

Ms Melisande Waterford
Senior Manager, Enterprise Strategy & Risk
Australian Prudential Regulation Authority
Level 12, 1 Martin Place
Sydney NSW 2000

14 November 2016

Dear Ms Waterford

APRA REGULATOR PERFORMANCE FRAMEWORK – EXTERNAL VALIDATION

The Insurance Council of Australia¹ (the Insurance Council) welcomes the opportunity to provide feedback to the Australian Prudential Regulation Authority (APRA) on its self-assessment of performance under the APRA Regulator Performance Framework (the Framework) for the 2015-16 assessment period. We recognise that APRA's 2015-16 self-assessment is its first self-assessment under the Framework.

We also note that APRA's invitation for feedback last month² included an opportunity to suggest improvements to the metrics underpinning the Framework. As you will recall, the Insurance Council provided detailed feedback³ to APRA in May last year on its proposed evidence metrics under the Framework. Given this, our feedback concerning the metrics in this submission is general in nature.

The Insurance Council broadly agrees with APRA's performance self-assessment. Our view is that APRA has a sound understanding of the current and emerging risks facing the general insurance industry. We also consider that APRA has maintained open and transparent supervisory processes and has been generally effective in actively contributing to the continuous improvement of prudential regulation frameworks.

Nevertheless, feedback from some of our members indicates that APRA could enhance its direct communications with individual regulated entities to help ensure that APRA's activities do not unnecessarily impede their efficient operation. The predominant issue is that some areas within APRA typically use formal letters or emails to engage with entities on an individual basis, as opposed to calling or having face-to-face meetings. For some members, this has unnecessarily delayed the resolution of issues and subsequently impeded their

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. June 2016 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$43.9 billion per annum and has total assets of \$122.6 billion. The industry employs approximately 60,000 people and on average pays out about \$124.0 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

² Letter from APRA refers, dated 17 October 2016.

³ The Insurance Council of Australia's [submission](#) to APRA refers, dated 21 May 2015.

planning and execution of operational initiatives. Given the potentially complex and time critical nature of prudential issues, the use of formal letters to engage on these matters may not be the most appropriate and efficient channel, as technical terminology may be subject to various interpretations, which can result in misunderstandings.

We recognise there is a need to use formal letters to engage on certain matters (e.g. to formally notify APRA's escalation of a matter). However, feedback from our members is that informal channels of communication can generally be more effective at expediting the effective resolution of matters at an early stage, while generating efficiency gains for all parties. While the Insurance Council acknowledges that there are examples of informal engagement working effectively between APRA and our members, there appears to be scope for improvement in terms of achieving a greater level of consistency in approach across APRA's supervisory areas.

With respect to the performance metrics, the Insurance Council considers that these could be improved through incorporating more quantifiable measures. In this regard, additional metrics that objectively measure and benchmark performance would provide a more rigorous and historically comparable method for APRA to assess its performance against.

While the Insurance Council appreciates that identifying quantifiable performance metrics for regulatory activities may be challenging, we believe that there is significant benefit to rigorously measuring APRA's performance. In particular, this would help minimise the compliance cost and regulatory burden imposed on industry and ensure that APRA optimises the use of its resources to efficiently and effectively deliver its regulatory objectives.

Lastly, we understand that following each performance review cycle, APRA must consider stakeholder feedback and whether improvements to the metrics are necessary for the next review period. Once APRA has considered our feedback, we would appreciate being informed of how it intends to address the points that we have raised.

If you have any questions or comments in relation to our feedback, please contact John Anning, the Insurance Council's General Manager Policy, Regulation Directorate, on tel: (02) 9253 5121 or email: janning@insurancecouncil.com.au.

Yours sincerely



Robert Whelan
Executive Director and CEO

FEEDBACK AGAINST THE KEY PERFORMANCE INDICATORS

KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities

Commentary on performance

The Insurance Council's general view is that APRA does not unnecessarily impede the efficient operation of regulated entities. However, it appears that this KPI assesses APRA's performance at an industry-wide level only, rather than also at a regulated entity level. We consider that it would be more appropriate for this KPI to also assess APRA's performance at a regulated entity level.

Some of our members have experienced significant delays in receiving notification and advice correspondence from APRA's subject matter areas – these delays have had a significant impact on their planning and execution of operational initiatives. In this regard, we believe that there is an opportunity for APRA to enhance the way it engages with individual regulated entities, such through the more regular use of informal channels (i.e. phone calls and informal meetings), as opposed to formal letters and emails. Additionally, APRA may wish to explore the potential benefits associated with adopting online or electronic document and engagement management portals.

Commentary on metrics

The Insurance Council considers that the performance metrics associated with this KPI could be strengthened to also assess the availability, responsiveness, decisiveness and delegated authority of APRA's supervisors and subject matter experts. We suggest that the following metrics could be incorporated into this KPI:

- The availability, responsiveness, and decisiveness of APRA's supervisory and subject matter expert areas. Quantifiable results could be based on a survey questionnaire, where respondents could rate performance on a scale of 1 to 10.
- Quantifiable resolution rates and response latency in finalising both APRA and entity-initiated engagements.

