



**Australian Government**

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**The Treasury**

# **General Insurance Intermediaries: Data Collection Requirements**

Consultation Paper

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## GLOSSARY

The following abbreviations and acronyms are used throughout this consultation paper.

APRA	Australian Prudential Regulation Authority
APRA Act	<i>Australian Prudential Regulation Authority Act 1998</i>
APRA-authorized general insurer	An APRA-authorized general insurer is a body corporate authorized under section 12 of the <i>Insurance Act 1973</i> to carry on insurance business in Australia.
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
atypical risk	A risk identified in sub-regulation 4C(2) of the Insurance Regulations (repeated at Appendix B) including, for example, hazardous properties of biological material, war and medical clinical trials.
atypical risk exemption	An exemption for a class of contracts of insurance issued by an UFI under which atypical risks are insured against. The exemption is in regulation 4C of the Insurance Regulations.
Corporations Act	<i>Corporations Act 2001</i>
Corporations Regulations	<i>Corporations Regulations 2001</i>
customised exemption	A case by case exemption for a contract of insurance issued by an UFI. The exemption is provided by an AFS licensee that is an insurance broker on the basis that the contract cannot reasonably be placed with an Australian insurer (including a general insurer or Lloyd's underwriter). Reasons are at Appendix C. The exemption is in regulation 4D of the Insurance Regulations.
deal	In broad terms, a general insurance intermediary 'deals' in a general insurance product if they apply for, acquire, issue, vary or dispose of a product on behalf of a wholesale or retail client. Arranging for a person to do one of these things is also dealing in the product, unless that activity is providing financial service advice.
DMF/DOFI Act	<i>Financial Sector Legislation Amendment (Discretionary Mutual Funds and Direct Offshore Foreign Insurers) Act 2007</i> , which was given Royal Assent on 24 September 2007.
D2A	Direct to APRA software
foreign law exemption	An exemption for a class of contracts of insurance issued by an UFI where a law of a foreign country requires that the contract be issued by an insurer, or a kind of insurer, authorised or permitted under the laws of that country to issue that kind of contract. The exemption is in regulation 4E of the Insurance Regulations.
general insurance intermediary	An Australian financial services licensee authorised to deal in general insurance products, including general insurance brokers and general insurance underwriting agents. (This class of licensee may also include some APRA-authorized general insurers. However, to avoid duplicate data collection these requirements will not apply to general insurer licensees to the extent that they only deal in products they issue.)
high-value insured (HVI)	A policyholder is a high-value insured if, either alone or as part of a related group (as set out in section 50 of the <i>Corporations Act 2001</i> ): the operating revenue of the policyholder derived in Australia for a financial year is at least \$200 million; the value of the policyholder's gross assets in Australia at the end of a financial year is at least \$200 million; or the number of employees of the policyholder in Australia at the end of a financial year is at least 500.
HVI exemption	An exemption for a class of contracts of insurance issued by an UFI where at least one of the policyholders is a high-value insured (HVI). The exemption is provided for in regulation 4B of the Insurance Regulations.
Insurance Act	<i>Insurance Act 1973</i>
Insurance Regulations	<i>Insurance Regulations 2002</i>
Lloyd's underwriters	Lloyd's underwriters as defined in the Insurance Act.
UFIs	Unauthorised Foreign Insurers (UFI) are foreign domiciled insurers which are not authorised by APRA to carry on insurance business in Australia. UFIs are defined in Regulation 4 of the Insurance Regulations. A common example of an UFI is a foreign insurer that, if it carried on insurance business in Australia, whether directly or via a general insurance intermediary, would be in breach of section 9 or 10 of the Insurance Act. Section 9 and 10 prohibit entities from carrying on general insurance business in Australia without being regulated by APRA. Limited exemption arrangements in Part 2 of the Insurance Regulations allow some UFIs to conduct insurance business in Australia without being authorised.



## CHAPTER 1: INTRODUCTION

This consultation paper explains new data collection obligations for general insurance intermediaries, that is, Australian financial service licensees that are authorised under the *Corporations Act 2001* (Corporations Act) to deal in general insurance products, including:

- general insurance brokers;
- general insurance underwriting agents; and
- some APRA-authorised general insurers (but only to the extent that they are acting as intermediaries for other insurers).

The data collection arrangements do not apply to general insurance intermediaries that are only authorised to provide either general or personal financial advice.

In particular, this paper explains what data is to be collected, how it is to be lodged and how it will be published.

The Treasury is seeking submissions from interested persons about the following matters:

- the practicality of collecting the data specified in the two forms in Chapter 2;
- the practicality of lodging data with the Australian Prudential Regulation Authority (APRA) either in paper form, or electronically using the 'Direct to APRA' (D2A) system, as described in Chapter 3; and
- the publication of data in aggregate, as described in Chapter 4.

### DATA COLLECTION CONTEXT

The *Financial Sector Legislation Amendment (Discretionary Mutual Funds and Direct Offshore Foreign Insurers) Act 2007* (DMF/DOFI Act) amended the *Insurance Act 1973* (Insurance Act) to, in part, expand and clarify the meaning of 'carrying on insurance business in Australia'. As a result, an entity may only carry on insurance business in Australia if it is:

- an APRA-authorised general insurer, that is, a body corporate authorised under section 12 of the Insurance Act to carry on insurance business in Australia; or
- a Lloyd's underwriter permitted to operate pursuant to the Insurance Act; or
- otherwise exempt; in particular, because it is an unauthorised foreign insurer (UFI) that is issuing a general insurance contract within the limited exemption arrangements established under section 3A of the Insurance Act and set out in Part 2 of the *Insurance Regulations 2002* (Insurance Regulations).

The DMF/DOFI Act does not apply to foreign reinsurers, which continue to be regulated under pre-existing arrangements. Accordingly, this data collection excludes reinsurance and retrocession contracts.

The limited exemption arrangements recognise that there are some circumstances where insurance risks cannot be appropriately placed with an APRA-authorized general insurer or a Lloyd's underwriter and thus need to be insured with an UFI. Almost all business placed with UFIs through the limited exemption arrangements will be placed with the assistance of general insurance intermediaries.

The limited exemption arrangements provide for:

- a high-value insured exemption;
- an atypical risk exemption;
- a customised exemption; and
- a foreign law exemption.

The expanded meaning of 'carrying on insurance business in Australia' and the limited exemption arrangements came into force on 1 July 2008.

