ESLIM Quarterly Report to the Treasurer

Report 3

December 2016 Quarter

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Emergency Services Levy Insurance Monitor

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Letter to the Minister

NSW Treasurer
52 Martin Place
Sydney NSW 2000

25 January 2017

Dear Treasurer

I am pleased to present the December 2016 quarterly report by the Emergency Services Levy Insurance Monitor on the performance of the functions of the Monitor in accordance with section 11 of the *Emergency Services Levy Insurance Monitor Act 2016* (the Act).

The Act was assented to on 7 June 2016 and the Monitor and Deputy Monitor, Professor David Cousins AM, were formally appointed on 8 June 2016. This report provides details of the activities undertaken by the Monitor during the period from 1 October – 31 December 2016 as they relate to the functions of the Monitor under Section 9 of the Act.

Yours sincerely

Professor Allan Fels AO

Emergency Services Levy Insurance Monitor

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1 Overview

1.1 Introduction

This is the third quarterly report produced by the Emergency Services Levy Insurance Monitor ("ESLIM") for the Treasurer. The report is produced pursuant to Section 11 of the *Emergency Services Levy Insurance Monitor Act 2016* (the Act).

Under the Act, the Monitor is to provide a written report to the Minister and Treasurer[1] within 28 days of the end of each quarter on the performance of the functions of the Monitor during the quarter. As soon as practicable after the Minister receives the report, the Minister must publish the report.

This report covers the period from 1 October 2016 to 31 December 2016.

1.2 Summary of activities during the quarter

1.2.1 Information, advice and guidance

During the quarter, the Monitor continued to engage with a range of stakeholders including insurance companies, relevant industry associations and NSW government agencies on the phase out of the Emergency Services Levy (ESL). Recently, some insurers have expressed concern over the timing of the legislation for the establishment of the Emergency Services Property Levy (ESPL). The Monitor understands that it is the Government's intention to have legislation passed early in 2017 so that the emergency services levy reform can occur from 1 July 2017.

The level of complaints and enquiries received by the Monitor through its call centre and via email increased in the December 2016 quarter, signalling increased awareness by insurance consumers about the ESL reform. Most enquiries are able to be resolved through provision of explanatory material, particularly in relation to double-charging concerns. An increasing number of enquiries relate to concerns about increased ESL charges on renewals for which insurance companies did not provide satisfactory explanations to consumers. The Monitor has written to a number of insurance companies requesting information about how they are informing their policyholders of any changes in ESL rates in the lead up to the transition. In one instance, the Monitor issued a formal substantiation notice under Section 22 of the Act, requesting the relevant insurance company to provide substantiation for certain claims it had made about the role of the NSW Government in setting the rate of ESL charged by the insurer.

The Monitor is developing an advertising campaign to promote consumer awareness of the emergency services levy reform and the role of the Monitor in this. It is intended that the

[1] Ministerial responsibility for the Monitor has been allocated to the Treasurer.

campaign will be commenced towards the end of March 2017. This campaign will complement the campaign planned by the Government's ESPL team.

1.2.2 Price and conduct monitoring

During the quarter, the following notices were issued to insurance companies under the Act.

Notice content	Notice Date	Due Date	Act reference
ESL Rate information request	18 October	31 October	s57
Section 30 Notice compliance check	10 November	1 December	s57
Baseline pricing and ESL data	2 December	23 January	s57
Service of documents	5 December	19 December	s77
CEO Declaration	5 December	31 January	Issued via Guidelines

No notices have been issued by the Monitor under Section 17 of the Act (prevention notices in relation to price exploitation).

The following activities have been undertaken in relation to price and conduct monitoring:

i) Under a formal notice to major insurers, the Monitor has continued to receive on a monthly basis, premium quotations for combined building and contents insurance for a standard household profile in eleven specific addresses in NSW. This information has been received in relation to 12 insurance brands.

   The Monitor has noted that there is a large degree of variation in the quotations provided, even for the same level of cover at the same address. Overall the Monitor considers that the key message for consumers is to "shop around".

ii) ESL rates data from ten insurance companies has been received and analysed by the Monitor. This data currently indicates average household ESL rates are around 22-23%, average commercial property ESL rates are around 41% and motor insurance ESL rates are around 0.50%. The data indicates that rates increased generally from around May 2016 for both household and commercial property insurance. The most recent data received by the Monitor indicated that a number of insurance providers had commenced to taper down ESL rates in December, prior to full elimination by 1 July 2017.

iii) The Monitor issued its baseline pricing information request to insurance companies in early December 2016. The information requested under this Section 57 notice will form a core component of the Monitor's price monitoring database. Responses from insurance companies are due by 23 January 2017, unless otherwise agreed with the Monitor.

iv) During the quarter, the Monitor completed all outstanding actions in relation to a June 2016 notice prompted by NSW Treasury pursuant to an information agreement with the Monitor. The information received in this notice was provided to NSW Treasury to assist it in determining appropriate levy rates for the ESPL.

v) The Monitor has requested and received from the NSW Department of Justice, copies of the 2015-16 Return of Premium forms submitted by insurance companies.

1.2.3 Compliance activities

The key compliance-related activities occurring during the quarter related to the Monitor's review of industry compliance with a notice issued by the Monitor in July 2016 under Section 30 of the Act, and the Monitor's issue of a declaration for the CEO of each insurance company to sign.

