

Regulation Impact Statement

Claims and Disputes Reporting Requirements for Life Insurers

(OBPR ID: 2018/23799)

Introduction

1. This Regulation Impact Statement (RIS) has been prepared by the Australian Prudential Regulation Authority (APRA). Its purpose is to assist APRA, in consultation with the Australian Securities and Investments Commission (ASIC), in making a decision on the implementation of proposed new reporting requirements for life insurers to report information regarding claims and disputes data to APRA. The proposals would require life insurers, regulated under the *Life Insurance Act 1995* (Life Act), to report information on life insurance claims and disputes data twice a year, covering six-month reporting periods.
 - APRA has prepared a standard-form RIS as the Office of Best Practice Regulation (OBPR) considers that the proposals are likely to have more than minor regulatory impacts.¹ The issues addressed in this RIS were considered as part of APRA's decision making process relating to these measures. This RIS follows a Preliminary Assessment (PA) submitted to OBPR on 3 May 2018 and a draft RIS for first pass consideration submitted to OBPR on 30 August 2018, and takes into account the OBPR's subsequent feedback. The RIS has been prepared in accordance with the *Australian Government Guide to Regulation* and relevant guidance notes.
2. The issues raised in this RIS were considered by APRA and ASIC at each major decision point. The need for regulatory action, proposed solution, industry feedback, estimates of regulatory burden and alternative options were considered by APRA and ASIC throughout the development and consultation process.

¹ Email from OBPR to APRA dated 8 May 2018.

Background

APRA's supervisory framework

3. APRA's mandate is to ensure the safety and soundness of APRA-regulated institutions so that they can in all reasonable circumstances meet their financial promises to depositors, policyholders and fund members within a stable, efficient and competitive financial system. APRA carries out this mandate through a multi-layered prudential framework that encompasses authorisation and supervision of institutions. Under the Life Act, APRA issues legally binding prudential standards that set out specific requirements with which life insurers must comply. APRA also publishes prudential practice guides (PPGs), which clarify APRA's expectations with regard to prudential matters.
4. A key component of delivering APRA's mandate is the use of data analysis for identification of key entity risks and for analysis of broader industry trends. APRA currently collects data from life insurers on areas such as financial strength, performance and operations. The analysis of this data helps to inform APRA's assessment of a regulated entity's financial position and emerging trends or potential issues that should be monitored or followed up with the entity. These are critical inputs into APRA's supervisory assessment and supervisory action plans. The depth of financial analysis and areas to be reviewed depend on the nature and operations of the regulated entity, its size, complexity and risk profile. Appropriate supervisory actions are taken where a deterioration in financial performance or stability becomes evident.

APRA's reporting framework

5. APRA is empowered under section 13 of the *Financial Sector (Collection of Data) Act 2001* (FSCODA) to require financial sector entities to provide information to APRA. Under FSCODA, APRA may determine reporting standards that require life insurers and other regulated institutions to provide information about their businesses and activities. These powers assist APRA in the prudential regulation of the financial sector and enable APRA to share data with other government bodies, such as ASIC, in accordance with the *Australian Prudential Regulation Authority Act 1998* and the Memorandum of Understanding that exists between the two agencies. It is an offence

for a life insurer to breach a reporting standard, and life insurers typically apply robust governance procedures to ensure compliance.

APRA's current data collections on life insurance

6. APRA's existing data collection and publications include a significant amount of insurer-specific and industry-aggregate data. APRA's life insurance data collection has been primarily developed for the purposes of supporting APRA's prudential supervision of life insurers. Some of the key features of APRA's current data collection include, but are not limited to, information on the value of premiums, policy revenue and expenses, and basic claims statistics. APRA also collects insurance information from superannuation funds. More information can be found in APRA's May 2017 Discussion Paper.²

Policy problem and need for intervention

Importance of reliable information on claims and disputes in life claims

7. Life insurance is an important financial product that helps support consumers and their families in times of need. For consumers, the intrinsic value of an insurance product is in the ability to make a successful claim when an insured event occurs. Not being able to successfully claim on a life insurance policy can be financially distressing for consumers, so it is important that the industry operates in a way that is fair and transparent. The financial system, of which life insurance is a key part, plays a crucial role in the wellbeing of Australian households and businesses, so it is critical that financial service providers operate at the highest standards and meet their legal obligations as well as community expectations.
8. In recent years concerns have emerged about the misconduct of financial institutions and about whether there are systemic issues within the Australian financial system that are not being adequately addressed through the existing regulatory framework. A key issue that has emerged is the alleged mishandling of insurance claims.