To complement these changes, the DMF/DOFI Act also introduced a new section 985D into the Corporations Act. Section 985D makes it an offence for a general insurance intermediary to deal in a general insurance product unless the insurer for the product is:

- an APRA-authorized general insurer;
- a Lloyd's underwriter; or
- otherwise exempt, in particular, because the insurer is an UFI issuing an insurance contract covered by the exemption arrangements in Part 2 of the Insurance Regulations.

## **DATA COLLECTION OBJECTIVES**

The objectives of the data collection are to:

1. monitor the use of the limited exemption arrangements and assist in the modification of those arrangements over time; and
2. enable a better understanding of the Australian general insurance market by obtaining data on the intermediation of general insurance products.

The first objective was foreshadowed on 8 April 2008 as a part of the former Assistant Treasurer and Minister for Competition Policy and Consumer Affairs' announcement of the details of the exemption arrangements. That announcement noted that data collection from general insurance intermediaries 'will allow ongoing monitoring of the business flowing offshore and will enable the exemption arrangements to be reviewed'.

The second objective is of heightened importance in the context of recent financial market turmoil. Data on the intermediation of general insurance will enable, for example, a greater understanding of the impact of an insurer failure on the Australian community.

The failure, for example, of a significant UFI or Lloyd's underwriter has the potential to cause significant disruption to individuals and businesses insured with them.

The financial claims scheme that was recently established in Part VC of the Insurance Act does not apply to UFIs or Lloyd's underwriters.<sup>1</sup>

However, insureds contracting with Lloyd's underwriters benefit from security trust fund arrangements established in accordance with the Insurance Act and monitored by APRA. These trust funds hold assets in Australia that are proportionate to Lloyd's liabilities and premium income relating to Australia and also include an additional reserve. The Australian trust funds may be drawn upon if all other relevant Lloyd's assets are exhausted.

In contrast, insureds contracting with UFIs are likely to have very limited recourse in the event of a failure. In addition, at this time, there is no data that will inform the Australian Government about the potential impact of such a failure.

Existing data collection processes do not provide the data that are needed to achieve the objectives set out above.<sup>2</sup> A previous relevant data collection ceased in 2004.<sup>3</sup>

## DATA COLLECTION OVERVIEW

### Data requirements

APRA will be acting as an agent of the Australian Securities and Investments Commission (ASIC) in the data collection process. The data will be collected in two reporting forms every six months. In this instance, APRA is acting solely in its role as a national statistical collection agency for the Australian financial sector, not as a prudential regulator. There is no intent in this initiative to extend prudential regulation to any entity unregulated by APRA.

The first form (Form 1) will require general insurance intermediaries to provide aggregate data on contracts of insurance, entered into during the reporting period as a result of dealing by the intermediary, with all APRA-authorized general insurers, Lloyd's underwriters and UFIs. This collection will cover both UFI and non-UFI business.

The second form (Form 2) will require general insurance intermediaries to provide transaction level data on contracts of insurance, entered into during the reporting period as a result of dealing by the intermediary, with UFIs using the limited exemption arrangements. In addition, general insurance intermediaries will be required to provide transaction level data on every contract of insurance, entered into during the reporting period as a result of dealing by the intermediary that relates to an atypical risk, irrespective of whether it is placed with an APRA-authorized insurer, Lloyd's underwriter or UFI.

The data collection is designed to produce data that is as complete as possible, reliable and verifiable, at reasonable cost to the reporting entities. The data to be collected is not otherwise available to APRA, ASIC or the Australian Government.

### Data lodgment

General insurance intermediaries that have data to submit only in Form 1 (for example, they have no UFI business) may do so either electronically or in paper form. However, those general insurance intermediaries that have data to submit in both Form 1 and Form 2 must submit them both electronically. The option to provide the information in paper form will not apply in this case.

When submitting information electronically, APRA's Direct to APRA (D2A) system is to be used. D2A facilitates manual entry of data or direct importation of data from business information systems. D2A submits returns by passing information in an encrypted form to APRA using a direct internet connection.

## Data publication

APRA will publish summarised data submitted by general insurance intermediaries in aggregate, non-entity specific form every six months. No data identifying individual general insurance intermediaries is intended to be published.

## NEXT STEPS

Submissions in response to this consultation paper and the proposed Corporations Amendment Regulations must be received by 8 October 2009 and should be addressed to:

Manager  
Insurance Markets Unit  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [UFIData@treasury.gov.au](mailto:UFIData@treasury.gov.au)  
Fax: (02) 6263 3866

Submissions may be the subject of a request for access made under the *Freedom of Information Act 1982* (FOI Act). Submissions will be treated as public and published on the Treasury website unless clearly marked as confidential and the confidential information contained in the submission is identified. The Treasury will determine FOI Act requests, if any, in accordance with the provisions of the FOI Act.

## CHAPTER 2: DATA REQUIREMENTS

### WHICH GENERAL INSURANCE INTERMEDIARIES MUST PROVIDE DATA?

General insurance intermediaries will be required to provide aggregate data to APRA, every six months, on contracts of insurance entered into during the reporting period as a result of dealing by the intermediary, with APRA-authorized general insurers, Lloyd's underwriters and UFI's. (The aggregate data to be provided is set out in Form 1.)<sup>4</sup>

'Dealing' in a financial product (of which a general insurance product is one) is defined to include conduct that involves (whether engaged in as principal or agent) applying for, issuing, varying or disposing of a financial product. It can also include arranging for a person to engage in such conduct.

General insurance intermediaries will also be required to provide transaction level data on contracts of insurance, entered into during the reporting period as a result of dealing by the intermediary, with UFI's using:

- the HVI exemption (including data on the size of a high-value insured);
- the atypical risk exemption;
- the customised exemption; and
- the foreign laws exemption.

In addition, general insurance intermediaries will be required to provide transaction level data on every atypical risk-related insurance contract, entered into during the reporting period as a result of dealing by the intermediary, with an APRA-authorized general insurer or a Lloyd's underwriter. (The transaction level data to be provided is set out in Form 2.)

The data collection only applies to insurance placements and will not apply to reinsurance or retrocession.

The data collection is designed to produce data that is as complete as possible, reliable and verifiable. The proposed collection will not collect information that is otherwise available to APRA, ASIC and the Australian Government in a suitable form.

### Exception for APRA-authorized general insurers

An Australian financial services licensee that is also an APRA-authorized general insurer will not be required to provide data on general insurance products that it issues.

This exception is appropriate because each APRA-authorized general insurer already provides data to APRA under the *Financial Sector (Collection of Data) Act 2001* on its general insurance business. This data collection is the main source of data for APRA's *Half Yearly General Insurance Bulletin*. If an APRA-authorized general insurer were required to provide data under this data collection, it would effectively be providing that data twice in largely identical form. However, an APRA-authorized general insurer must provide data on

business where the APRA-authorised general insurer has acted as an intermediary in its capacity to deal in general insurance products of other insurers.