The Monitor's Office has commenced its review and analysis of the information received from respondents in relation to the Section 30 notice. The early observations are as follows:

- The quality and coherence of the information provided was variable, with many responses being of a high quality whilst others were either incomplete or incomprehensible.
- A number of respondents indicated non-compliance with the Section 30 obligation for a limited number of invoices either due to delays in systems readiness, programming errors or business oversight. In most cases, respondents in this category have since initiated remedial action by advising the relevant policyholders subsequently and have put in place controls to prevent a repeat occurrence.

The Monitor has issued insurance companies with a template which contains the form of the declaration that the Chief Executive Officer ("CEO") of each company is being asked to sign, committing that the company:

- will implement systems and procedures to ensure that no ESL will be included in premiums paid by policyholders from the implementation of the emergency services levy reform; and
- will not increase base premiums paid on regulated contracts of insurance issued solely in anticipation of the implementation of the emergency services levy reform.

Responses from insurance companies are due by 31 January 2017.

1.3 Future Emergency Service Property Levy

The Monitor's Office has participated in the monthly ESPL implementation meetings organised by NSW Treasury. The Treasury has been actively involved in the preparation of the Bill to abolish the ESL and introduce the ESPL, and is working closely with local councils and all other stakeholders to prepare for the ESPL.

1.4 The Monitor's Office

The Monitor largely completed its recruitment of staff during the quarter with a number of new staff to commence in January. Staff have a range of required skills and experience, including of the insurance industry. These resources will enable the Monitor to fulfil its functions under the Act.

1.5 Industry developments

In November 2016, the Federal Parliament announced an inquiry into home, strata and car insurance industries and the costs and benefits of establishing an independent home, strata and car insurance comparison service in Australia.[2] The inquiry was reportedly motivated by a petition from consumers for a government-run general insurance website and has the support of Senator Nick Xenophon.[3]

The Monitor is aware that there are divergent views about the value of price comparison tools, but considers that they have the potential to be useful in the general insurance context. There is now a significant amount of literature and international experience that can be drawn upon to make price comparison tools more effective to support consumer decision-making.

1.6 Remainder of this report

Information about the operations of the Monitor from 1 October 2016 to 31 December 2016 is provided in the remainder of this report. The key functions of the Monitor as set out in section 9 of the Act have been split into three separate sections for reporting purposes:

- Information, advice and guidance (Section 2)
- Monitoring functions (Section 3)
- Compliance activities (Section 4)

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[2] Refer http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Generalinsurance/Terms_of_Reference.

[3] https://www.onebigswitch.com.au/news/2016/11/21/press-release-consumers-urged-to-support-campaign-for-simpler-insurance-comparison

2 Information, advice and guidance

One of the key functions of the Monitor outlined in the Act is to provide information, advice and guidance in relation to the emergency services levy reform and related prohibited conduct. This covers the key market participants, policyholders, and the broader NSW community.

This section provides further information about the Monitor's operations in the area of information provision during the quarter.

2.1 Communications strategy update

The planned emergency services levy reform, like all reform, has the potential to create community confusion and concern. In order to facilitate a smooth transition and to fulfil its obligations under the Act to provide information, advice and guidance, the Monitor is planning to run a public awareness advertising campaign. The overarching goal of the advertising campaign is to raise awareness of the Monitor by the NSW public and in particular, insurance policyholders, and to build trust in it as a watchdog of insurance companies during the transition. Early research indicates the level of awareness about the current insurance-based funding model is very low. A high proportion of consumers cannot explain how the emergency services are funded, and are also unaware of the proposed change.

The Monitor's advertising campaign will complement the campaign planned by the Government ESPL team, both in terms of content, messaging and timing to allow for maximum effectiveness. At the end of the December quarter, a draft media strategy had been established, with a view to commencing advertising implementation towards the end of March 2017. Advertising agencies have been briefed, and will be providing creative concepts to the Monitor in early 2017. The short-listed concepts will undergo independent focus group testing to ensure the most appropriate concept is selected to meet the campaign objectives in a clear and compelling way. In addition, the Monitor intends to conduct a quantitative evaluation survey to monitor how awareness and attitudes change over the duration of the campaign.

2.2 Liaison with key stakeholders

The Monitors continued to engage with various internal and external stakeholders during the quarter.

Between 1 October and 31 December 2016 meetings were held with insurance companies, the Insurance Council of Australia (ICA) and the National Insurance Brokers Association (NIBA). Recently, some insurers have expressed concern as to what they saw as a delay in the passing of the legislation for the establishment of the Emergency Services Property Levy (ESPL). The Monitor has advised these companies that it is not aware of any change in the NSW Government's plans to implement the reform and that it expects that legislation to implement the reform will be passed early in 2017 and that the reform will come into effect from 1 July 2017.

