

16 December 2021

Senate Standing Committees on Economics
Parliament House
Canberra ACT 2600

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Submission:- Financial Accountability Regime Bill 2021 [Provisions]

For the Senate Committee.

Please find our submission of views on the Financial Accountability Regime Bill 2021 (**FARB**) [Provisions] per the

- FARB Explanatory Memorandum pages 7 to 59, and
- FARB Scrutiny Digest 17/21 pages 14 – 22

Summary

[3] Objects of this Act (extract)

The objects of this Act are:

(a) to provide for a strengthened accountability framework for:

(i) financial entities in the banking, insurance and superannuation industries; and (ii) persons who hold certain positions, or have certain responsibilities, related to those financial entities; and

(b) to confer on APRA and ASIC functions and powers (including information gathering, investigation and enforcement powers) that: (i) relate to obligations under that framework; and (ii) can be performed and exercised in aid of their functions and powers under other laws

Context of amendments

1.2 The Australian financial system is central to the economy and plays an essential role in promoting economic growth. Decisions taken by directors and senior executives of financial institutions are important and have flow on effects for the Australian economy and for consumers.

1.3 A key objective of the Financial Accountability Regime is to improve the operating culture of entities in the banking, insurance and superannuation industries and to increase transparency and accountability across these industries—both in relation to prudential matters and conduct related matters.

1. This FARB is targeting the “financial industries” with strengthened regulations and accountability.

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2. The FARB provides no provisions that tasks the Government Regulators (APRA, ASIC, ACCC, ATO and subordinates AFCL & AGA and Austrac, the Treasury family) with strengthened accountability frameworks.
 - a. The first (2017) Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was required due to Treasury Regulator failings to enforce regulations in the first place.
 - b. This FARB does not address strengthening and accountability changes for the Treasury Regulators for their performances and behaviours in administering regulations that will deliver the FARB “trust” and “consumer protections” advocated outcomes.
 - c. With the FARB not addressing Treasury regulatory cultural failures could result in a second Royal Commission into “Regulator” Misconduct in the Banking, Insurance, Superannuation and Financial Services Industry if the FARB outcomes are not achieved.
3. The FARB Objective: Explanatory extract¹ - **General outline and financial impact.** On 4 February 2019, the Government released its response to the Financial Services Royal Commission Final Report entitled “Restoring **trust** in Australia’s financial system”. The Government’s response committed to taking action on all the recommendations of the Financial Services Royal Commission and made additional commitments to address the issues identified by Commissioner Hayne. This package implements the recommendations to establish the Financial Accountability Regime of the Financial Services Royal Commission “**to improve consumer protections**”.
4. The key FARB take-aways advocated here by government are “trust” and “improve consumer protections” which indicates the Royal Commission did detect regulator underperformance in their servicing of the Australian community financial complaints.
5. FARB **Financial Accountability Regime** extract² - The Financial Accountability Regime Bill 2021 introduces a new accountability regime for the banking, **insurance** and superannuation industries.

Our Claim:

6. Our submission here focuses on Trust, Consumer Protections, Insurance, and our regulators remit for visible financial protection of the Australian economy.
7. Our regulators ASIC, APRA, ACCC do not produce meaningful easy to read consumer insurance data reports of what is visible in the insurance economy of North and all of Australia.
8. The current ACCC Northern Australia Insurance Inquiry could not rely on APRA or ATO or ASIC insurance data to analyse the NA home insurance crisis. The ACCC used insurer supplied data to try and understand the NA billion-dollar home

¹ Page-3 of 114 The Financial Accountability Regime Bill 2021 Explanatory Memorandum for Parliament MP’s

² Page-3 of 114 The Financial Accountability Regime Bill 2021 Explanatory Memorandum for Parliament MP’s

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insurance economy. In summary the ACCC did a woeful job and the data quality could be the root cause for the report inadequacies that failed to deliver Trust and Consumer protections.