## **TO WHOM AND WHEN MUST DATA BE PROVIDED?**

General insurance intermediaries will provide data to APRA in electronic form using APRA's Direct to APRA (D2A) software.<sup>5</sup> APRA will supply the D2A software free of charge to any reporting entity. General insurance intermediaries which will only have data to submit in Form 1 will have the option to submit in paper form (more information on how the data is to be lodged is provided in Chapter 3). This data collection will be undertaken by APRA on behalf of ASIC under Corporations Act provisions. APRA in this instance is acting in its role as a national statistical agency for the Australian financial sector, not in its role as a prudential regulator. Nothing in this data collection will extend prudential regulation to general intermediaries unregulated by APRA.

APRA and ASIC are required to maintain the confidentiality of any information submitted to them.<sup>6</sup>

The first formal collection of Form 1 and Form 2 data will cover the period 1 November to 31 December 2009. This collection is aimed at verifying systems and procedures prior to the formal collection of six-month period data. General insurance intermediaries are to submit the data for the first formal collection to APRA by 26 February 2010.

The requirements of the first formal collection mean that general insurance intermediaries will need to have systems in place by 1 November 2009 to collect and manage the data. Although it will not be a strict requirement of the first collection, intermediaries will also be asked to provide any available data covering the period 1 July 2009 to 31 October 2009, on a best endeavours basis.

The collection period to which the second set of data relates is the period 1 January 2010 to 30 June 2010. Thereafter, collection will be six-month periods starting every 1 July and 1 January.

Following the first formal collection, data for subsequent collections are to be submitted to APRA within 20 business days of the end of the reporting period to which the data relates, unless otherwise specified by ASIC or APRA. This aligns with the timeframe for lodgment applying to submissions to APRA that are not required to be audited.

## **DATA VALIDITY, FOLLOW-UP AND NON-COMPLIANCE**

There will be no requirement for the data provided by general insurance intermediaries to be audited. However, general insurance intermediaries are required to have adequate risk management systems.<sup>7</sup> To ensure the data is sufficiently complete, reliable and verifiable, it is suggested that a general insurance intermediary instruct its auditor to periodically review its systems and the associated controls underlying the reporting of the data, including by doing some level of substantive testing as the basis for forming an audit opinion.

APRA will assess the lodged data for validity. Any issues identified with the data will be referred back to the general insurance intermediary and the intermediary will need to provide any additional information that is requested by APRA. The intermediary may subsequently be required to resubmit the data if any errors are identified. All responses and resubmissions will be required within five business days of notification from APRA.

If the general insurance intermediary fails to submit data (including additional data and resubmissions requested by APRA), or fails to correct errors or omissions in the data, APRA will advise ASIC of the issue. This situation will be a breach of the general insurance intermediary's Australian financial service licence obligations.<sup>8</sup> All the existing remedies available to ASIC for such a breach will apply.

In addition, a failure to provide the data required will be a strict liability offence with a maximum penalty of 10 penalty units for an individual (that is, \$1,100) or 50 penalty units for a corporation (that is, \$5,500).<sup>9</sup>

Although the above penalties are available as needed, APRA's current statistical collections achieve over 99 per cent compliance with minimal recourse to enforcement action. General insurance intermediaries refusing to comply with their reporting obligations, or providing data in a negligent or deliberately insufficient manner, will be referred to ASIC for possible enforcement action. APRA's preferred policy with regard to reporting entities who are sincerely attempting to comply, but encountering difficulties in doing so, is to provide guidance rather than to commence enforcement action.

## WHAT DATA ARE TO BE PROVIDED?

### Aggregate data on intermediated business with APRA-authorised general insurers, Lloyd's underwriters and UFI's

All general insurance intermediaries will be required to provide data consistent with Form 1 below.

#### Form 1: Aggregate data on intermediated business with APRA-authorised general insurers, Lloyd's underwriters and UFI's

APRA class of business	General insurers		Lloyd's underwriters		UFI's	
	Premium	No. of policies	Premium	No. of policies	Premium	No. of policies
Houseowners/householders						
Commercial motor vehicle						
Domestic motor vehicle						
Travel						
Fire and ISR						
Marine						
Aviation						
Mortgage						
Consumer credit						
Other accident						
Other						
CTP motor vehicle						
Public and product liability						
Professional indemnity						
Employers' liability						
<b>Total business</b>						

**Form 1: Data specification**

Field	Specification
Premium	Enter the total premium for all policies for a given APRA class of business (as defined by Appendix A). Premium is to be expressed in Australian dollars inclusive of fire services levies, tax payable by insurers under the <i>Insurance Protection Tax Act 2001</i> (NSW) and income tax payable by non-resident insurers under Division 15 of Part III of the <i>Income Tax Assessment Act 1936</i> (Cth) but exclusive of amounts collected on behalf of third parties (such as GST and stamp duty) and amounts paid to general insurance intermediaries as fees or commissions. Premium for all policies must be recognised when received by the general insurance intermediary. In the case of premiums payable by instalment, the total premium payable over the full term of the policy must be recognised when the first instalment is paid. Where premium is accepted on a deposit basis, the full annual premium is to be recognised when the deposit is paid.
No. of policies	Enter the total number of policies for a given APRA class of business (as defined by Appendix A) entered into during a reporting period. In most instances, there will be one policy per transaction. However, in the case of co-insurance there may be multiple underwriters for each policy (potentially some UFI's, some APRA-authorized general insurers and some Lloyds underwriters). Each underwriter must correspond to one policy.

To avoid double counting, where there are two or more general insurance intermediaries that are dealing with the same policy, only the general insurance intermediary that deals directly with the underwriter will be required to report on that policy. For example, where a transaction involves two general insurance intermediaries, where one is an agent for a Lloyd's underwriter (or similarly an agent for an APRA-authorized general insurer) and the other is a broker for the client, only the intermediary that is the agent of the Lloyd's underwriter (or the agent for the APRA-authorized general insurer) will be required to provide data in relation to the policy.

### Transaction level data on intermediated business relating to UFI's and/or atypical risks

If, as a result of a general insurance intermediary's dealing in a general insurance product:

- a contract of insurance is entered into during the reporting period with an UFI (covered by the exemption arrangements in Part 2 of the Insurance Regulations); or
- a contract of insurance is entered into during the reporting period that insures against an atypical risk (regardless of whether it is placed with an APRA-authorized general insurer, Lloyd's underwriter or UFI);

the intermediary will be required to complete Form 2.

