15 May, 2015

Mr Pat Brennan
General Manager, Policy Development
Policy, Statistics and International
Australian Prudential Regulation Authority
GPO Box 9836
SYDNEY NSW 2001

By email: privatehealthinsurance@apra.gov.au

Dear Mr Brennan

Re: Proposed prudential and reporting framework for APRA's supervision of private health insurers in Australia – March 2015

Thank you for the opportunity to comment on the prudential and reporting framework for APRA's supervision of private health insurers in Australia (**APRA's proposal**), which is due to commence on 1 July 2015.

The provision of a thorough consultation process for regulatory changes is especially important when the entire regulatory framework for an industry is due to undergo change. As such, hirmaa welcomes APRA's open and consultative approach and looks forward to any future regulatory changes being conducted in a similar fashion.

hirmaa represents 18 community-based private health insurers, comprising both industry or employer focused "restricted access" insurers and "open" insurers serving particular regions. hirmaa constituents are predominantly not-for-profit and generally identify as mutuals. One of hirmaa's constituent members is a for-profit insurer owned by a mutual, not-for-profit organisation.

A full list of hirmaa members is included as Annexure A.

Summary of hirmaa's position on APRA's proposal

In formulating this submission, hirmaa has sought the professional advice of Finity Actuarial and Insurance Consultants. Finity holds Appointed Actuary roles for three PHIAC regulated private health insurers, two New Zealand health insurers and over 30 APRA regulated general insurers.

It appears that APRA's proposal would broadly achieve continuity of the current regulatory arrangements. Our overall position on APRA's proposal has three parts:

Dissemination of data

Our position is that it is important that PHIAC's current statistical dissemination functions should continue. Indeed, in our recent response to The Treasury on the *Exposure Draft – Private Health Insurance (Prudential Supervision) (Consequential Amendments and Transitional Provisions) Bill*

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2015, hirmaa reinforced its position that the public information functions contained in section 264-10(5) and section 264-15 of the *Private Health Insurance Act 2007* should be retained in full.

APRA has indicated that the only possibility for continuing current arrangements is all PHIAC1/2 data need to be declared non-confidential. hirmaa strongly favours this approach over other alternatives (all of which may result in more limited data being released to our member funds).

It is important that PHIAC's current statistical dissemination functions continue seamlessly, in full and on a quarterly basis. Our reasons for this view are that:

- Usefulness of the data - the level of detail in the data releases (in particular the PHIACB and FSR) is used extensively by all of our member funds for performance monitoring, product design, pricing and capital management purposes. Its removal would significantly impair the quality of information available which, amongst other things, would have negative prudential implications.
- Commercial and public detriment for private health insurance related bodies – the Australian Health Service Alliance (AHSA) negotiates hospital contracts for 15 hirmaa funds, and 25 funds across the industry, 18% of the market in total and is a current recipient of the data under consideration.

  The AHSA is heavily reliant on this data to drive effective, evidence-based outcomes in hospital contract negotiations. The AHSA is also reliant on this information as a leading healthcare research organisation. The commercial and public detriment of deeming this data confidential would be highly significant for the AHSA and by extension, the 25 insurers that this organisation negotiates on behalf of, as well as to the industry more broadly.

  It is crucial that the data be deemed non-confidential to ensure business-as-usual functioning. This is important to ensure that APRA's objective of no substantial changes resulting from the transfer of regulation is upheld.
- Uneven impact of its removal - reducing the provision of industry level data would have the biggest impact on smaller insurers whose own data is more volatile and less comprehensive. In addition and as noted above, it is the smaller insurers that have commercial relationships with organisations such as the AHSA, which would be negatively affected by reduced access to information. Given that the largest five insurers already account for over 80% of the industry, this change could significantly damage the competitiveness of the industry.
- State of the Health Funds annual report - If PHIAC1/2 data is made confidential we seek clarification over the impact on data presently published in the PHIAC State of the Health Funds annual report which we understand APRA will be taking responsibility for producing.
- The data is already available - most of the data in question is already publically available in annual reports of individual insurers. Increasing the availability and timeliness of the data would be a positive from a transparency and public-interest perspective - it is hard to envisage any obvious disadvantages that could arise.
- More formal arrangement - declaring the data non-confidential via a section 57 determination is preferable to precarious and less-formal consent arrangements, as it removes the possibility of an insurer opting out at a later date. Under a consent arrangement the availability of data for all private health insurers immediately ceases if any one insurer declines to participate. Therefore continued and uninterrupted access to PHIAC1/2 data to the private health insurance industry can only be assured if declared non-confidential via a section 57 determination.

