



**Submission by the  
Financial Rights Legal Centre  
Consumer Action Law Centre**

APRA

Proposals for publication of life insurance claims  
data

May 2018 Discussion Paper

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July 2018

## About the Financial Rights Legal Centre

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumer's understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies. Financial Rights took close to 25,000 calls for advice or assistance during the 2016/2017 financial year.

Financial Rights also conducts research and collects data from our extensive contact with consumers and the legal consumer protection framework to lobby for changes to law and industry practice for the benefit of consumers. We also provide extensive web-based resources, other education resources, workshops, presentations and media comment.

This submission is an example of how CLCs utilise the expertise gained from their client work and help give voice to their clients' experiences to contribute to improving laws and legal processes and prevent some problems from arising altogether.

For Financial Rights Legal Centre submissions and publications go to [www.financialrights.org.au/submission/](http://www.financialrights.org.au/submission/) or [www.financialrights.org.au/publication/](http://www.financialrights.org.au/publication/)

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National Debt Helpline 1800 007 007  
Insurance Law Service 1300 663 464  
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Monday – Friday 9.30am-4.30pm

## About Consumer Action Law Centre

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer law and policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice and representation, and policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just market place for all Australians.

## Introduction

Thank you for the opportunity to comment on your *Proposals for publication of life insurance data*.

The Financial Rights Legal Centre (**Financial Rights**) and the Consumer Action Law Centre (**Consumer Action**) wants to congratulate the Australian Securities and Investments Commission (**ASIC**) and the Australian Prudential Regulation Authority (**APRA**) on taking such an important step towards greater transparency and more consistent data in life insurance claims. Consumer advocates have long argued the need for greater transparency of insurance data and we welcome the introduction of a collection and publishing regime. This data has the potential to not only help APRA and ASIC monitor claims trends and identify any potential issues of concern from changes in data, but will also go some way to address the problems of information asymmetry that face consumers, if appropriately published.

### Support for publication of life insurance data

Consumer advocates believe that when this life insurance data regime is established and the data is publicly available, it has the potential to improve people's ability to select a life insurer based on the actual performance of the product, and not simply because of advertising, incentives or the advice of advisers who are paid by commission. It is important that the data is used not just by consumers and advisers but by superannuation funds and other group policy holders to make better-informed decisions about insurance arrangements for their members. Encouraging funds and group policy holders to use this data will be critical given the vast majority of life insurance beneficiaries in Australia are under group policies.

In relation to the updated proposals in the May 2018 Discussion Paper, we are pleased to see the reported improvements in data quality and the additional reporting of withdrawn claims and the reasons for claim declines, withdrawals and disputes. These are areas of specific concern in our legal practices. Decline/withdrawals data is particularly important because ASIC does not have oversight of claims handling and this is an area where we see symptoms of a problem but not the cause or causes.

The level of detail collected in round two and intended to be collected in July 2018 is making the problem areas in life insurance clearer. We hope the publication of this data moves insurers to proactively improve contracts, claims handling and other issues, and assists regulators to target underperforming insurers and products.

Consumer advocates were also very pleased to see funeral and consumer credit insurance products included in this round of data items. These are problematic 'fringe' insurance products which have caused significant financial and personal harm to many people we have assisted.<sup>1</sup> We note that the claims acceptance rate is significantly lower for Consumer Credit

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<sup>1</sup> (eg DemandARefund.com, ACBF)

Insurance (**CCI**) death cover versus life insurance death cover (92% compared with 97% - table 2, p 14). We believe this justifies continued regulatory focus on CCI.

In the next round of data collection consumer advocates strongly support including non-death CCI (and accidental injury) product data. This is necessary to give a clear illustration of how CCI products perform. From a consumer perspective, the distinction between general and life insurance components of CCI is irrelevant. In line with the objectives of this regime, the general insurance components are an important part of the picture of CCI.

Finally we strongly support APRA's proposal that all data collected by APRA under the Reporting Standard should be determined to be 'non-confidential' (s 57 APRA Act) on the basis 'the public interest in access to the data outweighs any commercial detriment'.

### **Concerns with the Discussion Paper**

Consumer advocates disagree with APRA and ASIC's response to submissions about how and where this data should be published. The conclusion that industry will take their data collection as an opportunity to better educate consumers about the reasons for, and features of, products is misguided. We know from experience that industry will cherry pick the data that suits their marketing spin if there are no regulations about how and where they need to share this data with customers.