As with Form 1, to avoid double counting, where there are two or more general insurance intermediaries that are dealing with the same policy, only the intermediary that deals directly with the underwriter will be required to report on that policy.

To illustrate how Form 2 is proposed to operate, the form has been populated with six 'worked examples' to illustrate what data would be required.

**Form 2: Worked examples**

Example	Form 2 rows	Example description
1	A	A Fire & ISR policy falling into the atypical risk nuclear category. It is placed directly with an APRA- authorised general insurer.
2	B to C	A public and product liability policy with a high-value insured (based on the operating revenue threshold). It is shared between two UFIs.
3	D	An employers' liability policy placed with a UFI due to foreign law insurance requirements.
4	E	A commercial motor policy placed with a single UFI using the customised exemption.
5	F to H	An aviation policy using the atypical exemption for aviation liability. The first layer is placed with a UFI and a Lloyd's underwriter, and the second layer is placed with a single UFI.
6	I to N	A Fire & ISR policy with a high-value insured (using the gross assets threshold). The first layer is placed solely with a UFI; the second layer is shared between a panel of two UFIs and a general insurer. The third layer is split between a Lloyd's underwriter and a UFI.

## Form 2: Transaction level data on intermediated business relating to UFIs and/or atypical risks

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Client code	Policy code	Policy date	APRA class of business	Layer	Insurer share (%)	Premium (\$)	Insurer class	UFI name	UFI country code	Exemption type	HVI limb	HVI value (#)	Atypical risk class	Custom-ised reason
A	DF343AF	FISR3A-8	20090509	Fire & ISR	S	100%	\$100,000	Gen insurer			Atypical			Nuclear	
B	44657925	PL34D-A4	20090424	Public liability	S	20%	\$6,000	UFI	Liability Link	BM	HVI	Rev.	\$250m		
C	44657925	PL34D-A4	20090424	Public liability	S	80%	\$24,000	UFI	Board Cover	BM	HVI	Rev.	\$250m		
D	465G343 A	EPL33-F	20090629	Employers' liab	S	100%	\$2,400	UFI	FirstBoss Ins Co	MY	Foreign				
E	BA43SD	CMR65-4	20090401	Comm. motor	S	100%	\$52,000	UFI	Alaskan Motor	US	Custom				Availability
F	CSA534I	MA345	20090628	Aviation	L1	50%	\$20,500	UFI	Howzat Aviation	BM	Atypical			Aviation	
G	CSA534I	MA345	20090628	Aviation	L1	50%	\$20,500	Lloyd's			Atypical			Aviation	
H	CSA534I	MA4449	20090629	Aviation	L2	100%	\$20,500	UFI	AviSafe	GB	Atypical			Aviation	
I	AA434B	FISR3354A	20090414	Fire & ISR	L1	100%	\$5,555	UFI	Corporal Insure	BM	HVI	Assets	\$850m		
J	AA434B	FISR9983	20090414	Fire & ISR	L2	20%	\$4,000	Gen insurer			HVI	Assets	\$850m		
K	AA434B	FISR9983	20090414	Fire & ISR	L2	40%	\$8,000	UFI	Cat Protect	BM	HVI	Assets	\$850m		
L	AA434B	FISR9983	20090414	Fire & ISR	L2	40%	\$8,000	UFI	Silver Bullet Inc	US	HVI	Assets	\$850m		
M	AA434B	FISR552G	20090414	Fire & ISR	L3	70%	\$28,000	Lloyd's			HVI	Assets	\$850m		
N	AA434B	FISR552G	20090414	Fire & ISR	L3	30%	\$12,000	UFI	XYZ Insurance	BM	HVI	Assets	\$850m		

## Form 2: Data specification

Column No.	Field name	Specification
1	Client code	Enter the unique general insurance intermediary defined identifier for the client being insured.
2	Policy code	Enter the unique general insurance intermediary defined identifier for the policy being issued.
3	Policy date	Enter the date premium is accepted by the general insurance intermediary in respect of a policy.
4	APRA class of business	Enter APRA class of business applicable to the policy as defined in Appendix A.
5	Layer	If the policy is 100% of a single layer then enter 'S'. If there is more than one insurer providing insurance on one or more layers of an insurance program identify the layer as 'L1', 'L2', etc.
6	Insurer share (%)	If the policy is 100% of a single layer then enter '100%'. If there is more than one insurer providing insurance on a given layer of an insurance program identify the percentage of the layer being provided by the policy.
7	Premium (\$)	Enter the premium for the policy. Premium is to be expressed in Australian dollars inclusive of fire services levies, tax payable by insurers under the <i>Insurance Protection Tax Act 2001</i> (NSW) and income tax payable by non-resident insurers under Division 15 of Part III of the <i>Income Tax Assessment Act 1936</i> (Cth) but exclusive of amounts collected on behalf of third parties (such as GST and stamp duty) and amounts paid to general insurance intermediaries as fees or commissions. Premium for all policies must be recognised when received by the general insurance intermediary. In the case of premiums payable by instalment, the total premium payable over the full term of the policy must be recognised when the first instalment is paid. Where premium is accepted on a deposit basis, the full annual premium is to be recognised when the deposit is paid.
8	Insurer class	Enter insurer class as either an APRA-authorized general insurer ('general insurer') or a Lloyd's underwriter ('Lloyd's') or an UFI ('UFI').
9	UFI name	If insurer class in column 8 is 'UFI', then enter the UFI's full name.
10	UFI country code	If insurer class in column 8 is 'UFI', then enter ISO 3166-1-alpha-2 country code of the UFI (do not enter the UFI's parent company country code).
11	UFI exemption type	Enter the Insurance Regulation exemption category applicable to the transaction, that is, either 'HVI', 'Atypical', 'Custom' or 'Foreign'. If it is possible to select either 'Atypical' or 'HVI' then enter 'Atypical'.
12	HVI limb	If high valued insured (HVI) exemption is selected in column 11, enter applicable threshold category, that is, 'Assets', 'Revenue' or 'Employee'. If multiple thresholds categories may be selected, then threshold must be selected in this order: 'Assets'; 'Revenue'; 'Employee'.
13	HVI value (#)	If high valued insured (HVI) exemption is selected in column 11, enter policyholder value corresponding to HVI threshold selected in column 12 (for example, if the asset threshold is used then enter the value of the policyholder's assets).
14	Atypical risk class	If atypical risk is selected in column 11, enter atypical risk class applicable to the policy as defined in Appendix B (regardless of whether policy is with a general insurer, Lloyd's underwriter or UFI).
15	Customised reason	If 'Custom' is selected in column 11, enter the reason for using the customised exemption that is applicable to the policy as defined in Appendix C.



