

17 December 2020

Manager, Regulatory Reporting, Data Analytics
Australian Prudential Regulation Authority
Level 12, 1 Martin Place
SYDNEY NSW 2000

By email: [REDACTED]

Dear Sir or Madam

Consultation on collection of cyber insurance and management liability data

The Insurance Council of Australia (**Insurance Council**)¹ welcomes the opportunity to continue our engagement with APRA on the proposed reporting of cyber insurance and management liability data as outlined in your letter of 5 November 2020 to general insurers and other interested parties (**Updated Data Proposal**).

As APRA noted in the Updated Data Proposal, the Insurance Council supports APRA's objectives in seeking to collect this new data set. We consider that the principal challenge in successfully executing the proposal is not one of purpose, but of definitional clarity. This will enable general insurers make the system changes necessary to provide the data required.

The Insurance Council therefore welcomes the increased definitional clarity provided in the Updated Data Proposal, although there remain a few discrete areas where greater certainty is needed. In that regard, we are pleased APRA has accepted the member feedback provided in our 24 March 2020 meeting that the Updated Data Proposal should only encompass standalone cyber insurance policies.

APRA stated on page 1 of the Updated Data Proposal:

*"For clarity, APRA is proposing that the policy data collected under *Reporting Standard GRS 800.1 Policy Data: Public and Product Liability and Professional Indemnity Insurance (GRS 800.1)* for cyber insurance would relate only to standalone cyber insurance products. The claims data collected under Reporting Standard GRS 800.2 Claim Data: Public and Product Indemnity Insurance (GRS 800.2) could*

¹The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent approximately 95 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. 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). September 2020 Australian Prudential Regulation Authority statistics show that the general insurance industry generates gross written premium of \$51.8 billion per year and has total assets of \$136.5 billion. The industry employs approximately 60,000 people and on average pays out about \$171.4 million in claims each working day. Over the 12 months to September 2020 the industry's net profit after tax (NPAT) was \$0.9 billion - a 73 per cent decrease from the prior year's NPAT of \$3.4 billion. The industry's underwriting result was \$1.6 billion, falling by 16 per cent from \$1.9 billion in the prior year.

include cyber losses associated with affirmative and non-affirmative cyber coverage as well as standalone cyber insurance products.” (underlines added)

It would be helpful if APRA could clarify whether the intended meaning of the second sentence above in relation to claims data is only to note that reported claims data in relation to a broader product (which includes a cyber insurance component) may include a part which relates to the cyber insurance component. Further, we would appreciate confirmation that this sentence is not intended to imply that general insurers will need to separate out and report that part of the claims data which relates to the cyber insurance component.

With respect to the specific matters on which APRA sought further comment, as listed below, we are pleased to provide the following feedback:

1. Timing of cyber insurance and management liability data collection

APRA proposes that general insurers report data on standalone cyber insurance and management data policies and for the three new cause of loss codes for:

- the 31 December 2020 half yearly reporting period on a best endeavours basis; and
- the 30 June 2021 half yearly reporting period on a full implementation basis.

Feedback from members is that system changes will be required to provide data for the three new cause of loss codes. This work may well not be completed by the time data for 31 December 2020 is required to be reported. As a result, there is likely to be little reported data for these three codes for this half yearly reporting period. Consequently, using “a best endeavours basis” as a proxy for pilot testing of this aspect of the new reporting is unlikely to be meaningful.

Overall, the Insurance Council considers the current proposed timetable is ambitious and suggests instead the following timing:

- the 31 December 2020 half yearly reporting period on a best endeavours basis;
- the 30 June 2021 half yearly reporting period on a best endeavours basis; and
- the 31 December 2021 half yearly reporting period on a full implementation basis.

2. Additional cause of loss codes

The three new cause of loss codes are: “Cyber – 1st Party Loss”, “Cyber – 3rd Party Loss” and “Cyber – Other”.

Members seek further clarification from APRA as to the claim types which are intended to fall within the definition of “Cyber – Other”. The Insurance Council would be happy to facilitate a meeting between APRA and members in the new year in order to help APRA develop that clarification. As highlighted in the 24 March 2020 meeting and in the Updated Data Proposal, there is a need to have consistent categorisation of cyber insurance and management liability claims.

Following that clarification, it would be helpful if APRA were to provide clear definitions for each of the three new loss codes. This will assist members to accurately identify which items

should be reported under each code. To assist APRA, the following two suggested definitions might serve as definitions of Cyber – 1st Party Loss and Cyber – 3rd Party Loss.

- “Cyber – 1st party: Loss or damages incurred directly to an insured as the result of a cyber breach (Cyber-attack, malware, extortion, crime / theft). The loss will generally cover claims for the financial loss incurred and the cost incurred responding to that loss.”
- “Cyber – 3rd party: Liability loss or damage as a result of a cyber breach (Cyber-attack, malware, extortion, crime / theft). This loss will generally cover system security and privacy defence cost claims, regulatory proceeding (data breaches) and electronic media liability.”

Other definitional issues brought to our attention by members, although not specifically relating to the three additional cause of loss codes, are:

- What are the criteria members are to apply when determining whether a cyber insurance policy is a stand-alone policy?
- What are the criteria members are to apply when determining a policy is a management liability policy or a directors and officers liability policy?
- Should a financial institutions directors’ and officers’ liability policy be classified as a financial institutions policy or a directors’ and officers’ liability policy?

3. Treatment of historical data

APRA proposes in the Updated Data Proposal to only “collect data on a go forward basis and not collect historical data (pre December 2020 collection) for cyber insurance and management liability products, and the new cause of loss codes”. This is due to “recognition that collecting historical data may result in data quality issues and create additional insurer burden.”

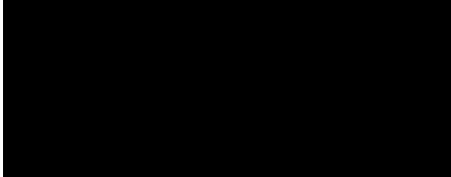
The Insurance Council agrees with the reasons given in the Updated Data Proposal and welcomes APRA’s proposed approach in relation to historical data.

4. Publication of cyber insurance and management liability data

APRA sought feedback on the publication of the data in the NCPD data collection, including the appropriate level of aggregation. The Insurance Council provided views on the appropriate level of aggregation in its recent submission of 3 December 2020 on “Data confidentiality for general insurance and life insurance data”. No further comments have been received from members in respect of this item.

We trust that our observations are of assistance. If you have any questions or comments in relation to our submission please contact [REDACTED], the Insurance Council's General Manager, Regulatory Policy, on telephone: [REDACTED] or email: [REDACTED]

Yours sincerely



Executive Director and CEO