We also strongly disagree with the alternative approaches to data collection outlined in the Discussion Paper. We do not believe that the industry body is better placed to undertake collection rather than APRA/ASIC. The process so far has clearly showed the value of individual insurers reporting directly to APRA. This level of granularity, accountability and oversight is important.

Finally, we note that the Life Insurance Code of Practice (**LICOP**) sets a claims timeframes of two months (from claim or waiting period) for income protection and six months (from claim or waiting period) for all other life insurance.<sup>2</sup> Based on this Discussion Paper<sup>3</sup>, the percentages of claims not finalised within the LICOP timeframes are:

- 35% of TPD claims
- 26% of disability income insurance (DII) claims
- 9% of death claims
- 10% of CCI death claims
- 5% of trauma claims

These systemic delays are a significant issue for the industry to address and we believe the new data regime will positively contribute to improved industry performance in claims timeframes.

Finally, consumer representatives note the following comment in the executive summary:

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<sup>2</sup> LICOP clauses 8.16 and 8.17

<sup>3</sup> Table 4, pg 15\\

*The limitations of insurers' legacy systems and their reliance on manual processes continue to pose challenges, particularly where data is not currently being stored in the form requested.*

Consumer representatives do not accept the excuse of insurers that their “legacy systems” are not in a position to be updated to meet either regulatory expectations or the community expectations of much needed data to improve the asymmetry of information. Collecting and handling data is the bread and butter of an insurance company, and ensuring that infrastructure is kept up to date is the cost of doing business. If insurers can implement telematics recording and analysing every minute detail of policyholder’s driving details and fitness, develop multiple apps and engage the power of big data to their underwriting and product development and innovation, insurers can find the resources to improve their “legacy systems.”

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## Recommendations

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1. The data collected should be published both as a market transparency measure, made available online, in spreadsheet form as well as at the point of sale as a disclosure measure for consumers.
2. Consumer advocates do not support the alternative approaches to data collection outlined in the Discussion Paper. APRA/ASIC, not the life insurance industry, should undertake the collection of data.

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**Feedback question 1 - Industry-level publication: Are there any aspects of the data tables in this paper, including in Appendix A, that could be improved for the ongoing publication of aggregated industry data? Are there any data items which should be added or removed from this publication?**

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As an initial comment we note that Appendices A and B do not include the new data collected in round two (listed on p 21). We believe this is critical to understanding how life insurers really treat their customers when they are at their most vulnerable. Consumer advocates are very interested to see this data and how it will be reported and presented, including:

- claim declined reasons;
- claim withdrawn reasons;
- dispute lodged reasons;
- dispute withdrawn reasons; and
- detail on disputes resulting in an overturned claims decision.

With regard to industry level data items that should be added, an obvious missing element is the percentage of claims in which the benefit was partially paid versus fully paid.

Also, in relation to Table 5, an explanation and more detail about what “other decisions” means is required, as it is not clear in the paper. The risk is that this option may be used inappropriately, and the types of decisions insurers are classifying as “other decisions” ought to be captured.

Finally, Tables A.2-A.5 include figures on the number of Claims Reported. It is not clear that the definition of Claims Reported at page 12 is inclusive of “Claims Notified” as defined in Phase 1 Round 1. We believe that Claims Notified and claims where an insurer agrees they are on risk should be separately captured. Please clarify whether “Claims Reported” includes:

- instances where an insured has contacted an insurer to make an inquiry, request policy details or a claim form?
- claims where at least one piece of information has been provided, such as a claim form?
- claims where the insurer has not determined it is not on risk?
- claims where the insurers internal practice is to require a certain amount of information (for example, 3 pieces of medical evidence but they have only received 2), and have not yet quarantined funds?

It is our serious concern that if insurers are inconsistent in their interpretation and implementation of “Claims Reported” that the results will not be meaningful or provide insight into the causes of delays in claims handling. APRA and ASIC ought to be explicit and precise about their expectations with respect to how Claims Reported is interpreted and implemented by insurers. We note the definitions used in Phase 1 Round 1 and recommend it be captured separately. If Claims Reported does not include any of the above scenarios, another category may be required to capture these scenarios, say a “Claims Received” or “Claims notified”.