## CHAPTER 3: DATA LODGMENT

### HOW WILL GENERAL INSURANCE INTERMEDIARIES LODGE DATA WITH APRA?

As indicated above, general insurance intermediaries that have data to submit only in Form 1 may do so either electronically or in paper form. However, those general insurance intermediaries that have data to submit in both Form 1 and Form 2 must submit all data electronically using D2A. All submissions must include both Form 1 and Form 2, irrespective of whether the intermediary has data to submit.

### HOW IS DATA TO BE LODGED WITH APRA IN PAPER FORM AND WHAT ARE THE SIGN-OFF REQUIREMENTS?

Lodging the information with APRA in paper form can be done by mailing the document, delivering it in person, or emailing a PDF of the document to APRA. Lodgment details will be available on APRA's website.

It is a requirement that the data submitted must be signed in accordance with the requirements of s351 of the Act, and with regards to the guide in ASIC Form FS70 and Form FS71. The sign-off requirements are listed below:

Entity	Signatory
Body that is not a foreign company	Director or secretary of the body
Body that is a foreign company	Local agent; or if the local agent is a company — a director or secretary of the company
Registered scheme	Responsible entity
Individual	The individual
Partnership	Any one of the individual partners; or if the partner is a company — a director or secretary of the company
Trust	Any one of the trustees; or if the trustee is a body — a director or secretary of the body
Individual	The individual

Documents delivered in person or by mail must include original signatures. If a PDF document is emailed to APRA, the signed originals must be retained by the general insurance intermediary for their records.

## WHAT IS D2A AND HOW DOES IT WORK?

Direct to APRA or D2A is a flexible, secure and user-friendly electronic data submission system. D2A was introduced in 2001 and enables regulated and registered financial entities to lodge their statutory returns with APRA.

Data can be manually entered or imported directly into D2A from the general insurance intermediary's own business information systems. D2A submits returns by passing information in an encrypted form to APRA using a direct internet connection.

## HOW IS DATA TO BE LODGED ELECTRONICALLY WITH APRA AND WHAT ARE THE SIGN-OFF REQUIREMENTS?

D2A needs to be installed on all computers that will be used to lodge APRA data. This is done by downloading the D2A software from APRA's website (at no cost). The default security level for D2A requires users to have a security certificate provided by APRA. A 'challenge letter' must be submitted to APRA in order to obtain a security certificate.

The challenge letter is a letter that will need to be sent to APRA by a general insurance intermediary that wishes or is required to submit data electronically, using D2A. The challenge letter identifies the general insurance intermediary, the individual who will be responsible for lodging data using D2A, and the individual authorising them to lodge the data on behalf of the general insurance intermediary.

The security certificate facilitates the secure transfer of information to APRA. A security certificate allows APRA to identify and authenticate an individual in an organisation, and will be necessary for the use of D2A. A security certificate is needed to download and decrypt forms from APRA, and to encrypt and send data to APRA. Security certificates will not be issued without a challenge letter and a corresponding electronic 'request for a certificate' from D2A. Challenge letters are to be countersigned by the relevant person in accordance with the requirements of s351 of the Act.

If more than one person at the general insurance intermediary's organisation will be using D2A to send data to APRA, each person must obtain a security certificate.

When using D2A, the data sign-off requirement is to be met by the challenge letters. If there is a subsequent change to the individual who will be responsible for lodging the data, another security certificate will need to be obtained.

All forms submitted to APRA using D2A are protected using cryptography (information security). Cryptography is most often associated with scrambling plain text or ordinary text into cipher text (encryption), then back again (decryption). This security process happens automatically and does not require any action by the general insurance intermediary using D2A.

The process for submitting data after initial installation of D2A is:

- download the required forms;
- complete the required forms either using manual entry or importing XBRL data from an entity's business information system into the forms; and

- perform validation to find some types of errors on forms before submitting to APRA.

## **WILL GENERAL INSURANCE INTERMEDIARIES NEED TO MAKE SYSTEM CHANGES?**

The submission of data from systems assumes that the data is captured within that system in the first place. To the extent that the data required to be submitted, as set out in Forms 1 and 2 in Chapter 2, is not captured within existing business information systems, some system development may be required.

The following are minimum system requirements for D2A:

- PC using Windows Vista, XP or 2000, with latest Service Packs;<sup>10</sup>
- 1 GHz processor;
- 256 MB of system memory (1GB recommended for Vista);
- at least 1 GB hard drive free space;
- write access to the directory specified by the TEMP environment variable; and
- internet access.

To the extent that a general insurance intermediary's existing computer systems meet these requirements, D2A will not require systems changes for manual data entry.

XBRL (eXtensible Business Reporting Language) is an international standard for recording financial data in XML (eXtensible Mark-up Language). (For more information on XBRL, refer to <http://www.xbrl.org>). D2A's ability to import XBRL data means that a general insurance intermediary can save time by not having to re-enter financial data already contained within its business information system. It is also possible to import batch XBRL data or to import one or more XBRL files from a general insurance intermediaries' business information system into D2A. This submits the XBRL data in the files directly to APRA. What this means is that it is possible for a software provider to undertake some system development to automate the data entry process.

## **WHAT SUPPORT WILL BE AVAILABLE FOR D2A USERS?**

APRA provides various forms of assistance for D2A users. When new collections in D2A are rolled out, training is provided to users. This collection of data from general insurance intermediaries will be no different, and training in the use of D2A and in interpretation of the requirements of the forms will be provided. Training sessions will be conducted by APRA in all States where there is sufficient demand. APRA also maintains a D2A help desk which is contactable by telephone and e-mail and is available Monday to Friday between 9.00 am and 5.00 pm (Eastern Standard Time). There is also an extensive D2A help guide available at [http://www.apra.gov.au/Statistics/D2A/upload/D2A\\_User\\_Guide\\_v4.pdf](http://www.apra.gov.au/Statistics/D2A/upload/D2A_User_Guide_v4.pdf). This is a good reference document to gain a greater understanding of the requirements and the practical use of the D2A system.



## CHAPTER 4: DATA PUBLICATION

APRA will publish key data provided by general insurance intermediaries in aggregate every six months.

Data provided about each insured, insurer and general insurance intermediary will be kept confidential by aggregating the data to a level that does not allow for identification or by not publishing components of the data that may identify a particular insured, insurer or intermediary.<sup>11</sup>

The tables outlined below are examples of how the data collected as part of this process may be published.