Additionally:

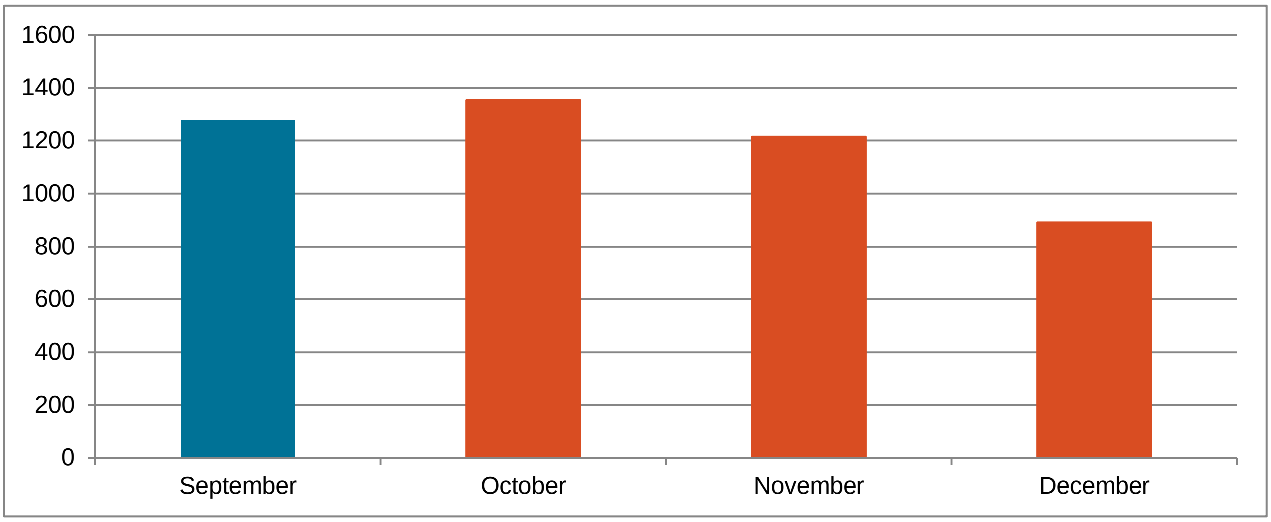
- An Information Sharing Agreement with Land and Property Information's Spatial Services division was concluded.
- The Monitor has continued to liaise with NSW Treasury around the development of the Emergency Services Property Levy Bill.
- Meetings occurred to connect those responsible for the communication functions of the various agencies involved with the emergency services levy reform.
- ESLIM representatives attended meetings with NSW Treasury and Fair Trading.
- The Monitor's Office participated in the monthly ESPL implementation meetings organised by NSW Treasury.

2.3 ESLIM Website

The Monitor's website at www.eslinsurancemonitor.nsw.gov.au is a key tool for communicating information to policyholders and insurance companies about the abolition of the ESL and the Monior's role and expectations. In addition, the website provides an access point for stakeholders to reach the Monitor.

During the December quarter, the ESLIM website recorded a total of 3,459 sessions[4]. The breakdown of sessions per month is given in the table below, and shows session numbers remaining consistent with volumes seen in September. December was the only variation, with slightly lower numbers recorded. October 4 and 10 were the most active days for the ESLIM website.

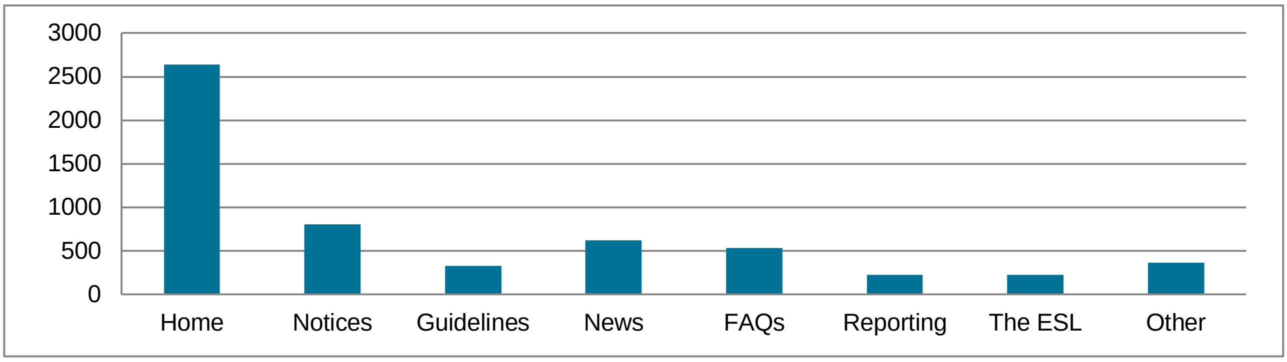
Figure 1: Number of ESLIM website sessions[1] per month



[4] Google Analytics: A session is the period time a user is actively engaged with the website. All usage data (Screen Views, Events, Ecommerce, etc.) is associated with a session.

Most visitors entered the website via the home page, which received the largest number of pageviews during the quarter. Visitors entering the website via the home page viewed an average of 2.8 pages during their session and remained on the site for nearly 3 minutes.

Figure 2: ESLIM website unique pageviews in December 2016 quarter*



*Unique pageviews = the number of sessions during which the page was viewed at least once.

2.3.1 Online complaints form

At the end of the December quarter, a new online complaints form was launched on the ESLIM website. This form will facilitate policyholders in registering their concerns and complaints with the Monitor, in line with Section 25 of the Act. The online form will allow for the information about the complainant, the details of the complaint, communications with the insurance provider and copies of the relevant insurance policies to be uploaded, collated and stored in a centralised database, which will assist the Monitor in tracking and investigating insurance company behaviour.