² APRA Discussion Paper 'Towards a transparent public reporting regime for life insurance claims information', May 2017

9. In 2016, ASIC conducted a thematic review to identify any systemic concerns with claims handling across the life insurance industry³. While significant shortcomings were identified in a number of areas of claims handling, a key finding was that “there is a clear need for better quality, more consistent and more transparent data about insurance claims”⁴ at an industry and individual insurer level. In particular, ASIC found that the current data limitations mean that:
- it is difficult to compare and assess declined claim rates and other key measures of claims performance across insurers;
 - it is more difficult for insurers, including boards and senior management, to assess the performance of their own claims handling and claims outcomes; and
 - it is very difficult for consumers and other stakeholders to assess the claims outcomes and performance of the life insurance sector, including trends over time, and this undermines insurer accountability and consumer trust.
10. Given growing community concern over the handling and payment of claims across the life insurance industry, the limited information available to better assess and understand the effectiveness and performance of insurance products, and the issues with data provided to ASIC by insurers, the report recommended the establishment of a consistent public reporting regime for claims data and claims outcomes, including claims handling timeframes and dispute levels across all policy types. Claims handling issues have been raised as a concern in the 2018 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, reinforcing the need for this data.
11. An ongoing public reporting regime is critical to allow APRA and ASIC (the agencies) to identify trends and issues in a timely way with a product, an insurer, a distribution channel or the industry as a whole. For insurers, it will provide important insights into portfolio experience, support and facilitate the enhancement of claims handling

³ ASIC REP 498 ‘Life insurance claims: An industry review’

⁴ Ibid.

procedures, as well as provide a basis for assessing product suitability – ensuring products remain fit for purpose and are beneficial to consumers. For consumers, the data published will contain various statistics on the different insurance products, which can be used to assist them to make informed purchasing decisions; and to increase consumer understanding of the products more broadly.

12. APRA’s current life insurance data collection has been primarily developed for the purposes of supporting APRA’s prudential supervision of life insurers – that is, information relating to the prudential standing of a life insurer – and it does not include data that can help to fully understand the claims processes of insurers or the way insurers handle disputes, in order to identify issues early.
13. Other data collection in this area includes that of the Code Compliance Committee (CCC), which is an independent body responsible for the monitoring and enforcement of the voluntary industry Life Insurance Code of Practice. The CCC currently collects and publishes aggregated industry data for the primary purpose of assessing code compliance by subscribing life insurers. There remain significant gaps as only those who subscribe to the Code of Practice fall within scope of this exercise, and the mechanism is discretionary – meaning the CCC is responsible for determining what information to collect and publish.
14. There is currently no ongoing public reporting regime for life claims and disputes data. Consumers and other stakeholders cannot readily compare the claims performance of different insurers. This lack of transparency has given rise to a lack of confidence in the integrity of the claims assessment process and by extension the industry as a whole.
15. Accordingly, there is a need for industry wide, timely provision of data that is credible, reliable, comparable and of a standard that can be published at both an industry-aggregate and entity level.

Policy options and comparative net benefit

16. Commencing in May 2017, the agencies undertook a joint initiative to collect and publicly report on life insurance claims and disputes data.

