

**Financial Sector (Collection of Data) (reporting standard) determinations Nos. 16 to 21 of 2016**

**EXPLANATORY STATEMENT**

**Prepared by the Australian Prudential Regulation Authority (APRA)**

*Financial Sector (Collection of Data) Act 2001*, sections 13 and 15

Under subsection 13(1) of the *Financial Sector (Collection of Data) Act 2001* (the Act), APRA has the power to determine reporting standards, in writing, with which financial sector entities must comply. Such standards relate to reporting financial or accounting data and other information regarding the business or activities of the entities.

On 6 September 2016, APRA made the following determinations (the instruments):

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 16 of 2016 which determines *Reporting Standard GRS 800.1 Policy Data: Public and Product Liability and Professional Indemnity Insurance* (GRS 800.1);
- (2) Financial Sector (Collection of Data) (reporting standard) determination No. 17 of 2016 which revokes *Reporting Standard GRS 800.2 Claim Data: Public and Product Liability and Professional Indemnity Insurance* made under Financial Sector (Collection of Data) (reporting standard) determination No. 62 of 2006, and determines *Reporting Standard GRS 800.2 Claim Business Data: Public and Product Liability and Professional Indemnity Insurance* (GRS 800.2);
- (3) Financial Sector (Collection of Data) (reporting standard) determination No. 18 of 2016 which determines *Reporting Standard GRS 800.3 Facility Business Data: Public and Product Liability and Professional Indemnity Insurance* (GRS 800.3);
- (4) Financial Sector (Collection of Data) (reporting standard) determination No. 19 of 2016 which determines *Reporting Standard LOLRS 800.1 Policy Data: Public and Product Liability and Professional Indemnity Insurance* (LOLRS 800.1);
- (5) Financial Sector (Collection of Data) (reporting standard) determination No. 20 of 2016 which revokes *Reporting Standard LOLRS 800.2 Claim Data: Public and Product Liability and Professional Indemnity Insurance* made under *Financial Sector (Collection of Data) (reporting standard) determination No. 61 of 2006*, and determines *Reporting Standard LOLRS 800.2 Claims Data: Public and Product Liability and Professional Indemnity Insurance* (LOLRS 800.2); and
- (6) Financial Sector (Collection of Data) (reporting standard) determination No. 21 of 2016 which determines *Reporting Standard LOLRS 800.3 Facility Business Data: Public and Product Liability and Professional Indemnity Insurance* (LOLRS 800.3)

The instruments commence upon registration on the Federal Register of Legislation.

## 1. Background

Financial Sector (Collection of Data) Determinations Nos.16 to 18 of 2016 determine reporting standards which will apply to general insurers (within the meaning of the *Insurance Act 1973*) and require them to provide information in relation to public liability and professional indemnity insurance for the purposes of APRA's National Claims & Policies Database (NCPD). Determinations Nos. 19 to 21 of 2016 determine reporting standards which will apply to Lloyd's and require it to provide similar information for the NCPD.

In 2013 the *Treasury (Spent and Redundant Instruments) Repeal Regulation 2013* (Regulation) was made.<sup>1</sup> The Regulation mistakenly repealed the following legislative instruments: *Financial Sector (Collection of Data) determination No. 30 of 2005 – Reporting standard GRS 800.1 (2005)*, *Financial Sector (Collection of Data) determination No. 32 of 2005 – Reporting standard GRS 800.3 (2005)*, *Financial Sector (Collection of Data) determination No. 33 of 2005 – Reporting standard LOLRS 800.1 (2005)* and *Financial Sector (Collection of Data) determination No. 35 of 2005 – Reporting standard LOLRS 800.3 (2005)*. These legislative instruments made reporting standards for the purposes of collecting data from general insurers and Lloyd's for the NCPD.

