

Chapter 2

Concluded matters

This chapter sets out matters which have been concluded following the receipt of additional information from ministers.

Correspondence relating to these matters is available on the committee's website.¹

Instrument	Australian Prudential Regulation Authority (confidentiality) determination No. 1 of 2018 [F2018L00765]
Purpose	Provides that certain information given to the Australian Prudential Regulation Authority is to be non-confidential
Authorising legislation	<i>Australian Prudential Regulation Authority Act 1998</i>
Portfolio	Treasury
Disallowance	15 sitting days after tabling (tabled Senate 18 June 2018). Notice of motion to disallow must be given by 23 August 2018. ²

Consultation³

1.1 In [Delegated legislation monitor 8 of 2018](#)⁴ the committee requested the Treasurer's advice as to whether any consultation was undertaken in relation to the instrument and, if so, the nature of that consultation; or, if no consultation was undertaken, why not. The committee also requested that the explanatory statement (ES) to the instrument be updated to include this information.

Treasurer's response

1.2 The Treasurer advised that:

The instrument determines certain data provided to the Australian Prudential Regulation Authority (APRA) by general insurers and Lloyds non-confidential for the purposes of an annual publication by APRA called

1 See www.aph.gov.au/regords_monitor.

2 In the event of any change to the Senate's sitting days, the last day for the notice would change accordingly.

3 Scrutiny principle: Senate Standing Order 23(3)(a).

4 Senate Standing Committee on Regulations and Ordinances, *Delegated legislation monitor 8 of 2018*, pp. 1-3.

the National Claims and Policies Database (NCPD). The data is provided to APRA on a half-yearly basis under six reporting standards determined under the Financial Sector (Collection of Data) Act 2001.

I note the Committee's concerns that the Explanatory Statement to the instrument does not provide information on any consultations undertaken, as required under paragraphs 15J(2)(d) and (e) of the Legislation Act 2001.

I have raised the Committee's concerns with APRA. They have advised me that as set out in the Explanatory Statement of the 2018 Determination, APRA conducted extensive external consultations in 2008 and 2009 for the purpose of determining data provided by general insurers and Lloyd non-confidential for the NCPD. In 2010, APRA determined the data non-confidential for the NCPD after considering responses to the consultation and being satisfied the consultation was appropriate and reasonably practicable.

Since 2010, APRA has determined the same types of data, as submitted by general insurers and Lloyds every six months, non-confidential. The population of general insurers whose data is determined non-confidential has remained substantially the same since 2010. There are a small number of new entrants to the reporting population, all of whom were aware at the time of authorisation that certain data they report to APRA is made non-confidential for publication purposes. The new entrants had opportunity to raise concerns about non-confidentiality determinations during their authorisation process, and had access to all non-confidentiality determinations on the Federal Register of Legislation. On this basis, APRA has made similar legislative instruments determining certain data provided to APRA by general insurers and Lloyds non-confidential since 2010.

APRA did not consider that further consultation was necessary in relation to the 2018 Determination. APRA is satisfied that the extensive external consultations in 2008 and 2009 continue to be to be appropriate in relation to the 2018 Determination.

However, in response to the Committee's concerns, APRA has agreed to lodge a replacement Explanatory Statement for inclusion on the Register of Legislative Instruments, which outlines the reasons above.

Committee's response

1.3 The committee thanks the Treasurer for his response, and notes the Treasurer's advice that the Australian Prudential Regulation Authority (APRA) conducted extensive external consultation in 2008 and 2009 in relation to matters covered by the instrument. The committee also notes the advice that the population of general insurers whose data is determined to be non-confidential has remained substantially the same since 2010, and that the small number of new entrants to the reporting population have had the opportunity to raise concerns about non-confidentiality determinations during their authorisation process.