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Dear Ms Reichstein

Response to APRA Claims Data Collection Project: FSC Discussion Document

The Financial Service Council (**FSC**) welcomes the opportunity to provide feedback on the Australian Prudential Regulation Authority (**APRA**) and the Australian Securities and Investments Commission (**ASIC**) claims data reporting process and we value our ongoing dialogue on this matter.

The FSC has over 100 members representing Australia's retail and wholesale funds management businesses, superannuation funds, life insurers, financial advisory networks and licensed trustee companies. The industry is responsible for investing more than \$2.7 trillion on behalf of 13 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 third largest pool of managed funds in the world. The FSC promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency.

The FSC and its members have serious concerns in relation to the scope of the matters outlined in the APRA discussion document.

We also attach a summary of global practices regarding regulation of claims data and a draft glossary of claims definitions.

Should you have any questions in relation to this submission, we would welcome the opportunity to discuss this further.

Kind Regards,

JESSE KRNCVIC
Policy Manager

Introduction

The FSC supports increased public transparency around claims acceptance, decline and withdrawal rates and claims dispute outcomes that will promote consumer trust. However, the FSC considers that some of the information being proposed in the APRA discussion paper goes beyond public expectations and what is realistically required by the regulators to inform the public adequately.

The proposed scope will materially increase the reporting obligations already faced by insurers, and without appropriate controls on confidentiality, create unreasonable impacts on their commercial and competitive positions.

Some of the suggested data fields are quite granular and include reserving, commission and expense elements derived from profitability. This information is already provided to APRA in response to the industry's general reporting obligations.

We understand that the process of collection from insurers will be iterative, but we note that the scope exceeds the direction outlined by Minister O'Dwyer that it would address "rates of declined, approved and withdrawn claims, timeframes for claims decisions and details of insurance-related disputes."¹ At best, the expanded scope currently being proposed by APRA is tangentially related to the direction highlighted by the Minister and regulators in October 2016.

It would be helpful for APRA to provide the FSC with a clear statement of the objective and use of the data.

Any publication of data needs to be accompanied by appropriate education, including suitable warnings and the limitations of drawing a meaningful conclusion purely based on figures alone, as to the significance of any material that is published. Notwithstanding issues of comparability, the fact that one insurer has a high claims experience in one year does not have any bearing on the experience another consumer will have with that insurer. For example, an insurer may be particularly exposed to a unique event. It is important to acknowledge that insurers should not be seen to be 'doing the wrong thing' by appropriately denying claims. What is important is that the decisions to accept or deny claims are sound and the claims data sought by APRA offers guidance and clarity to consumers on that issue.

Challenges and lessons learnt from other jurisdictions

While the FSC members are supportive of giving consumers more meaningful information around claims decline and withdrawal rates and disputes, we would like to work with APRA and ASIC to ensure this information is reported in a way that builds confidence in the importance of life insurance across the community.

The FSC and its members seek an accurate comparison of claims data between the industry members. Feedback obtained through global FSC member networks indicate that the data collection proposed by APRA goes far beyond what is being collected in other jurisdictions.

¹ Media Release - Release of ASIC report on claims handling in life insurance industry - Hon Kelly O'Dwyer, Minister for Revenue and Financial Services – 12 October 2016

Differences between portfolios include product lines, business mix, policy tenures between open and closed books, shorter or longer waiting periods, as well as personal and demographic characteristics such as age, gender and occupations. Factors such as these, make a like-for-like comparison challenging and will dilute any objective interpretation for the reader. Indeed, this is consistent with ASIC Deputy Chair Peter Kell's recent comments that any data to be provided by the industry must be comparable so that consumers can be accurately informed.²

Accordingly, the FSC asks that no data is published until its members are confident that the products and underlying statistics are comparable.

Current APRA obligations

APRA noted in their Claims Data Collection: FSC Discussion Document that "Phase 2 is likely to be a formal, legally-enforceable collection by APRA, similar to other data collection exercises undertaken by APRA."³ While the FSC members are supportive of the public disclosure of claims paid and met, they have serious concerns in relation to the current scope and type of data APRA is seeking. It is the view of the FSC and its members that if this data is publicly distributed, it may impact the stability and commercial operation of the life insurance sector.