9. The Northern Australia (NA) insurance crisis find APRA's under reporting is a regulator communications failure with the Australian Public. APRA boldly claim they aggregate all insurance statistics. Thus our APRA has created an insurance market invisible "macro view". Yet no one including the public and members of parliament are able to access a forensic "micro view" of the home insurance economy workings at street, postcode or **LGA**³ or State level.
10. North Queensland members of parliament explain to their NQ insurance complainants they do not understand the home house / strata insurance crisis as is too complex and is a market failure, and no visibility of claims and premiums and risks at LGA level.
11. Our NA insurance predicament is best summed up as - "*if we cannot measure it, we cannot therefore manage it*". A Business MBA axiom

Observed Regulator Performances:

12. The Northern Australia (NA) home insurance economic crisis has not been solved by Treasury after six inquiries over the last decade. This indicates that even Treasury is blind to the insurance economy up here. All six inquiries have been furnished with insurer supplied data under dubious⁴ and caveated conditions.
13. The most recent inquiry – the ACCC was Terms of Reference given 36 months and 24 questions to investigate. The ACCC-Northern Australia Insurance Inquiry-2020 was a failure in report writing, a bloated 592 pages hard to read report. The ACCC used the wrong data and did not address all 24 inquiry terms of reference questions. The ACCC did not validate the insurance supplied data nor did the ACCC audit enough consumer data to balance and contest or validate the insurance supplied data the ACCC report relied on upon. The ACCC failed to assess if the Australian financial complaints, federal and state systems are working for the consumers interests.

Our Regulator Views and Observations:

14. The FARB requires our regulators develop a new report writing quality systems that scrutinise and test the report objectives and outcomes have been dealt with. The reporting slop of previous inquires we believe has perpetuated the decade long NA insurance crisis. The insurance report writers of government must be scrutinised to perform at a higher quality level. The state and federal Auditor Generals should rate

³ LGA = Local Government Areas

⁴ Page-5 ACCC Northern Australia Insurance Inquiry – accept not all insurers were able to supply information requested by ACCC, this appears to be have accepted by the ACCC and not reported that Insurance companies have trouble accounting and providing insurance data. This cannot be acceptable to the economic planners of Australian by not having precise insurance data could possible subvert government decisions on and about the insurance economy fixes for North and all Australia.

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any insurance report before release to the general public and to Members of Parliament. Permitting poor quality reports impairs knowledge transfers that results with poorly designed outcomes.

15. Insurance Economy sizing

- a. Can Austrac report annually how much home NA & NQ insurance money is leaving and arriving Australia annually? Is there a dominating direction?
- b. Can our ATO, report the GST receipts from insurance premiums by State or LGA or at postcode level? Having such information clarifies the insurance premiums market size precisely.

16. Our ASIC web site has some ICA⁵ materials infiltration in the insurance section of Money smart site. Is this ASIC web site inferring that ASIC is endorsing ICA products and information's as trustworthy?

MoneySmart

Moneysmart is a project of the Australian Securities & Investments Commission (ASIC) that comprises a website, publications and education programs. It provides information and tools to help people make financial decisions. Its tagline is "Simple guidance you can trust". !

17. APRA according to internet news articles do appear on stage at various ICA insurance conferences as key speakers.

- a. Did not Commissioner Hayne frown upon the cultural of such closeness between regulators and regulated. Do we need a FARB provision for this?

18. APRA and the insurers have super computers and can drill down to street address level as advocated by the ICA, yet APRA aggregate all data that distorts the insurance economic messages to the community. Surely APRA is aware of this and has done nothing to improve its reporting accountability by un-aggregating all data to enable consumer forensic analysis.

19. APRA should consider making all insurance data more accountable for public scrutiny. Every insurance product should remain non aggregated and non-contaminated from being with mixed with multiple insurance products.

20. That every future insurance inquiry use only APRA supplied verified data and not insurance supplied data. Let the inquiry test precisely what APRA is reporting and not reporting.

⁵ ICA = Insurance Council of Australia Industry Lobby Group.

