possible content of the public comparative complaint data report (public report).

Consultation Paper and AFCA's Rules

From these, AIST distills that the key objectives at system level are that the public report needs to be accessible, accountable, efficient, fair and effective. At consumer level, consumers need to

have confidence that their complaints are being properly dealt with and to identify whether complaint-handling across the industry is being improved. Also, consumers need to know which financial services organisations have been complained about, the ‘intensity’ of complaints against organisations be they large or small, and what the complaints are about.

Regulatory supervision and initiatives

The reporting requirements contained in Regulatory Guide 267 ***Oversight of the Australian Financial Complaints Authority*** (RG 267) add requirements which, while not directly affecting the public report, do pin point important matters which AIST believes should form part of the public report objectives. RG267 refers to AFCA needing to report certain contraventions to ASIC, APRA, or the ATO. AIST appreciates that such contraventions are referred to the regulators for investigating and understands that these do form part of the public report.

However, AIST strongly believes that the public report needs to contain data which may assist with identifying:

- The types of organisations which create the need for greater regulatory focus.
- The success or otherwise of legislative and regulatory initiatives – for example, have the new product design and distribution obligations (also known as target market assessments) given rise to a series of complaints.
- Trends and patterns of complaints which may highlight the need for reform.

AIST would appreciate an opportunity to discuss how this might work in practice.

The Final Report of the Financial Services Royal Commission highlights how the nature of complaints can drive investigatory focus. For example, Commissioner Hayne outlined the issues within the life insurance industries which received the Commission’s focus – and that this focus was consistent with the complaints made to the Commission.

2. What the comparative reporting needs to contain

The Consultation Paper proposes that the public report include the number of accepted complaints, complaint outcomes, a simple business metric for each financial firm (e.g. ‘very large’), high level product groupings (e.g. Superannuation, credit cards), and historical comparisons for financial firms – all on a 6-monthly basis. AIST agrees that the public report should contain these items, excepting the simple business metric for each financial firm which AIST believes needs amendment. AIST proposes an alternative method below.

However, additional information needs to be included in the public report to ensure it meets the objectives outlined above.

a) Data by sector

The public report should show the sector within which financial organisations operate. The categories APRA uses could be adopted – industry funds, retail funds, public sector funds, etc. This data is important from both a consumer perspective (what types of organisations behave in certain ways) as well as at system level.

b) Identifying conglomerates and related party structures

The Financial Services Royal Commission identified many instances where structural conflicts of interest adversely affected consumers. It is therefore important that the volume of complaints be at an individual firm level (e.g. a superannuation fund) as well as at a conglomerate level (e.g. a superannuation fund which forms part of a banking conglomerate).

c) Outsourcing

The superannuation system comprises many organizational linkages and outsourcing of services¹. Because of this, the public report should include data which identifies not only the financial organization against which the complaint has been made, but any outsourced provider of the service. AIST notes that the Trustee of superannuation fund remains ultimately responsible but believes nonetheless that this extended data or reporting should be included. AIST would be very willing to work with AFCA to develop a suitable reporting model for extended services or groups.

d) Business size and product metric

The Consultation Paper proposes reporting complaints against a simple metric, e.g. that the business is ‘very large, large, medium, small.’ AIST strongly believes that this simple metric will not paint a truly accountable or fair picture. It will not show – whatever the business size – the ‘intensity’ of the volume of complaints lodged against that business.

AIST proposes that as well as this simple metric that the public report includes the relative frequency of complaints by either the number of accounts held by the financial organisation or the number of superannuation members. Such an approach has been implemented by the Financial Conduct Authority in the UK since 2017. As one commentator² says, “Putting reportable complaints in context: Historically, the larger banks have always been at the top of the published

¹ Donald, S., Arnold, B., Bateman, H., Buckley, R. and Liu, K. (2013). *The implications of complexity for systemic risk in the superannuation system*. CLMR Research Paper Series Working Paper No. 13-3. [online] Sydney: Centre for Law, Markets and Regulation, University of New South Wales. Available at: <http://tinyurl.com/z77bk4q> [Accessed 30 April 2019].

² Changes to the Financial Conduct Authority’s published complaints data | BBA
<https://www.bba.org.uk/news/insight/changes-to-the-financial-conduct-authoritys-published-complaints-data/#.XMfuvOgzaUk>

complaints data, reflecting the fact that the banks with the most accounts, or who sold the most financial products, are likely to receive the most complaints. Instead of one 'total volume' figure, the revised data will now allow customers to see these figures in context, for example, how many complaints a firm receives per 1,000 current accounts or balances outstanding for loans. This will make it easier for customers to compare different institutions on an equal basis and will help banks better monitor and progress complaints handling."

AIST also recommends that the public report includes product type at a more granular level than is proposed within the Consultation Paper – for example, include product or service type (total and permanent invalidity; advice, death benefits, service). Such data may assist with identifying the effectiveness of regulatory intervention (e.g. products) or show how many disputes are family member rather than fund-related (e.g. death benefits).

e) Quantum

AIST recommends that the public report include the amount of redress paid. This is an important component of driving the public's confidence in the effectiveness of the complaints system. AIST notes that the FCA in the UK includes the quantum of redress paid on an organisation basis. We would appreciate an opportunity to discuss this further.

3. Possible uses for the comparative reporting data

AIST strongly believes that the recommended inclusions to the public report would aid AFCA, consumers, the regulators, and industry to better understand the causes of complaints, where regulatory attention needs to be directed, as well as potentially where regulatory reform is needed.

For example, AIST has consistently advocated that a more accountable method of raising supervisory levies from financial organisations would be based on the number of breaches as well as data from external dispute resolution processes.

AFCA's public report is a vital source of information, and we accordingly recommend that our suggested inclusions to the public report be made. We also recommend that a biennial review of the report should take place – with AFCA, regulators, consumer groups, and industry. We recommend that this is needed to be satisfied that the report is working well and that there are no unintended consequences.

AIST also would be very pleased to take part in further consultations, including a review of any draft form of the public report.

For further information regarding our submission, please contact Karen Volpato, Senior Policy Advisor on 0419127496 or at kvolpato@aist.asn.au .

Yours sincerely,



Eva Scheerlinck
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$1.3 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.