General overview of FSC concerns with the suggested APRA data fields

When announcing the release of ASIC's report 498 on claims handling practices in the life insurance industry the Minister for Revenue and Financial Services, the Hon Kelly O'Dwyer MP, noted in October 2016 that APRA and ASIC would work to "*collect and publish data provided by insurers on an ongoing basis, showing rates of declined, approved and withdrawn claims, timeframes for claims decisions and details of insurance-related disputes. This data will be available to consumers for the first time at the individual product and distribution channel levels, providing a means for consumers to assess the claims performance of the life insurance sector.*"⁴

The FSC is concerned that the scope of some of the data put forward in the APRA proposal well exceeds the direction outlined by the Minister and has stretched to insurer performance and profitability monitoring. It is not clear why this information is relevant, necessary or appropriate to request for the purposes of collecting and publishing claims data.

Examples of some of the information sought by APRA that raise concerns with the FSC's members are listed below. This list is not exhaustive but provides a flavour for the categories of information that appear to fall outside the ambit of ASIC's and the Hon Kelly O'Dwyer's foreshadowed framework:

- Information regarding annual in force premiums and sums insured across products and channels etc. (paragraphs 8 and 9 of Section B) are unnecessary to assess claims

² Speech – ASIC Deputy Chair, Peter Kell's speech to Money Management Claims Handling Breakfast, Page.5<http://download.asic.gov.au/media/4186560/peter-kell-speech-to-money-management-claims-handling-breakfast-16-march-2017.pdf>

³ APRA Claims Data Collection: FSC Discussion Document

⁴ Media Release - Release of ASIC report on claims handling in life insurance industry - Hon Kelly O'Dwyer, Minister for Revenue and Financial Services – 12 October 2016

performance across the life insurance sector and would be commercially sensitive information;

- Information regarding claims reserves, premium reserves, commission expenses (which include acquisition and renewal commission payments and expense and changes to deferred acquisition costs), profit share, etc. (paragraph 11 of Section B). This information is commercially sensitive and would not assist clear and concise information dissemination to consumers. Rather it has the capacity to cloud the real issues which are important and relevant to the end consumer;
- The outstanding claims reserve split between incurred but not reported (IBNR) and reported but not admitted (RBNA) (paragraph 6 of Section C). This information has very little relevance to the Minister's original remit of claims handling information and it is difficult to see how this information would be of interest to the end consumer. This information uses judgment to estimate timing differences over large time frames which means that the data becomes very volatile with revisions likely to create volatility in the claims ratios for reasons other than the companies approach to claims management.

Further clarity needed around the objective and use of the data

It is difficult for the FSC to provide detailed comment on the APRA discussion paper until it clearly understands APRA's intentions in relation to the publication of the collected data. That is, the FSC would like to better understand the format and scope of the data that APRA intends to release to consumers and the information that will not be publicly disclosed. If APRA intends to publicly release all the data that is proposed to be collected by the discussion paper, the FSC requests an opportunity to confer with APRA so that it can better understand the policy position that underpins such a decision.

The FSC currently understands that, as discussed in ASIC Report 498, the publication of this data is intended to provide transparent disclosure to consumers. The concern of the FSC and its members is that any data provided to consumers is clear, concise and effective. The industry is very cognisant of the public criticism around the use of industry jargon and complexity. The publication of simple, easy to understand and clear data must be the desired outcome of this process.

Accordingly, clarification is sought as to whether the data sought by the APRA discussion paper is for its own prudential purposes or whether this data will be made publicly available.

Comparability of products

It is also critical that the data disclosed to consumers compares 'like for like' products. For example, the generic publication of decline rates for TPD products may not provide a consumer with an accurate comparison. TPD products vary between insurers, with some insurers aiming their products at different market segments and with different policy terms and conditions. Therefore a comparison between the decline rates of different insurers will not be an accurate reflection of those life insurer's performance even where common definitions of 'claim' and 'decline' are adopted.