17. The agencies adopted a two phase approach to this work: the first involved collecting three rounds of data in a pilot process to establish an effective and consistent collection approach (pilot data phase), with the second being the ongoing collection and publication of credible, reliable and comparable data (ongoing reporting phase).
18. The agencies' objectives in both phases of this project are to:
 - improve accountability and performance of life insurers; and
 - facilitate an informed public discussion about the performance of the life insurance industry.
19. The aim, and criteria for success, is to achieve these objectives through publication of credible, reliable and comparable data. The agencies' intention is for this data to be regularly published on an entity-level basis, at a sufficient level of granularity to allow for meaningful comparisons of insurer performance and with sufficient context to effectively inform consumers and other stakeholders.
20. The pilot data phase commenced in May 2017. It contained three rounds of voluntary data collection of claims and disputes data. Data was collected from approximately 20 insurers. Over the course of three data collections, the definitions used, the scope of data collected and the collection template were incrementally improved.
21. The agencies consulted with industry during each round of pilot data collection, and considered and acted on feedback received throughout the process. This approach has enabled insurers to amend their systems and practices to meet the needs of the data collection and reporting process.⁵
22. Two data publications were issued during the pilot data collection, in order that the results could be shared with the public.⁶

⁵ More details of the consultation process can be found in the Consultation section of this RIS.

⁶ APRA Information Paper 'Update on steps to implement a public reporting regime for life insurance claims information', November 2017' and APRA Response Paper: 'Response to submissions: Life insurance – public reporting of claims information – update on progress' May 2018

23. The agencies have consequently considered the following three options for reform which, with the exception of Option 3 (the status quo), will impact approximately 20 out of the 41 currently registered life insurers and friendly societies. This coverage includes all insurers that offer business of the sort that is in scope for the collection. Insurers that do not offer business that gives rise to the issues noted in this RIS are not in scope.

Option 1: Voluntary collection and reporting of claims and disputes data

24. APRA would request life insurers to voluntarily provide claims and disputes data on a 'best endeavours' basis.

Option 2: Formal collection and reporting of claims and disputes data

25. APRA would compel insurers to provide claims and disputes data under a reporting standard, issued under FSCODA.

Option 3: Status quo - No collection of claims and disputes data

26. APRA would not collect claims and disputes data from life insurers.

What is the likely net benefit of each option?

Net benefit of Option 1 - Voluntary collection and reporting of claims and disputes data

27. Under this option, data would be submitted to APRA on a 'best endeavours' basis, utilising the reporting template which was created as part of the pilot data collection phase.
28. While the pilot data collection has been a useful process for understanding the limitations of the data, ongoing voluntary data provision runs the risk of part of the industry failing to provide data. This would undermine the credibility and reliability of the data set and potentially disadvantage those insurers that do provide data relative to others.
29. This option would only partially resolve the policy problem. A voluntary framework for the reporting and publication of claims and disputes information would not have controls to ensure that data being provided is of sufficient quality to rectify the data limitations identified in ASIC's report. As the data would not be subject to the reporting requirements of the FSCODA, it could be of varying quality, timeliness and usability.

Overall, this option would fall short of addressing the policy problem and need for intervention.

30. A summary of the regulatory costs are below.

Average annual regulatory costs (from business as usual)				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	0.9	-	-	0.9

Net benefit of Option 2— Formal collection and reporting of claims and disputes data

31. Under this option, APRA would compel insurers to provide the data under a reporting standard, issued under the FSCODA. This option would, like Option 1, use the data collection template developed in the pilot data collection. The key point of difference from Option 1 is that it would involve APRA making a formal reporting standard under FSCODA. This would help ensure the collection of consistent, reliable data.
32. As delegated legislation, the reporting standard would impose reporting requirements on affected life insurers. APRA would monitor ongoing compliance with the reporting standard and the balance of the reporting framework as a part of its supervisory activities. APRA has a range of remedial powers available under FSCODA for non-compliance with the reporting standard including: the requirement for entities to report to APRA that a failure has occurred and the issuing of directions to the entities for compliance with their obligations (a breach of these requirements within the prescribed timeframes is a criminal offence which may attract daily penalties).
33. This resolves the critical short comings of a voluntary collection, such as that contemplated in Option 1, in that there are no controls or remedies available if the data being provided is of poor quality; and that there is also no legal obligation on industry to provide data to APRA – creating a risk that the industry will cease providing data – resulting in the policy problem remaining unresolved.