Section 26 permits the Monitor to deal with a complaint made under Section 25 in any manner the Monitor considers appropriate.

To encourage policyholders to resolve their issues directly with their insurance provider in the first instance, policyholders will be asked to contact their insurance provider about the matter, prior to lodging a complaint with the Monitor.

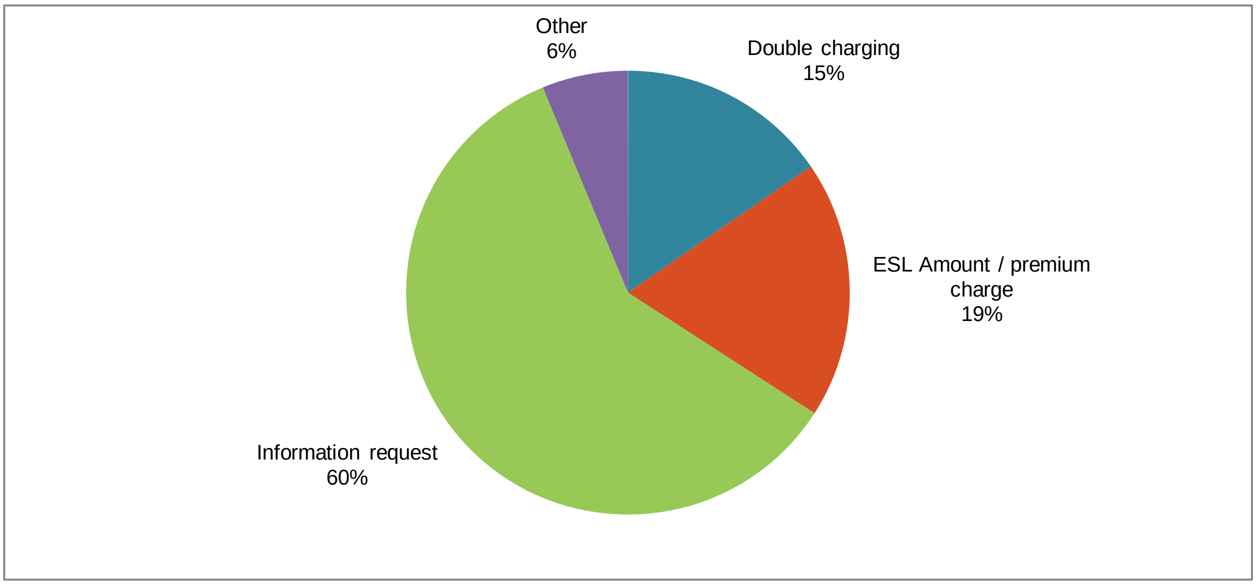
2.4 Enquiries and Complaints

The Monitor is also able to receive concerns and complaints from the public via its call centre and website (previously via published email address, and in future via the online form).

2.4.1 Call centre enquiries

The Monitor's hotline (1300 602 723) received 208 calls in the December quarter, which was a significant increase from the previous quarter when 39 calls were received. Information about the nature of the calls received and the action taken by the call centre staff to respond is provided below.

Figure 3: Nature of calls received by ESLIM hotline



The ESLIM call centre is in place to provide a first point of contact for the public who may have concerns or questions about the proposed reform. As can be seen in the following table, the vast majority of callers (78 per cent) had their needs met directly by the call centre staff, through the provision of information and education about the reform, or direction to the ESLIM website and supplementary information. Information provided also includes a couple of fact sheets, which are available on the ESLIM website. One fact sheet provides an overall explanation of the upcoming Emergency Services Levy Reform, while a second fact sheet focusses on how the ESL may be charged in insurance premiums during the last year of the levy. This fact sheet is specifically designed to allay policyholders concerns that they may be paying the same levy twice when the property levy commences on 1 July 2017. Additional fact sheets and other material will be created to assist stakeholders as required during the transition.