Accordingly, publicly available data should be grouping comparable products to provide consumers with the proper guidance in their consideration of life insurance products. Failure to achieve a 'like for like' standard of reporting will distort the market to consumer detriment and not deliver the consumer benefits intended.

Granularity of data

The claims data sought by the APRA discussion paper is extremely granular across numbers of claims over a given period, sums insured and claims paid. It is likely that many consumers would struggle to understand the volume of data across all insurers in the Australian market if it is expressed in such terms and will likely create complexity and confusion to the consumer rather than simplification, which we believe is the intent. Given the impost on industry to gather and report this level of information, the opportunity cost of the data request burden will move resources away from insurer initiatives that will benefit consumers.

If the purpose of the publication of this data is to provide consumers with a clear guide to differentiate the conduct and practices of life insurers, the publication of this level of detailed data may miss the mark.

Commercial and competition impact of APRA claims reporting obligations

The FSC would suggest APRA review their request through the lens of commercial sensitivity as FSC members have significant concerns. As noted above, the data includes details of profit share, reserves and IBNRs for certain categories. The FSC is concerned that the determination of a value indicator has the potential to lead to industry and consumer harm. Any such indicator, based only on claims, will be wide open to misinterpretation with very different results depending on product, cover and distribution channel. In addition, financial data such as reserving is inherently commercially sensitive and publication would provide insurers with details of their competitor's approach to reserving and financial reporting and vice versa.

Matters such as reserving or assessing IBNRs are generally complex financial matters and will not be understood except by those with a financial background and either experience in, or a deep understanding of, the insurance industry. Moreover, insurers adopt different approaches to reserving and other forms of financial reporting such that this data is unlikely to be consistent between insurers and will not provide an accurate basis for comparison.

While APRA may have a legitimate interest in seeking such data for the purpose of prudential supervision and regulation of insurers, the FSC does not consider that it is appropriate for APRA to publicly release this data. Further, the public release of this data is unlikely to enhance consumer understanding of the insurance market. The FSC is very concerned that such data will confuse and mislead consumers or at the very least obfuscate the matters which are of importance to them.

It is the FSC's position that this information should not be collected in the context of providing publicly available statistics to the public and that if this information were to be made publicly available it would have serious commercial and financial implications on the sector.

Timing

Discussions between the FSC members on the data requested by APRA has flagged the differences across the industry in data collection. There is no one set of definitions that all insurers track in the same way. Accordingly, it is certain that all insurers will, to a greater or lesser extent, be forced to spend significant time and resources on revisions to their systems to produce the data in a consistent fashion. Indeed, ASIC Report 498 notes that publication of claims data by the Association of British Insurers required standardisation of definitions across all insurers to provide a meaningful comparison.

Accordingly, it is considered reasonable that, if it is intended that claims data be published, APRA confirm that no claims data will be published until phase 2 and until consistency has been achieved to allow insurers reasonable time to update their systems and for APRA to analyse the data to be satisfied that it offers a reasonable basis for comparison.

The FSC would suggest a broader consultation with industry occurs after phase 1 to refine the claims data collection further.

Conclusion

The FSC is supportive of providing meaningful statistical data to the general public in relation to claims handling. Further, the FSC recommends that its members continue to work with APRA and ASIC in defining the claims reporting framework, which is limited to product and claims data as originally sought by ASIC in approximately March-May 2016. This data included claims acceptances, declines, withdrawals and duration and dispute outcomes. However, information such as reserving, profits, commissions and other expenses must remain outside the ambit of the published data.

It is clear that there is public and political appetite for the publication of data surrounding claims handling. It is also clear that a long implementation date for the provision of this information is not optimal for either audience.

Therefore it is the FSC's submission that APRA consider narrowing the scope and complexity of the data being collected so that life insurers can more easily provide this information to APRA within a reasonable period of time. The refinement of the data and further iterations of how APRA would like to disseminate this information can follow over an extended period of time.