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## Recommendation

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3. An additional industry level data item should be added showing the percentage of claims in which the benefit is partially paid versus fully paid.
  4. “Other decisions” needs to be defined or clarified for any meaning to be derived from the data.
  5. The definitions “Claims Reported” ought to be further broken down to “Claims Received” and “Claims notified” and for industry to move to consistent definitions and data collection.
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**Feedback question 2 - Proposed Reporting Standard: Are there any aspects of the elements of the proposed Claims Data Reporting Standards which require modification? If so why?**

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No comments.

**Feedback question 3 - Public benefit of a nonconfidentiality determination: What would be the potential benefit to the public of the proposed determination that all data collected under the Reporting Standard is non-confidential?**

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We agree with the Discussion Paper that the proposals will improve the efficiency of the private life insurance market by making it more transparent, and will have a positive impact on competition. It will enable people and institutions such as superannuation funds to select insurance based on product performance rather than price, marketing, incentives and/or conflicted advice.

Transparency and better understanding will promote better demand-side competition from consumers, advisers and group policy holders. This in turn will encourage insurers to improve their own performance not just marketing spin. Greater transparency will encourage insurers to make the actual value of individual insurers' life insurance products clear.

**Feedback question 4 - Detriment to commercial interests of a nonconfidentiality determination: Would potential detriment to commercial interests arise from disclosure of data collected under the Reporting Standard? Submissions that seek to have the data remain confidential should:**

- **specify which data items should remain confidential; and**
  - **provide specific information on how the disclosure of that information would lead to detriment to commercial interests, and the extent to which that could occur.**
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No comment

## Feedback question 5 - Publication principles: Are there any aspects of publication principles which could be improved?

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The Discussion Paper states: “the ultimate success of the public reporting phase will be measured by the usefulness of the publication to consumers.” In this regard APRA and ASIC should be aware that for data to be accessible to community it should be published in some capacity at the brand level (not just by underwriter) since it is the brand that most consumers are aware of. There is very little likelihood of consumers looking up a database on the APRA website to look for the information that they need. This is simply not going to happen.

In relation to the principle that life insurance claims information must include “sufficient context to effectively inform the community” we encourage APRA and ASIC to ensure that publication includes more analysis done by ASIC and APRA directly.

The May 2017 Discussion Paper noted that the data collection “may also be used to facilitate analysis by ASIC and APRA.”<sup>4</sup> It was unclear whether that meant ASIC and APRA would publish analysis with the claims data or if analysis would be for internal use only. This follow-up Discussion Paper still does not make this clear and does not include much analysis of the data supplied. It is consumer advocates’ view that an annual analysis of the data by ASIC and APRA is warranted, and this analysis should be made publicly available.

Consumer advocates point to the General Insurance Industry Data Reports 2014-2015 and 2015-16 under the 2013 General Insurance Code of Practice as a good model for producing a report on insurance data that presents the statistics as a snapshot of the state of the industry as well as providing an analysis to highlight and point to significant trends. This report presents the material in a readable, digestible form and provides important context for the data. A similar approach should be taken by ASIC and APRA.

Financial Rights notes that the UK Financial Conduct Authority (**FCA**) is currently piloting the publication of general insurance “Claims Scorecards” for a small number of products.<sup>5</sup> The data is presented in such a way that there is minimal analysis or context, simply providing lists that can be filtered or ordered in a particular way. While useful on some level, it is not ideal. Analysis has been left to journalists, which in no way would provide a comprehensive, objective or even fair overview for both the industry and consumers.<sup>6</sup> While obviously consumer advocates are keen for media services to cover key points and trends, leaving this solely up to

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<sup>4</sup> p. 20

<sup>5</sup> FCA, FCA to publish claims scorecards, 1 March 2016

<https://www.fca.org.uk/news/press-releases/fca-publish-claims-scorecards>; FCA, General Insurance value measures data – year ending 31 August 2016, 25 January 2016

<https://www.fca.org.uk/publications/data/general-insurance-value-measures-data-year-ended-31-august-2016>

<sup>6</sup> For example: Caroline Birnham and Oliver Ralph, FCA names insurers most likely to reject customers, Financial Times <https://www.ft.com/content/7d1aef62-e2f5-11e6-9645-c9357a75844a>



news services, with no context or basic analysis is far from ideal. Nor is leaving it to industry to interpret and promote without independent analysis.