### A BETTER UNDERSTANDING OF THE AUSTRALIAN GENERAL INSURANCE MARKET

Tables A and B below illustrate how a better understanding of the Australian general insurance market will be achieved as a result of the data collection.

**Table A: Insurance premium by APRA class**

		1	2	3
	APRA class of business	General insurers	Lloyd's underwriters	Unauthorised foreign insurers
A	Houseowners/householders	\$A1	\$A2	\$A3
B	Commercial motor vehicle	\$B1	\$B2	\$B3
C	Domestic motor vehicle	\$C1	\$C2	\$C3
D	Travel	\$D1	\$D2	\$D3
E	Fire and ISR	\$E1	\$E2	\$E3
F	Marine and aviation	\$F1	\$F2	\$F3
...	...	...	...	...
N	Employers' liability	\$N1	\$N2	\$N3
	<b>Total insurance premium</b>	<b>\$T1</b>	<b>\$T2</b>	<b>\$T3</b>

Table A column number	1	2	3
Data source	Half Yearly General Insurance Bulletin, table 7	Data collection, form 1	Data collection, form 1

Table A will show insurance premiums by class of business for the Australian general insurance market. Table A cannot currently be produced because the data about Lloyd's underwriters in column 2 are not currently available in a form that is comparable to column 1 as the Lloyds accounting methodology is on a different basis.<sup>12</sup> The collection of data from general insurance intermediaries will provide Lloyds data on a comparable basis. The data in column 3 of Table A are not available at all and the collection from general insurance intermediaries will provide this data.

Although Table A will be an improvement over data that are currently available, it will not include data on insurance supplied by a Lloyd's underwriter or an UFI where an individual or business in Australia approached those types of insurers either directly or via an offshore insurance intermediary. It is not feasible to address this limitation due to the cost and practical difficulties involved.

**Table B: Intermediated insurance business by APRA class**

		1	2	3	4	5	6
APRA class of business		General insurers		Lloyd's underwriters		Unauthorised foreign insurers	
		Premium	No. of policies	Premium	No. of policies	Premium	No. of policies
A	Houseowners/householders	\$A1	#A2	\$A3	#A4	\$A5	#A6
B	Commercial motor vehicle	\$B1	#B2	\$B3	#B4	\$B5	#B6
C	Domestic motor vehicle	\$C1	#C2	\$C3	#C4	\$C5	#C6
D	Travel	\$D1	#D2	\$D3	#D4	\$D5	#D6
E	Fire and ISR	\$E1	#E2	\$E3	#E4	\$E5	#E6
F	Marine and aviation	\$F1	#F2	\$F3	#F4	\$F5	#F6
...	...	...	...	...	...	...	...
N	Employers' liability	\$N1	#N2	\$N3	#N4	\$N5	#N6
<b>Total intermediated business</b>		<b>\$T1</b>	<b>#T2</b>	<b>\$T3</b>	<b>#T4</b>	<b>\$T5</b>	<b>#T6</b>

Table B column number	1	2	3	4	5	6
Data source	Data collection, form 1		Data collection, form 1		Data collection, form 1	

Table B will show intermediated insurance premiums and number of policies by class of business for the Australian general insurance market. Table B cannot currently be produced because the data is not available.

## MONITORING AND MODIFYING THE UFI EXEMPTION ARRANGEMENTS

Proposed Chart AA and Tables C, D, E, F and G illustrate how the UFI exemption arrangements will be monitored as a result of the data collection.

### High-value insured exemption

**Table C: Intermediated high-value insured insurance business by threshold and by APRA class**

		1	2	3	4	5	6
APRA class of business		Gross assets threshold		Operating revenue threshold		Employee number threshold	
		Premium	No. of policies	Premium	No. of policies	Premium	No. of policies
A	Houseowners/householders	\$A1	#A2	\$A3	#A4	\$A5	#A6
B	Commercial motor vehicle	\$B1	#B2	\$B3	#B4	\$B5	#B6
C	Domestic motor vehicle	\$C1	#C2	\$C3	#C4	\$C5	#C6
D	Travel	\$D1	#D2	\$D3	#D4	\$D5	#D6
E	Fire and ISR	\$E1	#E2	\$E3	#E4	\$E5	#E6
F	Marine and aviation	\$F1	#F2	\$F3	#F4	\$F5	#F6
...	...	...	...	...	...	...	...
N	Employers' liability	\$N1	#N2	\$N3	#N4	\$N5	#N6
<b>Total intermediated business</b>		<b>\$T1</b>	<b>#T2</b>	<b>\$T3</b>	<b>#T4</b>	<b>\$T5</b>	<b>#T6</b>

Table C will show high-value insured insurance, with data sourced from Form 2, columns 3, 7, 11, 12 and 13.

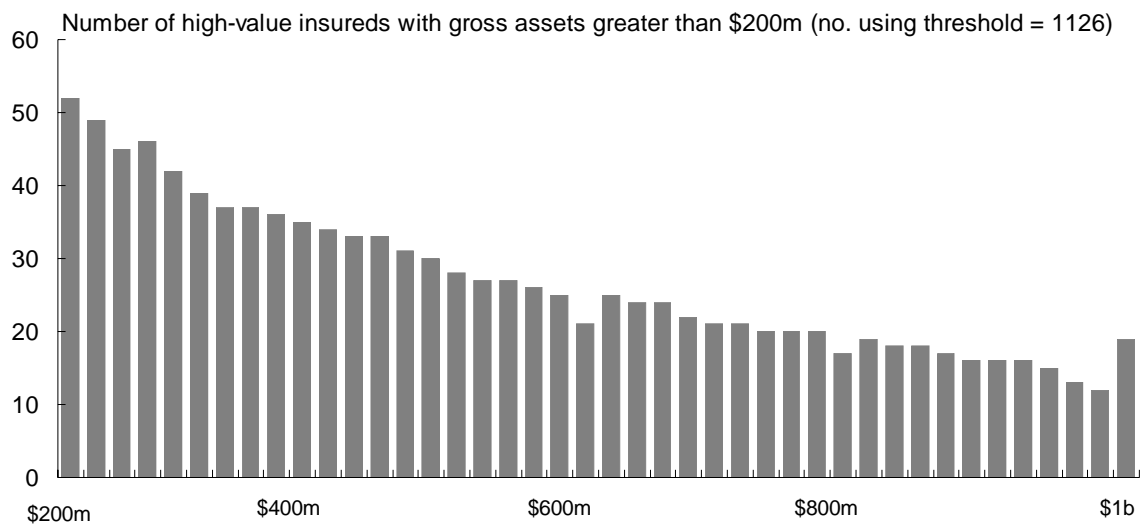
**Chart AA: distribution of HVI gross assets**

Chart AA shows an example of data that will be published on high-value insureds that use the HVI exemption. Similar charts will be produced for HVI gross revenue and employee numbers. (The data in any such chart will be dependent on the data provided in Form 2, columns 12, 13 and 14. For example, if there were a total of 2500 HVI exemption policies but the 'gross assets' limb was only used in 300 of those policies, then there would only be 300 asset values that could be displayed.)