*Financial Sector (Collection of Data) (reporting standard) determination No. 61 of 2006* which made *Reporting standard LOLRS 800.2 - Claim Data: Public and Product Liability and Professional Indemnity Insurance* (LOLRS 800.2) and *Financial Sector (Collection of Data) (reporting standard) determination No. 62 of 2006* which made *Reporting standard GRS 800.2 - Claim Data: Public and Product Liability and Professional Indemnity Insurance* (GRS 800.2) were not repealed. Consequently LOLRS 800.2 and GRS 800.2 remained in effect, however, they were due to sunset on 1 October 2016. As APRA is making the suite of reporting standards relating to the collection of data for NCPD, APRA has also reviewed LOLRS 800.2 and GRS 800.2 and is remaking these reporting standards before they are due to sunset.

## 2. Purpose and operation of the instruments

The NCPD was established by APRA in 2003, at the request of Federal Government in consultation with the insurance industry and other stakeholders. It was created to provide insurers, the community and State and Federal Governments with a better understanding of public and products liability insurance and professional indemnity insurance and the ability to monitor trends in premiums and claim costs.

The purpose of making these reporting standards is to require general insurers and Lloyd's to provide NCPD to APRA, via an agent appointed for that purpose. The most recent versions of GRS 800.1, GRS 800.3, LOLRS 800.1 and LOLRS 800.3 were inadvertently repealed by the Regulation. Financial Sector (Collection of Data) (reporting standard) determinations No. 16, No.18, No.19 and No. 21 reinstate the NCPD reporting framework under which general insurers and Lloyd's report data.

---

<sup>1</sup> <https://www.legislation.gov.au/Details/F2013L01535>

APRA is also updating the technical data specifications so that these reflect the electronic submission requirements.

The requirements are otherwise the same as they were under the old reporting standards that were in effect till 2013.

The general insurance industry were unaware that GRS 800.1, LOLRS 800.1, GRS 800.3 and LOLRS 800.3 had been repealed and have continued to provide APRA with data in accordance with the requirements of the repealed standards. In making the standards that replace those which were inadvertently repealed, APRA has included a requirement that general insurers and Lloyds report to APRA in relation to the reporting periods that occurred subsequent to the repeal. The standards note that any material provided to APRA prior to the making of the new standards will satisfy this requirement. There are not any “missing” reports for this period and APRA does not expect to receive any further material. The purpose of the requirement is to make certain that the data received during that time is received under section 13 of the Act. This brings the data within the intended statutory framework, including making the data protected information as defined in section 56 of the *Australian Prudential Regulation Authority Act 1998*.

Financial Sector (Collection of Data) (reporting standard) determination No. 16 of 2016 – Reporting Standard GRS 800.1 Policy Data: Public and Product Liability and Professional Indemnity Insurance

This reporting standard requires general insurers that write public liability, product liability or professional indemnity insurance policies to provide data on policies in force during a 6 month reporting period.

Similar to the repealed reporting standard made by *Financial Sector (Collection of Data) determination No. 30 of 2005 – Reporting standard GRS 800.1 (2005)*, the information collected includes the class of business covered by the policy, the policy basis, its current status, the premium earned from the policy and details about the insured party, amongst other details. Amendments have been made to the technical data specifications (the field types), attached to the standard, in order to reflect the current specifications required for electronic submission.

Financial Sector (Collection of Data) (reporting standard) determination No.17 of 2016 – Reporting Standard GRS 800.2 Claim Data: Public and Product Liability and Professional Indemnity Insurance

This reporting standard requires general insurers that have written public liability, product liability or professional indemnity insurance policies to provide data on claims made or not settled during a 6 month reporting period.

Similar to the current reporting standard made by *Financial Sector (Collection of Data) (reporting standard) determination No. 62 of 2006*, the information collected includes the class of business covered by the policy, the policy basis, its current status, the dates of loss and report, the jurisdiction of the claim, the nature of the loss and details of the likely case estimate, amongst other information. A minor amendments has been made to the technical data specifications (a field type), attached

to the standard, in order to reflect the current specifications required for electronic submission.