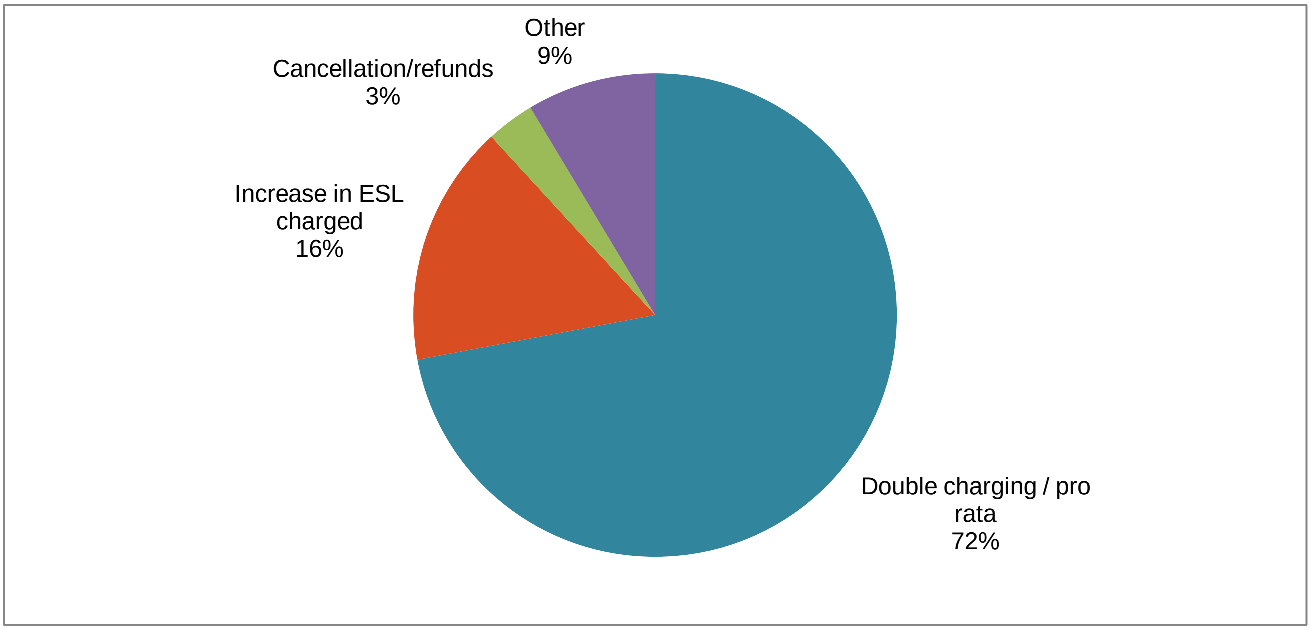
Table 1: Response to calls received by ESLIM hotline in December 2016 quarter

Action taken	Number of calls	Per cent of total calls received
Education and information provided by call centre staff	162	78
Referred to ESLIM complaints procedures	18	9
Referred to insurance provider	21	10
Referred elsewhere (e.g. ESPL website/local council)	7	3

2.4.2 On-line enquiries/complaints

To date the Monitor has received concerns and complaints from policyholders via email. During the December quarter, the Monitor received a total of 93 complaints from policyholders. The majority of complaints were received directly by the Monitor's office, with 13 being redirected from the ESPL team or Department of Justice.

Figure 4: Subject matter of complaints received in December 2016 quarter



As was the case for the September quarter, the top concern of policyholders relates to the possible over-payment of ESL as the funding of the emergency services moves from an insurance-based to a property-based model. Many complaints originate from an incorrect belief that the levy will be paid twice by insured property owners (i.e. double charging) when the transition occurs, since an ESL is charged in insurance premiums issued currently, and will be also be charged in council rates after 1 July 2017. Another view held by some policyholders is that the ESL amount included in their premium should be set on a “pro rata” basis, corresponding with the portion of their insurance cover that relates to the 2017/18 financial year.

In most of these cases, the complaint can be attributed to confusion as to how the ESL may legitimately be charged by insurance companies during the transition. The reason that there is not a double charge or over payment is because the ESL component of an insurance premium is linked to the financial year in which the policy is taken out, and is not tied to the cover period of the insurance policy. Therefore, the ESL charge included in insurance policies issued or renewed at any time between 1 July 2016 and 30 June 2017 relates to the funding of the emergency services in the 2016-2017 financial year. The property levy which is to be included in the council rates after 1 July 2017 relates to the funding of the emergency services in the next financial year, 2017-2018. It is the timing of the payments and the method of collection that is changing.

Likewise, policyholders are generally not aware that whilst the method of determining contribution amounts required from insurance companies is set out in statute, the way in which insurance companies choose to recover those contributions from their policyholders in the form of an ESL charge is, and has always been, a business decision of each company. During the December 2016 quarter, many policyholders observed a material increase in the rate of ESL charged on their premiums as compared with the previous year. Most companies are intending to significantly reduce these rates in the first half of 2017 and they will be removed completely by 30 June 2017. In most cases, insurance companies have not provided adequate explanations for the earlier increases.

The Monitor highlighted this issue in the September quarterly report, and remains concerned that little has changed regarding how the insurance companies communicate on this issue with their policyholders. As was reported in the previous quarter, when the concerned policyholders contacted their insurance company for further information, the information they are provided with by the insurance company call centre staff was often confusing, unhelpful, and in some cases, incorrect. This is discussed further below.

2.4.3 Action taken

The Monitor's role is to ensure that the insurers fully remove the ESL from their premiums from 1 July 2017 and do not collect overall an excess amount of ESL from their policyholders. The Monitor has an expectation that insurance companies communicate clearly with their policyholders, as laid out in the Guidelines.

The guidelines on the prohibition on engaging in false or misleading conduct in relation the emergency services levy reform state that:

> *(34) The Monitor "expects that insurance companies, in their communications with policyholders, regarding the price of regulated contracts of insurance during the operation of the Act, will provide accessible, accurate and clear explanations of the price, and any movement in such prices, of regulated contracts of insurance." Following on, section 36 states "Insurance companies should take care to explain to policyholders:*
>
> > *a) the reasons for any movement in premiums after 30 June 2016, particularly where those movements involve changes to the ESL component of the premiums; and*
> >
> > *b) that they are no longer required to contribute to the funding of the emergency services from 1 July 2017. Beyond that date they cannot seek to impose an ESL.*

The Monitor considers that it is incumbent upon insurance companies to explain clearly, in writing, how the ESL is being removed from policyholders' premiums.