Conclusions:

21. APRA insurance aggregated reporting is not serving the Australian insurance economy well as it is not user friendly for consumer accessibility and insurance product visibility. The current APRA general insurance statistics are deigned to monitor the insurers capability, capacity, and profit performance. APRA does nothing towards providing data products and services to satisfy insurance consumer affordability, mitigations and value needs. APRA would fail to comply with the pending FARB provisions if applied.
22. How can our economic planners understand let alone optimise NA & NQ insurance economic performance if aggregated data is all our regulators can supply?
23. The ACCC⁶ insurance inquiry 2017-2019 was a failure as they used unverified insurer sourced data, a huge mistake for data users.
24. The ACCC⁷ reported the following APRA statement “*that the premiums need to reflect the underlying risks, in order to maintain the prudential strength of insurers*” To date APRA has not advanced any measures to deliver to the home insured any disclosure of these “underlying risks” for consumer validation that such risks are true and correct, This is a good example of a regulator accountability gap that the FARB should make provision to ensure regulators do deliver on their promises.
25. Economic waste – the ACCC report identified \$4.65 billion as unclassified claims of the huge \$36.07 billion of total Australian home insurance claims, which indicates huge economic waste and sloppy claims management skills if claims cannot be defined with a higher level of reporting skill. This waste was tolerated by the ACCC and not reported as an insurance opaque reporting event that has capability to impair economic judgment of the Australian insurance economy at claims level.
26. **Human rights implications⁸:** The FARB claim that the “*Financial Accountability Regime Bill 2021 does not raise any human rights issues. See Statement of Compatibility with Human Rights — Chapter 4*”, this claim cannot be accepted. How was this decision made? who made it? We believe this may be a Canberra out of touch opinion rather than actual street address sampling of NA vulnerable people who are most threatened with the consequences of loss of residential shelter because of the home insurance economic failures being not understood nor managed well by our non-exposed Treasury Regulators and their aggregated data.

Human rights implications: The Financial Accountability Regime Bill 2021 does not raise any human rights issues. See *Statement of Compatibility with Human Rights — Chapter 4*.

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⁶ ACCC = ACCC Northern Australia Insurance Inquiry – final report 2020

⁷ P.184 ACCC = ACCC Northern Australia Insurance Inquiry – final report 2020.

⁸ FARB Explanatory Memorandum page-3. Human rights implications: The Financial Accountability Regime Bill 2021 does not raise any human rights issues. See *Statement of Compatibility with Human Rights — Chapter 4*

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27. We believe Insurance Regulators and Insurers could be both exposed to Human Rights abuse implications if elements of unconscionable conduct are detected when consumer home insurance protection controls are not put in place to protect the vulnerable residents of our communities.
28. **Australian Financial Complaints Authority (AFCA)** have been found to have no home insurance consumer empathy. AFCA is more focused on KPI jurisdictional outcomes rather than economic impacts of financial waste and abuse of the insured. The young AFCA requires an external auditor to look at the behaviour of its complaints processing system which disadvantages the unskilled consumer complainant against a highly skilled insurance executive, who we have witnessed has the audacity to lecture the AFCA on how to process and progress a complaints case. And have witnessed subtle messages within the insurer's submission to the AFCA that foreign insurers are above the law. In one particular case the AFCA failed to establish who was the actual insurer, was an actual Insurance contract formed in accordance with the ASIC insurance contracts Act 1984. And that the consumer was subject to home insurance premium tripling, and all policy risks were policy transferred from insurer to insured under coercive special excess conditions. According to the AFCA no consumer crime took place. Complaint outcome was the complaint should not have been made and the insurance price gouging was AFCA endorsed to continue unabated in NQ. In all a shocking performance by our AFCA, who have forgotten that consumers complain, and insurers do not. Complaint content and not KPI's are the more important metric of the Australian insurance economy. Our AFCA requires a full FARB regulatory makeover.

Our main FARB concern is improved financial services accountability legislation is planned for the financial Industries but with no provision for a change in Treasury regulator service delivery culture that instigated the FARB to be created in the first place.

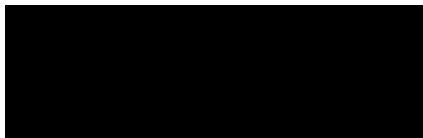
This FARB should not proceed until the Treasury Regulators are subject to accountability changes. Until this occurs we believe from our view that the NA insurance economy for the strata insured will remain perpetually miss managed and underperforming until credible regulator insurance data is collected in non-aggregated format to allow forensic analysis of the decade long home insurance crisis of North Australia.

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Finally, can we ask? Is anyone at Treasury actually routinely analysing the insurance economy of Australia from a consumer perspective.?

Please forgive our rushed unpolished volunteer's compilation, there was not much time allowed for this submission. We appreciate the opportunity to submit our views to Senate Standing Committee for the FARB, thank you for the invitation.