Financial Sector (Collection of Data) (reporting standard) determination No.18 of 2016 – Reporting Standard GRS 800.3 Facility Business Data: Public and Product Liability and Professional Indemnity Insurance

This reporting standard requires general insurers that write public liability, product liability or professional indemnity facility business to provide data on facility business where the insurer is on-risk during a 6 month reporting period.

Similar to the repealed reporting standard made by *Financial Sector (Collection of Data) determination No. 32 of 2005 – Reporting standard GRS 800.3 (2005)*, the information to be collected includes the facility identifier, the industry code, the number of policies and claims and gross payments made, amongst other details.

Financial Sector (Collection of Data) (reporting standard) determination No.19 of 2016 – Reporting Standard LOLRS 800.1 Policy Data: Public and Product Liability and Professional Indemnity Insurance

This reporting standard requires Lloyd's to report on public liability, product liability or professional indemnity insurance policies written by Lloyd's underwriters that are in force during a 6 month reporting period.

As with the repealed reporting standard made under *Financial Sector (Collection of Data) determination No. 33 of 2005 – Reporting standard LOLRS 800.1 (2005)*, the information to be collected includes the class of business covered by the policy, the policy basis, its current status, the premium earned from the policy and details about the insured party, amongst other details. Amendments have been made to the technical data specifications (the field types), attached to the standard, in order to reflect the current specifications required for electronic submission.

Financial Sector (Collection of Data) (reporting standard) determination No.20 of 2016 – Reporting Standard LOLRS 800.2 Claim Data: Public and Product Liability and Professional Indemnity Insurance

This reporting standard requires Lloyd's to report on claims made on (or not settled by) Lloyd's underwriters during a 6 month reporting period, being claims that relate to public liability, product liability or professional indemnity insurance.

Similar to the current reporting standard made by *Financial Sector (Collection of Data) (reporting standard) determination No. 61 of 2006*, the information to be collected includes the class of business covered by the policy, the policy basis, its current status, the dates of loss and report, the jurisdiction of the claim, the nature of the loss and details of the likely case estimate, amongst other information.

Financial Sector (Collection of Data) (reporting standard) determination No.21 of 2016 – Reporting Standard LOLRS 800.3 Facility Business Data: Public and Product Liability and Professional Indemnity Insurance

This reporting standard requires Lloyd's to report on public liability, product liability or professional indemnity insurance facility business written by Lloyd's underwriters,

being facility business in relation to which an insurer is on risk during a 6 month reporting period.

As with the repealed reporting standard made under *Financial Sector (Collection of Data) determination No. 35 of 2005 – Reporting Standard LOLRS 800.3 (2005)*, the information to be collected includes the facility identifier, the industry code, the number of policies and claims and gross payments made, amongst other details.

Where the reporting standards made by the legislative instruments listed above incorporate by reference the requirements of another prudential standard, this is a reference to the prudential standard as it exists from time to time.

### **3. Consultation**

As noted above, the new reporting standards substantially reflect the ones which they replace. Changes are limited to the Data Specifications so that they reflect the current data submission practice, requiring that general insurers and Lloyds only report electronically (as opposed to having the option of submitting their reports electronically or via a CD-ROM), amending the due date of the reports so that the due date reflects the current practice and minor amendments to the paragraphing. Accordingly, it is relevant to describe the consultation that took place in relation to the old reporting standards.

APRA undertook extensive consultations on its proposed original reporting requirements which commenced in July 2003, with a preliminary letter sent to all regulated general insurers and Lloyd's regardless of whether they currently write public liability or professional indemnity insurance. This letter invited the industry to indicate, through a questionnaire, the specific claims and policy information which would be of the most value to them when published. It also provided an opportunity for insurers to advise APRA about their current and intended participation in these sectors. A significant majority (85%) of all insurers returned completed questionnaires to APRA in response to this letter.