Such information will give greater insight into the use of the HVI exemption and will assist in any modification of the exemption.

## Atypical risk exemption

**Table D: Intermediated atypical risk insurance business by atypical risk class**

Atypical risk class		1	2	3	4	5	6
		General insurers		Lloyd's underwriters		Unauthorised foreign insurers	
		Premium	No. of policies	Premium	No. of policies	Premium	No. of policies
A	Nuclear	\$A1	#A2	\$A3	#A4	\$A5	#A6
B	Biological	\$B1	#B2	\$B3	#B4	\$B5	#B6
C	War	\$C1	#C2	\$C3	#C4	\$C5	#C6
...	...	...	...	...	...	...	...
I	Equine mortality/fertility	\$N1	#N2	\$N3	#N4	\$N5	#N6
	<b>Total direct business</b>	<b>\$T1</b>	<b>#T2</b>	<b>\$T3</b>	<b>#T4</b>	<b>\$T5</b>	<b>#T6</b>

Table D will show intermediated atypical risk insurance, with data sourced from Form 2, columns 7, 11, 12 and 15.

Although Table D will provide information that is not currently available, it will not include data on atypical risk insurance where, for example, an individual or business in Australia approaches a Lloyd's underwriter via a UK-based broker. It will also not include data on an APRA-authorised general insurer supplying insurance directly to an individual or a business. However, given the nature of the insurance lines included in the atypical risk exemption—most of which are understood to be commonly arranged through a general insurance intermediary—the loss of data is likely to be small.

Such data will give a greater understanding of the availability of cover for atypical risks by insurer type and will assist in any modification of the exemption.

## Customised exemption

**Table E: Intermediated customised insurance business by reason and APRA class**

		1	2	3	4	5	6
		Availability		Terms		Other	
APRA class of business		Premium	No. of policies	Premium	No. of policies	Premium	No. of policies
A	Houseowners/householders	\$A1	#A2	\$A3	#A4	\$A5	#A6
B	Commercial motor vehicle	\$B1	#B2	\$B3	#B4	\$B5	#B6
C	Domestic motor vehicle	\$C1	#C2	\$C3	#C4	\$C5	#C6
D	Travel	\$D1	#D2	\$D3	#D4	\$D5	#D6
E	Fire and ISR	\$E1	#E2	\$E3	#E4	\$E5	#E6
F	Marine and aviation	\$F1	#F2	\$F3	#F4	\$F5	#F6
	...	...	...	...	...	...	...
N	Employers' liability	\$N1	#N2	\$N3	#N4	\$N5	#N6
	<b>Total business</b>	<b>\$T1</b>	<b>#T2</b>	<b>\$T3</b>	<b>#T4</b>	<b>\$T5</b>	<b>#T6</b>

Table E will show intermediated customised insurance, with data sourced from Form 2, columns 3, 7, 11, 12 and 16.

If the premium value and volume shown for a particular APRA class appeared large, then it may be appropriate to consult the relevant general insurance intermediaries. If those consultations reveal that there is an insurance business line that both APRA-authorized general insurers and Lloyd's underwriters are not able to place, then it may be appropriate to add that line to the atypical risk exemption.

## Foreign law exemption

**Table F: Intermediated foreign law insurance business by APRA class**

		Unauthorised foreign insurers	
APRA class of business		Premium	No. of policies
	Houseowners/householders	\$A	#A
	Commercial motor vehicle	\$B	#B
	Domestic motor vehicle	\$C	#C
	Travel	\$D	#D
	Fire and ISR	\$E	#E
	Marine and aviation	\$F	#F
	...	...	...
	Employers' liability	\$G	#G
	<b>Total foreign law business</b>	<b>\$T</b>	<b>#T</b>

Table F will show intermediated foreign law insurance, with data sourced from Form 2, columns 3, 7, 11 and 12.

## Geographic distribution of UFIs

Table G: Geographic distribution of UFIs

Country of domicile	Unauthorised foreign insurers	
	Premium	No. of policies
<i>North America</i>		
USA	\$A	#A
Canada	\$B	#B
<i>Europe</i>		
UK	\$C	#C
Ireland	\$D	#D
...	...	...
<i>Oceania</i>		
New Zealand	\$Z	#Z
...	...	...
<b>Total UFI business</b>	<b>\$T</b>	<b>#T</b>

Table G will show the geographic distribution of UFIs, with data sourced from Table 2, columns 7, 9 and 11.



## **CHAPTER 5: DATA COLLECTION ON DISCRETIONARY MUTUAL FUNDS**

It was originally proposed that data would also be collected from financial services licensees about their dealings in discretionary mutual funds (DMF) products. Further consideration has revealed that a data collection from licensees would largely duplicate what is already being collected by APRA.

However, to ensure that all DMFs are providing data to APRA, information will be required to be provided by licensees that are authorised to deal in 'miscellaneous financial risk products' about DMFs that they have dealt with. The DMF details will then be passed to APRA. APRA will then be able to obtain data from any previously unidentified DMFs under the *Financial Sector (Collection of Data) Act 2001*.



