

## EXPLANATORY STATEMENT

### General Insurance Supervisory Levy Imposition Determination 2013

This determination relates to a levy imposed by the *General Insurance Supervisory Levy Imposition Act 1998* (the Act) on companies registered under the *Insurance Act 1973*.

This determination commences on 1 July 2013 and relates to the 2013-14 financial year. The *General Insurance Supervisory Levy Imposition Determination 2012* is revoked upon commencement of this determination. Consistent with section 7 of the *Acts Interpretation Act 1901*, any obligation or liability incurred in previous financial years remains valid.

The determination will commence before it is registered. Commencement prior to registration, however, does not disadvantageously affect the rights of any person as at the date of registration or impose any liability on any person in respect of anything done or omitted to be done before the date of registration. Commencement prior to registration is therefore consistent with subsection 12(2) of the *Legislative Instruments Act 2003*.

Subsection 8(1AA) of the Act specifies that the levy payable by a general insurance company for a financial year is to comprise of a general component and a special component.

#### *2013-14 General Component*

For 2013-14 financial year, the general component will fund the operations of the Australian Prudential Regulation Authority (APRA) and certain activities performed by the Australian Securities and Investments Commission.

In relation to the general component, subsection 8(3) of the Act requires the Treasurer, by legislative instrument, to determine:

- (a) the maximum restricted levy amount for each financial year;
- (b) the minimum restricted levy amount for each financial year;
- (c) the restricted levy percentage for each financial year;
- (ca) the unrestricted levy percentage for each financial year; and
- (d) how a general insurance company's levy base is to be worked out;

This determination provides that the restricted component of the 2013-14 general levy will be calculated at 0.01505 per cent of assets held by the entity, subject to a minimum of \$4,900 and a maximum of \$1,064,000. The unrestricted component of the 2013-14 general levy will be calculated at 0.006983 per cent of assets held by the entity.

#### *2013-14 Special Component Levy*

For 2013-14 financial year, the special component will fund the costs of the National Claims and Policy Database. This component was levied for the first time in 2006-07 following amendments to the *General Insurance Supervisory Levy Imposition Act 1998*.

In relation to the special component, subsection 8(3) of the Act allows the Minister to determine:

- (e) the special maximum levy amount for each financial year;

- (f) the special minimum levy amount for each financial year;
- (g) the special levy percentage for each financial year; and
- (h) how a general insurance company's eligible premium income (EPI) is to be worked out.

This determination provides that for a public/product liability insurer the special levy amount will be calculated at 0.0201 per cent of the insurer's EPI, subject to a minimum of \$5,000 and a maximum of \$50,000. For a professional liability insurer the special levy amount will be calculated at 0.0158 per cent of the insurer's EPI, subject to a minimum of \$5,000 and a maximum of \$32,000.

This determination provides that the special levy payable by an insurer that writes both public/product liability and professional indemnity insurance is determined by adding the sum of:

- 0.0201 per cent of the insurer's EPI, arising from public/product liability insurance, subject to a minimum of \$5,000 and a maximum of \$50,000; and
- 0.0158 per cent of the insurer's EPI, arising from professional indemnity insurance, subject to a minimum of \$5,000 and a maximum of \$32,000.

This determination provides that for either a public/product or professional indemnity runoff insurer the special levy amount will be \$2,500. For insurers that provide both public/product and professional indemnity runoff insurance, the special levy amount will be \$5,000.

The finance sector has been consulted on the 2013-14 supervisory levies through a Treasury and Australian Prudential Regulation Authority (APRA) discussion paper released on the Treasury website on 31 May 2013. The paper discusses potential impacts of the levies on each industry sector and institution regulated by APRA. Four submissions were received during the consultation process, and one submission commented on the methodology under which the general insurance levy was calculated.

APRA and Treasury periodically review the methodology for imposing levies on the finance industry with submissions received from industry. The full range of issues raised in the methodology review will be considered and a formal response and position paper prepared by Treasury. As part of the review, further consultation will be undertaken with stakeholders, with a view to responding to identified issues in the context of the 2014-15 levies process.

The Office of Best Practice Regulation has previously advised that a Regulatory Impact Statement is not required as supervisory levies are considered *machinery-of-government* in nature.

This determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in [Attachment 1](#).

## Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***General Insurance Supervisory Levy Imposition Determination 2013***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

This determination relates to a levy imposed by the *General Insurance Supervisory Levy Imposition Act 1998* on companies registered under the *Insurance Act 1973*.

Subsection 8(1AA) specifies that the levy payable by a general insurance company for a financial year is to comprise of a general component and a special component.

In relation to the general component, subsection 8(3) allows the Minister to determine:

- (i) the maximum restricted levy amount for each financial year;
- (j) the minimum restricted levy amount for each financial year;
- (k) the restricted levy percentage for each financial year;
- (ca) the unrestricted levy percentage for each financial year; and
- (l) how a general insurance company's asset value is to be calculated;

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.