During the development of the original data specifications, there were two rounds of consultation. The first round of consultation requested input on the data items to be collected, the time-frame for implementation, the frequency of on-going collections and the content of the reports to be provided and a round of pilot testing. The second round of consultation requested final comment on the proposed data specification for the collection. The pilot test provided general insurers with the opportunity to gain a clear understanding of the new data to be provided to APRA, and should avoid unnecessary clarification checks once the collection has commenced.

The consultation process, however, revealed that the generic reporting requirements applicable to general insurers were not appropriate for Lloyd's. Lloyd's operates a global centralised data collection system, which collates data received from individual underwriters. Lloyd's underwriters in Australia, therefore, provide information to London, which then sends back standardised reports to the Australian operations. APRA, therefore, decided that to allow Lloyd's to comply with slightly modified reporting requirements. As a result, three separate reporting standards are required to give effect to the data specifications applicable only to Lloyd's Australia Limited.

The changes to the data specifications, which have been incorporated in the new reporting standards, were consulted on in 2005. These data specifications are of a technical nature and were agreed between APRA and the user group which represented NCPD contributors. Changes to data specifications were distributed to all NCPD contributors in May 2005 and there were no objections to the changes.

The general insurance industry indicated strong support for the proposed data collection.

#### *Consultation on the new reporting standards*

The instrument is minor or machinery in nature and does not substantially alter existing arrangements.

#### **4. Regulation Impact Statement**

The Office of Best Practice Regulation has advised that reintroducing the four revoked standards and remaking the two sunseting instruments, without significant changes, is likely to result in only a minor regulatory impact, and that consequently a Regulation Impact Statement is not required for these legislative instruments.

#### **5. Statement of compatibility prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011**

A Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is provided at Attachment A to this Explanatory Statement.

## **ATTACHMENT A**

### **Statement of Compatibility with Human Rights**

*Human Rights (Parliamentary Scrutiny) Act 2011*

#### **Financial Sector (Collection of Data) (reporting standard) determinations Nos. 16 to 21 of 2016**

These Legislative Instruments are compatible with the human rights and freedoms recognised or declared in the international instrument listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (HRPS Act).

#### **Overview of the legislative instrument**

These instruments determine reporting standards which will apply to general insurers (within the meaning of the *Insurance Act 1973*) and require them to provide information in relation to public liability and professional indemnity insurance for the purposes of APRA's National Claims & Policies Database (NCPD). Determinations Nos. 19 to 21 of 2016 apply to Lloyd's and require it to provide similar information for the NCPD.

#### **Human rights implications**

APRA has assessed the instrument and is of the view that it does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the HRPS Act. Accordingly, in APRA's assessment, the instrument is compatible with human rights.

Article 17 of the ICCPR prohibits the arbitrary or unlawful interference with a person's privacy, family, home and correspondence, and attacks on reputation. Article 17 is exclusively concerned with prohibiting interference with the privacy and/or reputation of individual persons. It does not extend to the privacy and/or reputation of corporate entities.

Determinations No. 16 and 21 of 2016 require general insurers and Lloyd's to report claim, policy and business facility data on public and products liability insurance including all policies that provide cover for legal liability to the public in respect of bodily injury or property damage, policies that provide for compensation for loss and or injury caused by, or as a result of, the use of goods, and environmental clean-up by pollution spills. These determinations also require claim, policy and business facility data on professional indemnity insurance, including all policies that provide cover for professionals relating to actions against that person in tort and/or statute law (in respect of advice and services provided as part of their professional practice), Directors' and Officers' liability insurance and legal expense insurance and medical indemnity insurance. This provision of data does not involve the disclosure of information directly relating to individual persons. Further, APRA reviews all releases of data received under reporting standards to ensure that no information pertaining to an individual person can be deduced from the data.

Consequently, Determinations No. 16 to 21 of 2016 do not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the HRPS Act. Accordingly, in APRA's assessment, this legislative instrument is compatible with human rights.

### **Conclusion**

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