KPI 2: Communication with regulated entities is clear, targeted and effective

Commentary on performance

The Insurance Council considers that APRA's industry-wide communications are generally clear, targeted and effective. However, in a similar vein to KPI 1, it appears that this KPI also assesses APRA's performance at an industry-wide level only, rather than also at a regulated entity level. We consider that it would be more appropriate for this KPI to also assess APRA's performance at a regulated entity level.

Feedback from some of our members is that APRA's communications with them has varied in effectiveness, depending on the area within APRA. Some areas within APRA – particularly its specialist subject matter expert areas – typically use formal letters or emails to engage with individual entities, as opposed to using more informal approaches such as making direct phone calls or convening informal face-to-face meetings.

Given the complex nature of many of the prudential issues being looked at, the use of formal letters and emails can lead to misunderstandings, particularly as technical terminology may be open to various interpretations.

We recognise there is a need to use formal letters to engage on certain matters. However, feedback from our members is that informal channels of communication can generally be more effective at expediting the effective resolution of matters at an early stage. In this regard, we suggest that, where possible, APRA initially engages informally with a regulated entity and, if necessary, adopt formal letters if a matter escalates.

While we acknowledge that there are examples of informal engagement working effectively between APRA and our members, there appears to be scope for improvement in terms of achieving a greater level of consistency in approach across APRA's supervisory areas. Another suggestion that APRA may wish to consider is using web-conferences more regularly as an alternative to face-to-face meetings.

Commentary on metrics

The Insurance Council considers that the performance metrics associated with KPI 2 could be strengthened to assess the clarity, specificity, and effectiveness of APRA's written and oral communication with individual entities. We suggest that the following metrics could be incorporated into this KPI: quantifiable repeat rates for follow-up or clarity being sought by regulated entities.

KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed

Commentary on performance

The Insurance Council considers that the actions undertaken by APRA are generally proportionate to the regulatory risk being managed. While we consider that APRA has a sound understanding of current and emerging prudential risks, we believe there is room for improvement in terms of communicating emerging risks in a more timely fashion.

KPI 4: Compliance and monitoring approaches are streamlined and coordinated

Commentary on performance

The Insurance Council's overall view is that APRA's compliance and monitoring approaches are generally streamlined and coordinated. However, we consider that there is scope for improvements in this area.

Feedback from some of our members is that it can be difficult to track and determine APRA's overall expectations of a regulated entity. This is primarily because formal letters from APRA are often provided to different areas within a regulated entity.

In a similar vein to our feedback to KPIs 1 and 2, we believe there is benefit in APRA exploring alternative methods of supervisory engagement, which are more contemporary to the current operating environment. For example, APRA may wish to explore the potential benefits associated with using a centralised online repository system, which would enable users to more efficiently track routine and non-routine APRA regulatory returns and also other formal correspondence.

We believe this would provide significant efficiency benefits for both APRA and its regulated entities, while also providing a base for developing quantifiable metrics to assess APRA's performance under this KPI. APRA may also wish to explore this as a potential joint initiative with other regulators, such as the Australian Securities and Investments Commission, to further enhance the efficient coordination of regulatory efforts.

We note that APRA's self-assessment identifies data collections as the lowest rated topic in APRA's stakeholder survey, and that the ease of use of APRA's 'Direct to APRA' (D2A) system was one of the lowest rated items in that survey. Some of our members' key concerns in this space include the short turnaround time they are provided by APRA for responding to queries it has raised about their regulatory returns and APRA's D2A system.

While APRA's self-assessment identifies the infrastructure cost barriers associated with replacing D2A, this does not appear to take into account the cost of the cumulative burden to industry of having to work with a system that is "*cumbersome and not easy to use*"⁴.

KPI 5: Regulators are open and transparent in their dealings with regulated entities

Commentary on performance

The Insurance Council considers that APRA's supervisory process is open and transparent.

KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks

Commentary on performance

The Insurance Council considers that APRA has been broadly effective in actively contributing to the continuous improvement of prudential regulatory frameworks. However, we consider that APRA could enhance its transparency around what it sees as emerging prudential risks and issues and what its future intentions are (e.g. over 12 months). To provide context to this point, we believe that APRA's recent focus on claims handling and risk culture could have more effectively communicated to provide industry participants a better opportunity to respond to the issues raised.

With respect to APRA's industry consultation on developing prudential policy and standards, feedback from some of our members is that APRA has sometimes not adequately taken into account important complexities associated with the unique operations of different regulated entities (whether they are smaller industry participants or larger participants with global operations). Consequently, some of our members have had to submit post-consultation applications to APRA in order to seek adjustments to prudential policies and standards to account for their unique complexities. In this regard, we consider that it is important for APRA to maintain its receptiveness to these complexities.

Commentary on metrics

We consider that the performance metrics associated with KPI 6 could be strengthened to assess the effectiveness of APRA's contribution to the continuous improvement of prudential regulation frameworks. For example, metrics could be developed to assess the level and depth quality of industry engagement on prudential policy consultations; and review frequency of prudential standards and guides.

⁴ APRA Regulator Performance Framework, APRA Self-Assessment Report 2015-16, KPI 4, page 7.