EXPLANATORY STATEMENT

General Insurance Supervisory Levy Imposition Determination 2012

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

This determination commences on 1 July 2012 and relates to the 2012-13 financial year. The *General Insurance Supervisory Levy Imposition Determination 2011* is revoked upon commencement of this determination. Consistent with section 50 of the *Acts Interpretation Act 1901*, any obligation or liability incurred in previous financial years remains valid.

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.

2012-13 General Component

For 2012-13 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 and the Australian Taxation Office.

In relation to the general component, subsection 8(3) of the *General Insurance Supervisory Levy Imposition Act 1998* allows the Minister 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 asset value is to be calculated;

This determination provides that the restricted component of the 2012-13 general levy will be calculated at 0.01316 per cent of assets held by the entity, subject to a minimum of $4,900 and a maximum of $887,000. The unrestricted component of the 2012-13 general levy will be calculated at 0.007195 per cent of assets held by the entity.

2012-13 Special Component Levy

For 2012-13 financial year, the special component will fund the costs of the National Claims and Policy Database (NCPD). 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 *General Insurance Supervisory Levy Imposition Act 1998* 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 calculated.

This determination provides that for a public/product liability insurer the special levy amount will be calculated at 0.0172 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 0.0155 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:

- 0.0172 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

- 0.0155 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 profession 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 2012-13 supervisory levies through a Treasury and Australian Prudential Regulation Authority (APRA) discussion paper released on the Treasury website on 1 June 2012. The paper discusses potential impacts of the levies on each industry sector and institution regulated by APRA, and sought industry views on a range of proposed scenarios. Fifteen submissions were received during the consultation process, and one submission commented on the methodology under which the general insurance levy was calculated. A review of the implementation of the levy arrangements is scheduled for 2012-13 (further details in the next paragraph below).

The Office of Best Practice Regulation has also been consulted on the 2012-13 supervisory levies and has advised that a Regulation Impact Statement is not required as the proposals are machinery-of-government in nature. As was noted in the 2012-13 supervisory levies discussion paper, APRA has a regular review process to monitor the implementation of the levies. In 2012-13, the current levy review process will be merged with the development of a comprehensive Cost Recovery Impact Statement (CRIS). Industry will continue to be consulted on the development of the CRIS.

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.

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 2012

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.