## APPENDIX A: APRA GENERAL INSURANCE CLASSES

Class of business	Description
Homeowners/householders	Covers common house-owners' and house-holders' policies and includes contents, personal property, arson and burglary.
Commercial motor vehicle	Motor vehicle insurance (including third party property damage) other than insurance covering vehicles defined below under Domestic Motor Vehicle. It includes long and medium haul trucks, cranes and special vehicles and policies covering fleets.
Domestic motor vehicle	Motor vehicle insurance (including third party property damage) covering private use motor vehicles including utilities and lorries, motor cycles, private caravans, box and boat trailers and other vehicles not normally covered by business or commercial policies.
Travel	Insurance against losses associated with travel including loss of baggage and personal effects, losses on flight cancellations and overseas medical costs.
Fire and ISR	Fire policies includes all those normally classified as 'fire' and includes sprinkler leakage, subsidence, windstorm, hailstone, crop, arson, and loss of profits and any extraneous risk normally covered under fire policies, for example, flood. Standard policy wordings exist for this type of policy. 'Industrial special risks' (ISR) includes all policies which contain standard wordings or where the wording is substantially similar.
Marine	Marine insurance includes marine hull (including pleasure craft), marine cargo (including sea and inland transit insurance).
Aviation	Aviation insurance includes aircraft hull and aircraft liability insurance.
Mortgage	Mortgage insurance includes insurance against losses arising from the failure of debtors to meet financial obligations to creditors or under which payment of debts is guaranteed. It includes lease guarantee insurance.
Consumer credit	Consumer credit insurance includes insurance to protect a consumer's ability to meet loan repayments on personal loans and credit card finance in the event of death or loss of income due to injury, illness or unemployment.
Other accident	'Other accident' Includes the following types of insurance: miscellaneous accident (involving cash in transit, theft, loss of money); all risks (baggage, sporting equipment, guns); engineering when not part of ISR or Fire policy; plate glass when not part of packaged policy (for example, house-owners/house-holders); guarantee (Insurance Bonds); live stock; pluvius; and sickness and accident (which provides stated benefits where the insured is killed or suffers loss of specific parts of the body or is prevented from carrying out the insured's normal occupation. Under a sickness and accident policy regular benefits may be paid over a short period of time (typically less than 3 years), noting that continuous disability policies are now considered to be life insurance policies and should not be provided by general insurance companies.
Other	'Other' is all other insurance business not specifically mentioned elsewhere. It includes, for example: all guarantees (for example, fidelity guarantee); trade credit; extended warranty (includes insurance by a third party for a period in excess of the manufacturer's or seller's normal warranty); kidnap and ransom; and contingency.
CTP motor vehicle	This consists only of CTP motor vehicle insurance.
Public and product liability	Public liability covers legal liability to the public in respect of bodily injury or property damage arising out of the operation of the insured's business. Product liability includes policies that provide for compensation for loss and/or injury caused by, or as a result of, the use of goods and also environmental clean-up caused by pollution spills where not covered by Fire and ISR policies. This category also includes builders' warranty insurance.
Professional indemnity	Professional indemnity includes directors' and officers' liability insurance and legal expense insurance. (Cover for legal expenses are generally included in this type of policy.)
Employers' liability	Employers' liability includes workers' compensation, seamen's compensation and domestic workers' compensation insurance.

## APPENDIX B: ATYPICAL RISK CLASSES

Risk type	Definition
Nuclear	Loss or liability arising from the hazardous properties (including radioactive, toxic or explosive properties) of nuclear fuel, nuclear material or nuclear waste.
Biological	Loss or liability arising from the hazardous properties of biological material or biological waste.
War	Loss or liability arising from war or warlike activities (within the meaning given by subregulation 2(1) of the <i>Insurance Contracts Regulations 1985</i> ).
Terrorism	Loss or liability arising from a terrorist act (within the meaning given by section 5 of the <i>Terrorism Insurance Act 2003</i> ).
Medical clinical trials	Liability arising from health-care related research.
Space	Loss of, or liability arising from the operation of, a space object (within the meaning given by section 8 of the <i>Space Activities Act 1998</i> ).
Aviation liability	Liability arising from the ownership or operation of an aircraft (but not loss of the aircraft or its cargo).
Shipowners' P&I	Liability and expenses arising from a person owning, chartering, managing, operating or being in possession of a vessel other than a pleasure craft (within the meaning given by subsection 9A(2) of the <i>Insurance Contracts Act 1984</i> ).
Equine	Loss or liability arising from equine mortality or fertility and related risks. However, it does not include equestrian packages.

## APPENDIX C: CUSTOMISED EXEMPTION REASONS

Customised Limb	Reason
Availability	There is no Australian insurer that will insure against the risk.
Terms	The terms (including price) on which any APRA-authorised general insurer or Lloyd's underwriter will insure against the risk are substantially less favourable to the insured than the terms on which a UFI will insure against the risk
Other	Insurance with an APRA-authorised general insurer or Lloyd's underwriter would be substantially less favourable to the insured than with an UFI because of other circumstances.

## ENDNOTES

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1 Part 2 of Schedule 1 of the *Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Act 2008*, which was given Royal Assent on 17 October 2008, established the general insurance financial claims scheme or 'Policyholder Compensation Facility' in Part VC of the Insurance Act.

2 APRA's *Half Yearly General Insurance Bulletin* provides comprehensive information on general insurers and some limited information on Lloyd's underwriters. However, it contains no information on intermediation in the Australian general insurance market and no information on UFI business in Australia.

3 The *Insurance (Agents and Brokers) Act 1984* ceased to apply from 11 March 2004. The Act required insurance agents and brokers to provide limited data to ASIC (and its predecessors) on dealings with UFIs. Many functions of the Act, but not including the data provision requirement, were taken up in Chapter 7 of the Corporations Act (which was introduced by the *Financial Services Reform Act 2001* with a long introductory transition period).

4 General insurance intermediaries will be required to provide this data as a result of a regulation made under section 912CA of the Corporations Act. Section 912CA enables regulations to be made that require each Australian financial service licensee in a class of licensees to provide specific information about: (a) the financial services provided by the licensee or its authorised representatives; or (b) the financial services business carried on by the licensee.

5 To facilitate the electronic provision of data to APRA a regulation will be made under section 926B of the Corporations Act to modify section 912CA so that electronic provision of data to APRA will be required.

6 See section 127 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act). The APRA Code of Conduct also requires APRA staff to maintain secrecy in relation to APRA affairs and clients and forbids them from divulging any information except with APRA's authority or unless required by law. See section 70 of the *Crimes Act 1914*.

7 See paragraph 912A(1)(h) of the Corporations Act.

8 Paragraph 912A(1)(c) imposes an obligation on Australian financial services licensees to comply with financial services laws. The data collection requirement will be part of the financial services laws.

9 Subsection 4B(3) of the *Crimes Act 1914* provides that a maximum penalty for an individual expressed in penalty units may be multiplied by five where a corporation is convicted of the same offence.

10 Although D2A may work with other operating platforms (other than Windows) these are not supported by APRA.

11 This approach is consistent with the requirements of subsection 56(7) of the APRA Act and subsection 127(1) of the ASIC Act.

12 Tables 15 to 18 in APRA's *Half Yearly General Insurance Bulletin* provide some data on Lloyd's insurance business in Australia. However, that data is derived using Lloyd's unique three-year accounting system and different classes of business are also used. As a result, it cannot be compared to data collected from APRA-authorized general insurers.