Article Information

Authors: Andrea Beatty, Chelsea Payne
Service: Banking & Finance
Sector: Financial Services

ASIC consults on new IDR processes

ASIC has requested public consultation on new standards for financial firms to handle consumer and small business complaints. The new standards will improve how complaints are handled and make a financial firms' complaints handling performance transparent.

Consultation Paper 311 Internal dispute resolution: update to RG 165 details proposed updates to IDR standards in Regulatory Guide 165 Licensing: Internal and external dispute resolution, as well as proposed framework for mandatory IDR data reporting by financial firms to ASIC.

RG 165 Update

A number of amendments to RG 165 have been proposed, with ASIC releasing a new draft guide and data dictionary. Changes to the Regulatory Guide include:

- expansion of the IDR requirements to cover superannuation trustees;[1]
- a new definition of 'complaint' based on AS/NZS 10002:2014, being 'an expression of dissatisfaction made to or about an organisation related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required'.[2] This expands the concept of a complaint to include expressions of dissatisfaction made 'to or about' an organisation, which ASIC believes will capture complaints on social media platforms;[3]
- reducing maximum timeframes for IDR responses to require a resolution no later than 30 days after receiving the complaint, unless a different timeframe applies (e.g. certain credit related complaints require a 21 day response);[4]
- strengthening the requirement that firms take a systemic focus to complaints handling, requiring boards and financial firm owners to set thresholds for and processes around identifying systemic issues that arise from consumer complaints;[5]
- modifying the definition of 'small business' under the Corporations Act to align with the AFCA definition;[6]
- new requirements surrounding complaints received, including the requirement to record all complaints received, even those resolved immediately;[7] and
- requirement to record prescribed data for each complaint received;[8]

IDR Data Reporting

ASIC intends to issue a legislative instrument detailing its IDR data reporting requirements. Under the new framework, all financial firms that are required to report IDR data to ASIC must:

- for each complaint received, report against a set of prescribed data variables, including a unique identifier and a summary of the complaint;
- provide IDR data reports to ASIC as unit record data;
- report to ASIC every 6 months following each reporting period; and
- lodge IDR data reports through the ASIC Portal.[9]

ASIC's Prior Research

The proposed standards stem from recent ASIC research into IDR policies, practices and procedures in Australia's five largest and most complex financial services institutions. The research, published in December 2018, found evidence of 'consumer fatigue' and IDR shortcomings, including:

- although 17% of people surveyed considered making a complaint in the previous 12 months, only 8% followed through;
- 18% of those who made a complaint dropped out or withdraw their complaint before it was concluded;
- the length of time taken to resolve the complaint significantly affected consumer satisfaction;
- one in seven complaints found it difficult to locate the financial firms' contact details;
- almost a quarter of complainants did not have the IDR process explained well at first contact and 27% were unsure how long a decision would take; and
- only 45% of complainants who received an unfavourable outcome received an explanation why the decision was made against them.[10]

Consultation on the proposed framework is open until 9 August 2019, with ASIC planning on releasing new standards by December 2019. A separate consultation on the publication of IDR data will commence in early 2020.

---

[1] ASIC, 'Draft Regulatory Guide 165: Internal Dispute Resolution' (**Draft RG 165**) (May 2019) https://download.asic.gov.au/media/5113680/attachment-1-to-cp311-published-15-may-2019-draft-updated-rg-165.pdf [165.1].

[2] Ibid [165.28 – 165.37].

[3] ASIC, 'Consultation Paper 311 Internal dispute resolution: Update to RG 165' (**CP 311**) (May 2019) https://download.asic.gov.au/media/5113692/cp311-published-15-may-2019.pdf [29].

[4] Draft RG 165, above n 1, [165.81].

[5] Ibid [165.129].

[6] CP 311, above n 3, [43].

[7] Draft RG 165, above n 1, [165.57].

[8] Ibid [165.62].

[9] CP 311, above n 3, [B6].

[10] Ibid [8].