34. Option 2 is the approach APRA proposed in its May 2017 Discussion Paper, November 2017 Information Paper and May 2018 Response Paper⁷ and meets the required criteria for effective data provision and reporting as outlined in the previous section.
35. The policy problem and need for intervention would be adequately addressed as this option would meet the agencies' needs for high quality data on claims and disputes. The implementation of this option would see a strengthened framework for the reporting and publication of claims and disputes information due to its mandatory nature and stricter reporting requirements – providing sufficient controls to ensure that data being provided rectifies the data limitations outlined in ASIC's report.
36. The regulatory costs of this option are not expected to be significantly different to Option 1, the principle difference being that reporting standards impose enforceable obligations on affected life insurers.
37. Adopting this option would require life insurers to make minimal modifications to information systems because it would simply formalise the existing claims and disputes data collection.
38. A summary of the regulatory costs are below.

Average annual regulatory costs (from business as usual)				
Change in costs (\$ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	1.2	-	-	1.2

Net benefit of Option 3— Status quo - no collection of claims and disputes data

39. Under this option, data, either voluntary or mandatory, would not be submitted to APRA. There would be no additional requirements imposed on industry.

⁷ See consultation section in this RIS for more details.

40. While some other organisations collect data on disputes, there is no comprehensive data collection and that data is not readily available to the agencies.
41. The policy problem and need for intervention would remain. There would be no mechanism to address the data limitations outlined in ASIC's report. Ceasing the collection of claims and disputes data from the life insurance industry would leave consumers and other stakeholders in the current position that data is poor and unreliable. The agencies would not have the benefit of access to consistent reliable data to inform their regulatory activities.
42. There are no expected regulatory costs for this option as there will be no requirements placed on industry.

Consultation

43. The agencies have developed the proposals and preferred option - Formal collection and reporting of claims and disputes data - through extensive consultation with life insurers, consumer representatives, service providers and the Financial Services Council (FSC). Informal consultation between the agencies, and with the FSC, has been ongoing with regular meetings at senior levels. Formal consultation has taken place through the issue of a number of papers: the May 2017 Discussion Paper, the November 2017 Information Paper and the May 2018 Response Paper.

May 2017 – Discussion Paper

44. APRA's formal public consultation on a new reporting standard commenced in May 2017, with the release of a consultation discussion paper setting out the two phases of data collection: pilot and ongoing. The aim of this consultation was to obtain feedback on all aspects of the proposed data collection from interested stakeholders. The formal consultation package reflected Option 2. APRA issued a media release⁸ and sent an email to subscribers to its email alert service and to representatives from each life insurer. Written submissions were invited by 11 August 2017.

⁸ <https://www.apra.gov.au/media-centre/media-releases/launch-pilot-data-collection-life-insurance-claims>

45. APRA requested that respondents provide an assessment of the impact of the proposed changes and, specifically, the compliance costs life insurers are likely to face. Respondents were also requested to indicate whether there were any other aspects of the data collection template or definitions that should be improved or removed to reduce compliance costs.
46. APRA also requested feedback on the ability of life insurers' data systems to align to the concepts and definitions in the proposed data requirements. APRA sought suggestions for changes to definitions that will improve data quality and reduce reporting burden.
47. APRA received nine submissions in response to the May 2017 Discussion Paper.⁹ No submissions objected to the proposal, and no respondents provided estimates of costs as requested by APRA.

November 2017 – Information Paper

48. In November 2017, APRA released an Information Paper which: provided an update on progress and next steps. It launched the second round of the pilot data collection, with refinements made to the data template and definitions and provided feedback to insurers and other stakeholders regarding common data quality issues observed in round one of the pilot data collection, to support improvements for subsequent collections. Consistent with the intent outlined in the May 2017 Discussion Paper, it provided key initial industry aggregate results from round one of the pilot data collection to contribute to informed public debate.

May 2018 – Response Paper

49. APRA considered the feedback received and responded with a second formal consultation package, the Response Paper released in May 2018, which also reflected a refined version of Option 2. The Response Paper also provided an update on the second round of the pilot data collection and published aggregate data; consulted on the approach that the agencies proposed to take to the ongoing reporting phase, after

⁹ Non-confidential submissions are published at <https://www.apra.gov.au/life-claims-data-collection>

completion of the pilot data collection; and sought further feedback from stakeholders. Some of the key issues addressed in response to submissions, included: the collection scope of data items; the collection method; the scope and design of publication; and alternative approaches to data collection.