The Monitor became increasingly aware during the quarter, that many insurers are not meeting this expectation and a number of individual companies have been subject to complaints about their communications. As a result, the Monitor is engaging with these companies about how they are informing their policyholders of any changes in the ESL rates in the lead up to their removal. Companies are being asked to provide the Monitor with detailed explanations about the policies and procedures in place to assist customer-facing staff in their communications with policyholders.

In the December quarter the Monitor received the largest number of complaints in relation to the following insurance companies / brands: AAMI, APIA, Comminsure, GIO, NRMA and Youi.

2.4.4 Substantiation notice

Under section 22 of the Act, the Monitor may require claims to be substantiated. If the Monitor is satisfied that a person has, in trade of commerce, made a claim or representation as to the effect or the likely effect of the emergency services levy reform, the Monitor may, by notice in writing (a substantiation notice), require the person to substantiate the claim or representation.[5]

Following the receipt of a complaint from a policyholder the Monitor issued a substantiation notice to one insurance provider. The substantiation notice requires the company to provide the Monitor with evidence to support certain claims made in correspondence between the company and the policyholder. These claims relate to the role of the NSW Government in prescribing the rate of ESL that should be charged by the company to its policyholders.

2.5 Media

During the quarter, the Monitor issued two media releases.

i) The first on 10 October highlighted the importance of insurance companies having appropriate systems and processes in place to correctly adjust pricing in relation to the removal of the ESL. Two cases were reported to the Monitor where policyholders had been incorrectly charged ESL.

   a) In the first, Swann insurance informed car and motorcycle policyholders that it would be removing ESL from premiums immediately, however, it did not adjust the premiums to reflect this. This resulted in 3000 policyholders being charged ESL when they had been informed it had been removed from their premiums.

   b) In a second incident, an internal review at IAG (NRMA) found the company had over-charged ESL to policyholders by $6.8m in 2013, a period outside the Monitor's monitoring period.

   Both companies self-reported the issues to the Monitor, and have taken steps to refund the incorrectly charged amounts. It is highly unlikely that the errors would have been detected without the ESL reform and the strong consumer protection laws surrounding it. The Monitor's response in these cases reflected the circumstances involved, however, insurers were reminded that future incidents of this kind have the potential for penalties of up to $10 million if regarded as prohibited conduct under the Act.

   The Sydney Morning Herald ran an article relating to this on 19 October 2016.

ii) On 15 November the Monitor issued a media release which highlighted findings published in the Monitor's second quarterly report. The Monitor reminded the industry that the removal of the ESL may not be used as an opportunity to increase base premiums. The Monitor noted that increases in average claim size do not necessarily provide a reason to increase premiums, and that premium increases or claims made about profit margins being squeezed will be closely scrutinised by the Monitor.

[5] Emergency Services Levy Insurance Monitor Act, Section 22(1).

2.6 Notices issued under the Act

During the quarter, the following notices were issued to insurance providers under the Act. Further discussion on these notices is provided in Sections 3 and 4 of this report.

Table 2: Notices issued during the December 2016 quarter

Notice content	Notice Date	Due Date	Act reference
ESL Rate information request	18 October	31 October	Section 57
Section 30 Notice compliance check	10 November	1 December	Section 57
Baseline pricing and ESL data	2 December	23 January	Section 57
Service of documents	5 December	19 December	Section 77
CEO Declaration	5 December	31 January	Issued under the Guidelines

3 Price and conduct monitoring

3.1 Overview

The monitoring functions undertaken by the Monitor seek to achieve a number of objectives including ensuring that:

- The benefits of the ESL reform are passed on to consumers in the form of lower insurance premiums
- Insurers do not collect more ESL than they are required to pay to the Government as contributions for the emergency services
- ESL is fully removed from insurance premiums by 1 July 2017; and
- Insurance companies do not engage in prohibited conduct regarding the ESL reform.

In relation to prohibited conduct, the Monitor has published guidelines on the prohibitions against price exploitation and engaging in false or misleading conduct in relation to the ESL reform. Both of these guidelines set out additional guidance on the information and considerations that the Monitor will have regard to in assessing cases of prohibited conduct, including the Monitor's expectations of how insurance companies should act in relation to the making and communication of their pricing decisions in the lead up to the abolition of the insurance-based funding system.

As previously highlighted in the September 2016 quarterly report, the Monitor is seeking to establish a database of information covering, amongst other things:

- The price of regulated contracts of insurance, which is defined in the Act to include (amongst other things) base premiums and ESL charges applied to classes of policies that are subject to contribution under the emergency services funding scheme.
- Contributions paid by insurance companies towards the funding of emergency services.
- Information on how insurance companies price different insurance products, including how the rate of ESL charged is determined.
- Evidence on the communications between insurance companies and their policyholders about pricing, including ESL charges and the ESL reform.
- Evidence that insurance companies have the systems, procedures and internal controls in place to ensure ESL is removed from premiums.

The Act provides a number of channels for the Monitor to obtain information and records to support its monitoring activities, including under Section 57.