The UK FCA has also decided to publish the data as a “market transparency remedy” rather than as a “point of sale disclosure to consumers” although they “may consider this again in the future.”<sup>7</sup> It states that:

*Instead of direct to consumer disclosures we believe that consumer organisations and other stakeholders are in a good position to assess and process the value measures information into a clear format for consumers. Consumers will benefit from the information in this way.*

This may be the case for the UK however we do not think that this is particularly the case for the Australian market, due to economies of scale. Consumer advocates do not have adequate capacity to do this at current funding levels. We do not believe that this should be left to the fintech sector or any other market solution either. We believe that APRA and ASIC are best placed to provide the regulatory structure required to introduce standard disclosure of this information.

We strongly believe that disclosing the data gathered under this project to consumers in a distinct and separate document or webpage *and* at point of sale would very much assist with the decision-making process, and could easily be done through images, graphs, pie charts, or standard boxes to make it easily understandable for consumers. This can and should be developed using human-centred design and behavioural insights, and user-tested for the best results. For example we would recommend publishing such analysis on a consumer-facing website like ASIC’s Money Smart website, as opposed to APRA’s more technical pages.

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## Recommendations

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6. APRA and ASIC should publicly publish a consumer-friendly annual analysis of the data collected.
  7. Analysis of the data or publication of point of sale disclosure information should not be solely left to the market (via fintech, media or other sectors). APRA and ASIC need to provide an overview analysis and regulate to ensure consistent and full disclosure to consumers of the data collected.
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<sup>7</sup> para 4.15.

## **Feedback question 6 - Education materials on insurer level publication: What educational material would help people to understand and interpret the results?**

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First it is critical to note that effective consumer education requires long-term, highly-strategic and targeted work. Broad consumer education efforts are complex tasks and typically provide low-returns compared with industry change. Consumer groups believe that a clearer and more immediate benefit will be from improved insurance industry performance and improved ability for advisers and group policy holders to select the best products based on performance.

That being said, consumer groups do have several suggestions for education material that would help people understand and interpret the life insurance claims data.

- Top ten and/or bottom ten lists of insurers in each category;
- Clear information explaining the main reasons for claim declines and claim disputes;
- Infographics and flow charts visualizing important trends or data items; and
- Information regarding alternative financial products or financial solutions to certain products like can be found on some ASIC Money Smart pages (for example alternatives to funeral insurance like bonds, pre-purchased funerals or savings accounts).

## **Feedback question 7 - Proposed insurer level publication: Are there any aspects of the proposed insurer level publication in Appendix B which could be improved? Should the assumptions for insurer level publication be changed? If so, why?**

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Consumer groups have two main concerns regarding the insurer level publication in Appendix B. First we would like to see insurers actually named in this data. It is unclear if insurer names are going to be included in the final publication and the Alpha references in this Discussion Paper are just to exemplify how the tables will be structured. This is all but useless to consumers who are looking for information to help them make purchasing decisions. Consumer groups strongly recommend that like the UK, APRA and ASIC should name the entities explicitly.

We believe that consumers have the right to know the identity of the companies and their claims and disputes rates. While it is important to place this data within a context that allows consumers to fairly understand their meaning, it is both in the interests of consumers to know this information to make better informed decisions as well as the industry in order to drive and encourage industry self improvement where improvement is needed. If we are going to better inform consumers, why stop short of actually providing the information they actually need.

Second, we believe it is critical for data to be published at the individual insurer and product level. To be clear, this means that people be able to see the claims rates and other statistics for each and every individual insurance product (or at the very least group of products) for each and every entity.

While consumer groups very much support the publishing of aggregate data on an industry-level and an entity level, and understand that this was the recommendation made in Report 498, serious consideration needs to be given to the publishing of specific product-level data for each entity, as it does not seem to currently be the intention of ASIC and APRA.

There are important reasons for this specific product level information to be provided – largely to assist consumers in making more informed decisions about the individual products that are available. Information asymmetry is a defining element of the relationship between insurer and the insured. Insurers, through the use of large datasets and actuarial analysis, in most cases hold a greater understanding of risk than the buyers of insurance products. Consumers are left to make decisions based on partial information, guesses and gut feeling that can be influenced by a range of issues including individual life circumstances and experiences as well as the information provided by the life insurer themselves. This is leading to poor decision making.