50. APRA issued a media release¹⁰ and sent an email to subscribers to its email alert service and to representatives from each life insurer.
51. The Response Paper also detailed the approach the agencies propose to take to the ongoing reporting phase, after the completion of the pilot data collection. Reflecting Option 2, it contained an outline of the proposed reporting standard, including details on the purpose, application, commencement, information required, forms and method of submission, reporting periods and due dates, quality control, authorisation and timeframes. Written submissions from stakeholders were invited by 5 July 2018.
52. APRA received a total of seven submissions (three of which were confidential) from industry, consumer bodies, and legal practitioners, in response to the May 2018 Response Paper. Submissions were broadly supportive of the formal collection and reporting of claims and disputes data – in particular the content of the reporting template and instructions, the publication principles, the provision of educational materials, and APRA’s intention to determine the data collected as non-confidential.
53. Given the complexities and product differences, the importance of providing sufficient context was emphasised in order to effectively meet the principles, and minor refinements to the data tables and data items were also suggested to better facilitate meaningful comparisons. These submissions will be further considered by APRA and ASIC as the final publication is being developed ahead of its intended release early in 2019.

¹⁰ <https://www.apra.gov.au/media-centre/media-releases/apra-and-asic-release-new-life-claims-data>

Conclusion and recommended option

54. The following table provides a summary of the costs and benefits of each option against the key criteria discussed in this RIS.

	Option 1: <i>Voluntary collection and reporting of claims and disputes data</i>	Option 2: <i>Formal collection and reporting of claims and disputes data</i>	Option 3: <i>No collection of claims and disputes data</i>
Average annual regulatory cost (\$ million)	0.9	1.2	N/A
Assessment against criteria	Does not meet criteria	Meets criteria	Does not meet criteria
Quality data	Mostly meets criteria.	Meets this criteria. The agencies' data needs would be met through the determining of a reporting standard	Does not meet criteria
Overall	Potential net benefit	Positive net benefit	No net benefit

55. The agencies consider Option 2 to be the preferred option to deliver better quality, more consistent and more transparent data about life insurance claims as it delivers the highest net benefit. This option is preferred to Option 1 as while the regulatory costs are not significantly different it has the additional benefit of a strengthened framework for the reporting and publication of claims and disputes information.

56. In addition, Option 2 would create certainty about the on-going nature of the data reporting and collection, allowing life insurers to streamline their internal reporting processes; and would ensure the whole industry continues to provide data. This resolves the concern that parts of the industry would not provide data under Option 1, undermining the reliability of the data set and potentially disadvantaging those insurers that do provide data relative to others.

57. Option 3 is not acceptable to the agencies as it does not address the data limitations outlined in ASIC's report and highlighted again in the 2018 Royal Commission.

Implementation and review

58. APRA will give effect to the proposed reporting requirements by determining a reporting standard under the FSCODA.
59. The reporting standard will apply from the date of its registration on the Federal Register of Legislative Instruments. It is expected that this will occur by the end of 2018.
60. APRA will be available to engage with life insurers to ensure that they understand the new reporting requirements, and to provide guidance through the process if necessary.
61. APRA regularly reviews its prudential and reporting framework as part of APRA's policy development process. Such reviews would consider whether the requirements continue to reflect good practice or impose undue regulatory burden. APRA will also take action within a shorter timeframe where there is a demonstrable need to amend a reporting requirement. Such a need could be identified through APRA's ongoing engagement with life insurers as part of its supervisory activity, regular stakeholder surveys, or internally within APRA.
62. APRA and ASIC will monitor the effectiveness of the publications made using the data collected and will also monitor the quality of data provided. The extent to which the publication successfully addresses the policy problem will be assessed through that process, taking into account the views of stakeholders and users of the data. This will include assessment of whether the publication is assisting users of the data, including consumers, to make more informed decisions. If enhancements are identified as a result of that monitoring, APRA will consider and consult on changes to the Reporting Standard or the publication.
63. As legislative instruments, reporting standards are subject to sun-setting requirements after 10 years.

Regulatory offset

64. A regulatory offset has not been identified. However, APRA is seeking to pursue net reductions in compliance costs and will work with affected stakeholders and across Government to identify regulatory burden reductions where appropriate.