- Freedom of Information (FoI) requests are essentially the same for each insurer - the potential that new FoI requests will be made against some of the data releases does not unfairly discriminate against any one insurer. Rather, it provides additional protections for policy holders through the resulting improvements in transparency and accountability.
- Disclosure obligations – At industry consultation sessions facilitated by APRA, hirmaa has observed that some large publically listed health insurers are concerned over the PHIAC1/2 data being labelled as non-confidential due to their ASX reporting and continuous disclosure obligations. Given that the PHIAC1/2 data appears to be market sensitive and is presently circulated to all 34 competing private health insurers, we would be surprised if relevant data from these reports are not presently disclosed to the ASX and would argue that it is in the public interest to do so in any case.
- Consistency with objectives – aside from the aforementioned points, the approach of declaring the data non-confidential most closely aligns with APRA's objectives of no substantial changes resulting from the transfer of regulation away from PHIAC. hirmaa sees this as fundamental to the transition process.

Unintended consequences

Given the complexity of the changes in the proposed new suite of legislation, standards, rules and the reporting framework, it is possible that unintended consequences may arise as a result of the transition process. As such, hirmaa hopes that should unintended consequences emerge, APRA will seek to address them where practical, and that APRA will seek to be pragmatic and understanding in its enforcement.

Costs of transition

Assuming the data discussed above is treated non-confidentially, we do not anticipate any material changes to our member funds' operations as a result of the proposed changes.

The substantive driver of any additional regulatory costs from 1 July 2015 will be APRA's approach for implementing this proposed framework. Small changes to PHIAC's current operations (for example, the frequency and nature of interactions with insurers, or the use of the extranet lodgement system) could result in large changes in cost to the industry—with smaller insurers more heavily impacted than larger insurers. As such, it is important that APRA's day-to-day practice from 1 July 2015 reflect a continuation of PHIAC's current practice.

Additional comments

While not directly related to the subject matter of this consultation, hirmaa notes informal assurances received by APRA regarding its intention to produce Prudential Practice Guides for private health insurers. hirmaa supports the publication of such guidelines and suggests that they will be an important aid for the industry in becoming familiar with ARPA as a regulator.

Specific commentary on APRA's proposal

As well as these general overarching views, we have conducted a thorough review of the consultation material and have provided, below, specific comments against each element of APRA's proposal. Please note that these comments, by their nature, are only made by exception. We hope that APRA finds them helpful.

Specific commentary on APRA’s proposal

<table>
<tr><th>Item</th><th>Comments</th></tr>
<tr><td>Solvency Standard</td><td>The proposed Solvency Standard appears to be materially consistent with the current Solvency Standard. However, we suggest that the wording in the grey box at the start of the standard be amended to avoid the implication that the compliance (or otherwise) of one health benefits fund impacts the compliance (or otherwise) of another health benefits fund operated by the same private health insurer. We suggest that the final paragraph (with two bullet points) be amended to:

“This Prudential Standard is satisfied in relation to a private health insurer if, for each health benefits fund it conducts:
the value of cash is not less than the sum of the cash management amount, plus any solvency supervisory adjustment amount; and
the private insurer has, and complies with, a Board-endorsed liquidity management plan and ensures that the plan has been designed with regard to the important factors in included in this Prudential Standard, and is reviewed at least every two years.”</td></tr>
<tr><td>Capital Adequacy Standard</td><td>The proposed Capital Adequacy Standard appears to be materially consistent with the current Capital Adequacy Standard. However, we make the following comments on the proposed standard:
We understand the advantages of consolidating definitions in a separate standard and acknowledge that this is difficult when the current standards are written differently. We suggest that APRA carefully checks and follows-through all definitions, as we suspect there may be a number of issues. For example, the premium income estimate is currently defined at the start of the Private Health Insurance (Health Benefits Fund Administration) Rules 2007, and therefore applies to both the capital adequacy and solvency standards. In APRA’s proposal, its definition appears within the main body of the capital adequacy standard. This may cause confusion, as the health business revenue estimate, which is needed in both the capital adequacy standard and the solvency standard and appears in APRA’s proposed definitions standard, refers to the premium income estimate. Another minor observation is that the first and only occurrence of health business revenue estimate in the Capital Adequacy Standard does not appear in bold, despite paragraph 5.
Although not a change to the current Capital Adequacy Standard, the definition of the other liabilities amount (paragraph 18) continues to include a circular, contradictory reference to the prudent liabilities amount.</td></tr>
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Outsourcing Standard	The proposed Outsourcing Standard appears to be materially consistent with the current Outsourcing Standard. However, we suggest that the definition of ***outsourcing arrangement*** be brought to the start of the standard, since it is defined after a number of occurrences in APRA's proposal.
Actuarial and Disclosure Standards	The proposed Actuarial and Disclosure standards appears to be materially consistent with their current equivalents.
Governance Standard	The proposed Governance Standard does appears to be materially consistent with the current Governance Standard. It may be clearer to simply define the term ***independent director*** rather than have a separate attachment.
Prudential Supervision Rules	The proposed Prudential Supervision Rules do appear to result in no substantive change to existing arrangements. However, we make the following comments: • Although not a change to the current rules, the definition of ***free assets of the fund*** continues to refer to *"assets in excess of the capital adequacy and solvency requirements"*. Our interpretation is that only cash could be considered as an asset in excess of the solvency requirements, whereas any asset type could be considered as assets in excess of the capital adequacy requirements. We suggest this definition could be clearer. • The use of asterisks is either obsolete or undefined.
Registration Rules	The proposed Registration Rules appears to be materially consistent with the existing arrangements. However, we make the following comments: • ***Improper discrimination*** should also be included as a term that has the same meaning as in the Act. • The use of asterisks is either obsolete or undefined.
Risk Equalisation Administration Rules	The proposed Registration Rules appear to be materially consistent with existing arrangements. We are aware that the change from PHIAC to APRA might create a new opportunity for the regulator to access High Host Claimants Pool records (which APRA will require be kept). While we have no specific objection to this, hirmaa suggests that APRA clarifies its intentions regarding this data prior to any final decision being made.
Health Benefits Fund Enforcement Rules	The proposed Health Benefits Fund Enforcement Rules appear to be materially consistent with existing arrangements.

Reporting Standards	hirmaa notes that this constitutes a new formal addition to the regulatory framework. We do not anticipate that the proposed Reporting Standards will result in any substantive impact on our member funds. Our only comment is that Paragraph 16 of HRS 601.0 be clarified such that the term *"year"* refers to a financial year.
Reporting Forms and Instructions	The proposed reporting forms and instructions appear to be consistent with existing PHIAC forms. However, hirmaa cannot verify this without examining the excel and XML formatted forms. We urge that APRA ensures that all data cell positions and names remain unchanged from the current PHIAC forms, as this is imperative to the continued operations of our member funds to meet the reporting requirements. Changes to the data structures or data requirements would significantly impact the Industry through software development and testing. Changes of this nature are costly and typically take a lead time of 6 months from the time a specification is ratified. Furthermore, the introduced risk of deviating from an existing standard is significant. We therefore urge APRA to carefully consider the rationale behind any suggested changes and minimise the occurrence of changes so as not to impose unnecessary pressure on our member funds to meet their regulatory obligations at the consequence of their own development initiatives.

Once again, hirmaa is grateful for the opportunity to comment on the proposed prudential and reporting framework. If you require any clarification on the substance of this submission, please do not hesitate to be in contact with our office.

In the first instance, questions about this submission may be directed to:

Mr Matthew Koce
Chief Executive Officer
2/826 Whitehorse Road
BOX HILL VIC 3128
Telephone:

Yours sincerely

MATTHEW KOCE
Chief Executive Officer

ANNEXURE A
HIRMAA MEMBERS

ACA Health Benefits Fund Ltd

Defence Health Ltd

Health Care Insurance Ltd

Health Partners Ltd

Latrobe Health Services Ltd

Lysaght Peoplecare Ltd

Mildura Health Fund

Navy Health Ltd

Phoenix Health Fund Ltd

Police Health Ltd

Queensland Country Heath Ltd

Queensland Teachers' Union Health Fund Ltd

Railway and Transport Health Fund Ltd

Reserve Bank Health Society Ltd

St Luke's Medical & Hospital Benefits Association Ltd

Teachers Federation Health Ltd

The Doctors' Health Fund Ltd

Westfund Ltd