Yours faithfully



Andrew Turnour



⁹ *Strata Consumer Advocates* .

TSV.LOG - Townsville Lot Owners Group. *Strata Comparisons*®™ *Strata Data*®™ collect and survey strata insurance tax invoices and Insurance Inquiry reports to provide facts, figures and correspondences to help NQ strata Consumers and Regulators and Politicians improve their strata insurance arguments, actions and affordability.

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Appendix-A: APRA Public Data example-1 Public Liability Insurance

1. APRA web site Data and Statistics

- a. Quarterly general insurance statistics - Quarterly general insurance performance statistics 2002-2021 Table-1K Public Liability Insurance aggregated with Product Liability Insurance (why the aggregation?) informs the reader per row-8 that Gross premiums sales were \$3.141 billion for the year, row-9 that 9.951 million policies were sold and average policy price row-27 was \$316.
- b. Numerous NQ business are shutting down because they cannot get affordable Public Liability insurance cover.
- c. Same data row-13 tells us that \$2.373 billion in claims was made which tells the reader that Public Liability insurers are making an opaque profit because APRA cannot remove the Product Liability masking of the Public Liability data.
- d. And we read that APRA do not report how much Public Liability cover has been placed, ie the payout risk is what? – if we multiply 9.9 million policies at average \$10 million PL cover per policy, indicates the total risk liability exposure is about \$99 trillion dollars which is about 50 times the Australian economy. Is this eye watering public liability exposure actually over sold?, oversubscribed? and is it a huge waste of money that could be used better elsewhere in the Australian economy.
- e. APRA when asked for State or LGA or post code Public Liability details, email replies are APRA cannot provide break down (de aggregated) the Public Liability data. All Premiums and claims details are APRA aggregated and homogenised which dilutes accountability visibility. State and LGA and street address economic planners cannot obtain precise insurance information of area specific insurance predicaments because of this APRA reluctance to share or source.

Appendix-B: APRA Public Data example-2. Home Insurance

2. APRA web site Data and Statistics
3. APRA – Houseowners/householders - Home insurance APRA Quarterly general insurance performance statistics 2002-2021 Table-1f and Table-1h are a APRA classic of homogenised insurance reporting. APRA may or may not be aware that House Home insurance is optional and sensitive to affordability pricing.
4. Whereas Strata insurance is compulsory and must be purchased at whatever “the cost” to abide by the Queensland State Body Corporate Community Management insurance regulations. Both these premiums and claims costs are aggregated and homogenised in Table-1f, APRA when asked for a separation of the two, reply email advised that APRA do not verify the home insurance data and if the inquirer wanted data please ask the ICA¹⁰ for such help.
5. One will also notice Table-1h reports ISR insurance data, which numerous strata buildings procure, which is not fully compliant with the Qld BCCM regulations, yet we understand the BCCM tolerate these ISR impaired under insured covers.
6. Incredible that the \$1 trillion dollar strata asset community of Australia with \$1 billion dollars in premium sales pa has no APRA visibility at Regulator level.
7. No wonder we have poor economic housing outcomes in NA & NQ. Housing shortages, construction doldrums and NA & NQ economies are missing out on participation in the national property boom, all because of APRA denying clear insurance visibility of homes at LGA, postcode and street address level.
8. The ICA advocate their PIF 2019 home insurance database can access the insurance risks, premiums and claims history details for 12.9 million Australian street address properties. APRA does not have this data for the public disclosure, yet all this ICA street address data is administration expense paid for by the 12.9 million insured consumers per their annual tax invoiced insurance premiums.
9. APRA we understand as the Insurance financial regulators does have legislative information gathering powers, if used wisely and coupled with data verification audits The NA & NQ Home insurance economic planning could have strata insurance affordability greatly improved by regulations delivering consumer outcomes per the FARB.

¹⁰ ICA = Insurance Council of Australia Industry Lobby Group.

Appendix-C: The Senate Scrutiny Digest

Scrutiny Digest 17/21

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Financial Accountability Regime Bill 2021

Purpose	This bill introduces a new accountability regime for the banking, insurance and superannuation industries. The new accountability regime will provide for a strengthened accountability framework for financial entities in the banking, insurance and superannuation industries, and for related purposes.
Portfolio	Treasury
Introduced	House of Representatives on 28 October 2021