The Monitor notes that under Section 77 of the Act, it is required to serve a document to persons or corporations personally, by post, or by facsimile transmission. The Monitor has mailed documents in hard copy to insurance companies, at the address used by the Department of Justice to serve documents relating to emergency services contributions. Company contact information obtained through the Department of Justice has been updated progressively following company searches obtained through ASIC. Notwithstanding these efforts, the current arrangements are not considered optimal nor efficient, and the Monitor is aware that delays have occurred in some instances.

The Monitor considers that a more efficient option for service of documents is electronically via email.[6] To facilitate this, the Monitor has written to all insurance companies, requesting them to nominate an email address, or addresses, together with the appropriate contact person(s) for service purposes. As at the date of this report, the Monitor has received returned nominations from 37 of 174 insurance companies.

3.2 Monitoring insurance premiums

During the quarter ended 31 December 2016, the Monitor progressed the monitoring activities outlined below. The Monitor established methods of data sourcing and validation, and commenced preliminary analyses of premium changes during the transition period. Some of those methods and some preliminary observations are discussed in following sections of this report. The key themes highlighted in the discussion include that:

- For a defined standard property profile, there are significant price variations both by location but more surprisingly, by insurer or brand, and
- it pays to shop around and negotiate with insurers, before purchasing and renewing policies.

3.2.1 Insurance company provided quotations

Since October 2016, the Monitor's Office has been receiving on a monthly basis, premium quotations for combined building and contents insurance for a standard household profile in each of eleven specific addresses in NSW. This information has been received in relation to 12 insurance brands.

The standard household profile was developed by the Monitor's Office and is summarised below.

Figure 5: Specifications for standard profile quotes

Cover is for a basic Householders/Houseowners building and contents insurance policy for a dwelling that:

- Is an owner occupied family home with no business activity/tenancy/boarding and is not currently being renovated, demolished or prepared for sale.
- Was constructed in 1990.
- Has three averaged sized bedrooms with one bathroom/toilet, a dining room and family/lounge room.
- Is a single story free standing house built on flat ground on a slab/foundation with double brick external walls and a terracotta tiled roof and made to average construction quality. It is well maintained and in good condition and not heritage listed.

[6] The Monitor understands that many insurers have also expressed preference for documents to be emailed to them.

- Has security consisting of key operated locks and deadlocks on all external doors and key operated locks on all accessible windows.
- Have no outdoor structures or fittings and fixtures such as a pool, pool area, deck, sheds or garage.
- Has building sum insured of $450,000 with a $750 excess and contents sum insured of $100,000 with a $500 excess.

The December quarter average prices for building and contents insurance are shown in the table below. There has been little change in the premium data since October 2016.

Table 3: Insurer provided building and contents insurance quotations for December 2016 quarter

	Rand-wick	Concord	River-view	Brad-bury	Hornsby	Hinton	East Gosford	Canowi-ndra	Medlow Bath	Byron Bay	Wollon-gong
One path	$1,840	$1,711	$1,806	$1,810	$1,886	$2,380	$2,051	$2,230	$2,360	$2,046	$2,076
Cominsure	$1,710	$1,586	$1,558	$1,662	$1,615	$2,441	$1,834	$1,888	$1,531	$1,848	$1,704
AAMI	$1,772	$1,540	$1,775	$1,978	$1,490	#	$1,871	$1,076	$2,002	$1,711	$1,418
NRMA	$2,169	$2,032	$2,372	$2,115	$2,059	#	$2,217	$1,884	$2,568	$1,913	$1,702
Allianz	$1,251	$1,210	$1,234	$1,357	$1,143	$2,174	$1,422	$1,183	$1,329	#	$1,358
QBE	$1,721	$1,619	$1,752	$1,745	$1,655	#	$2,108	#	$1,723	$2,031	$2,020
IAG/CGU	$1,531	$1,551	$1,510	$1,406	$1,270	$2,658	$1,656	$1,408	$1,375	$2,219	$1,509
SunCorp	$1,930	$1,437	$1,910	$2,926	$1,600	$1,732	$2,071	$1,667	$2,325	$1,822	$1,834
Coles	$1,062	#	$1,137	$1,226	#	$1,700	$1,044	$1,916	$1,106	$1,776	$1,641
Woolworths	$1,302	$1,303	$1,205	$1,277	$1,357	n/a	$1,244	$1,923	n/a	#	$2,028
GIO	$2,211	$1,685	$2,325	#	$1,963	$2,044	$2,505	$2,061	$2,794	$2,164	$1,932
Westpac	$1,591	$1,647	$1,594	$1,592	$1,386	$1,836	$1,800	$1,707	$2,128	$1,820	$1,436
Average	$1,674	$1,575	$1,682	$1,736	$1,584	$2,121	$1,819	$1,722	$1,931	$1,935	$1,722
Max	$2,211	$2,032	$2,372	$2,926	$2,059	$2,658	$2,505	$2,230	$2,794	$2,219	$2,076
Min	$1,062	$1,210	$1,137	$1,226	$1,143	$1,700	$1,044	$1,076	$1,106	$1,711	$1,358
Max quote as a multiple of Min Quote	2.1x	1.7x	2.1x	2.4x	1.8x	1.6x	2.4x	2.1x	2.5x	1.3x	1.5x