While our two consumer groups expect that most insurers are honest and scrupulous, setting premiums and designing products that serve consumers well, information asymmetry can provide the opportunity to some more manipulative elements of the industry to disguise subpar insurance products with slick advertising and highly influential sales people and practices. The work ASIC and Consumer Action have conducted with respect to add-on insurance in the motor vehicle market<sup>8</sup> is an example where information asymmetry has allowed some in the industry to exploit consumers to sell poorly designed, basically useless products.

Individual product-level data in this case would have gone some way to providing consumers with the information they needed to know at the time of purchasing add on insurance.

In the UK, the FCA has decided to collect and publish data at product level. The FCA has established a pilot scorecard project which has published general insurance value measures data for 38 insurers for the year ending 31 August 2016.<sup>9</sup> The pilot scorecard includes claims frequencies, claims acceptance rates and average claim pay-outs. The general insurance products covered are home (buildings and contents) insurance, home emergency, personal

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<sup>8</sup> ASIC, REP 470 Buying add-on insurance in car yards: Why it can be hard to say no, February 2016 <http://asic.gov.au/regulatory-resources/find-a-document/reports/rep-470-buying-add-on-insurance-in-car-yards-why-it-can-be-hard-to-say-no/> and ASIC, REP 492 A market that is failing consumers: The sale of add-on insurance through car dealers, September 2016, <http://asic.gov.au/regulatory-resources/find-a-document/reports/rep-492-a-market-that-is-failing-consumers-the-sale-of-add-on-insurance-through-car-dealers/>, Consumer Action, Junk Merchants – How Australians are being sold rubbish insurance, and what we can do about it, December 2015

<sup>9</sup> FCA, General Insurance value measures data – year ending 31 August 2016 <https://www.fca.org.uk/publications/data/general-insurance-value-measures-data-year-ended-31-august-2016>

accident and “key cover”. The data provides users with a broader range of information to assess firms and product value.

The scorecard provides a range of data and is worth examining by APRA and ASIC to provide a model from which to base the Australian publishing of data.

The scorecard presents for, say Home (combined buildings and contents) insurance a spreadsheet of:

- Firm
- Sales type (ie standalone/direct versus add-on)
- Claims frequency (as a range for example 2.5% to 4.9%)
- Claims acceptance rate (as a range, for example 80% to 84.9%)
- Average claims pay-out (as a range, \$2000 to \$2999)

This data in a life insurance context will be valuable for consumers to understand the products that they are purchasing.

The data are aggregated on a product and entity level so that:

*The value measures data reflect the aggregated data for the individual firms and products. The data will therefore be impacted by the mix of business undertaken by that firm and may not reflect individual distributor/brand arrangements or individual insurance products purchased by different consumers from the same insurer.<sup>10</sup>*

The data obviously reflects past performance and the actual claims payout can vary significantly from the average described. We recommend APRA and ASIC consider the use of averages, means, ranges, highest, lowest measures, when considering implementation. The FCA also warns readers of the data that

*Average claims pay-out and claims frequency will be influenced by a variety of factors such as the level and type of cover. Some insurers may predominately sell specialist or high end products therefore the sum-insured may be considerably higher resulting in higher claims costs.*

This is appropriate.

The FCA decided not to include a claims ratio measure as they believe that:

*Creating an appropriate calculation framework for producing comparable data for claim ratio is challenging because of the range of existing practices by firms.<sup>11</sup>*

We do not believe that these issues are insurmountable in the Australian context, particularly given that ASIC has published product level claims ratio previously for add-on insurance. Claims ratio would be a valuable addition, a useful indicator of value for money for customers

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<sup>10</sup> FCA, General Insurance value measures data – year ending 31 August 2016  
<https://www.fca.org.uk/publications/data/general-insurance-value-measures-data-year-ended-31-august-2016>

<sup>11</sup> Para 3.12

and APRA and ASIC should consider the publication of this data. Existing industry practices can and should adapt.

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## Recommendations

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8. APRA and ASIC should publish the names of individual entities in any publication of data.
9. APRA and ASIC should publically publish individual product level data in addition to industry and entity level data.
10. In so doing ASIC and APRA should follow the lead of the UK and publish:
  - a) Claims frequency;
  - b) Claims acceptance rate; and
  - c) Average claims pay-outs.
11. APRA and ASIC should consider the use of measures other than averages including means, ranges, highest and lowest measures to provide a full picture.
12. ASIC and APRA should also publish claims ratios of products.

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## Concluding Remarks

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact us.



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