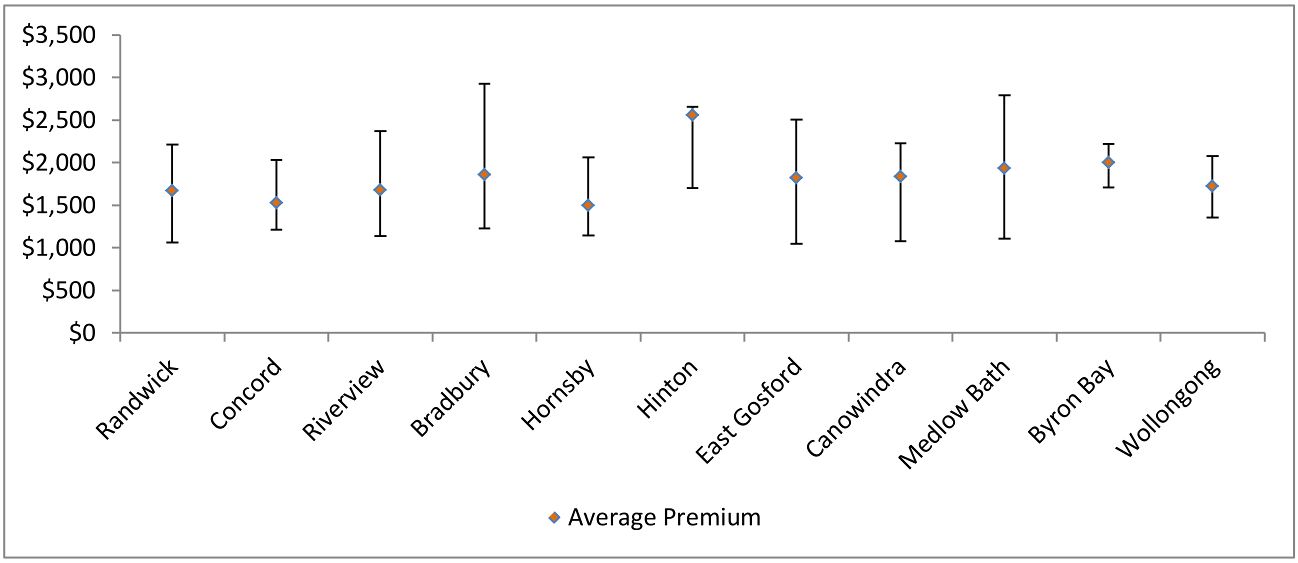
Source: Selected Insurers Websites and Insurers quotes provided directly to the ESLM. Anomalies in Hornsby and Hinton have been removed. # Quotes provided were considered extreme and removed for comparison purposes.

Table 3 above suggests that there is high degree of variation in the quotations provided, both between different insurers (comparing their respective pricing at the same address) and between each insurer's pricing for different locations (i.e. their relative pricing based on different risk and other contributing factors).

The most expensive quote in many locations was at least twice as high as the cheapest quote. Quotations at Medlow Bath, in particular, stood out for their relatively high rate spread.

Figure 6 clearly shows the range of quotes that are on offer to consumers. The benefits of shopping around are evident. In this example, the average variation between the most expensive and least expensive quote was $1,100 (as stated previously, the same criteria was used for all quotes sought).

Figure 6: Range of quotes provided#, December quarter 2016



Excludes quotes which were considered extreme.

Premium variations in the same location

The range of premiums between insurers at the same location likely reflects, amongst other things, different marketing strategies which are designed to achieve their desired business mix, as well as different assessments and appetites for risk.

The Monitor's analysis of insurers' policy level data shows that market penetration of insurers varies by region and depends on factors such as the policy portfolio (e.g. whether an insurer mostly sells commercial lines of insurance and offers household insurance as a complementary product) or whether the insurer specialises in household insurance. In some markets, price quotes suggest a clear unwillingness by some insurers to insure in those locales, except at a price premium.

Insurers can choose to avoid specific risk exposure by withdrawing from markets or by increasing prices. The experience in North Queensland, a region associated with severe weather events, provides an example of this. In 2013, the Australian Government Actuary found that the average premium rate for the region had more than tripled over the five years since FY2007, and had risen more steeply over time as compared with other east coast centres. This reflected high gross claims costs in FY2008 due to the storms in Mackay and cyclone Yasi in FY2011.[7] In its 2014 discussion paper on measures to address the high cost of home insurance in North Queensland, the Australian Government Actuary noted that the peculiar risk characteristics of the North Queensland region and the associated lack of participation in its property insurance markets gave rise to questions about whether those markets are as efficient as they could be. Specifically, the paper noted that at the time, only two insurers were actively writing new strata title insurance policies in North Queensland. Other insurers in the region had either exited the market or limited their exposure by only offering renewal business.[8]

Some insurers in our sample appear to be pursuing a strategy of undercutting rivals in order to increase market share. An analysis of insurers' policy level data for these locations showed that in general, companies with lower average premiums tended to have smaller shares of the market in that locality. In contrast insurers with larger market shares tended to charge higher average premiums in the selected locations.

Price variation across insurers was also observed to occur consistently throughout the monitoring period in the Victorian fire services levy reform in 2013. As in the Victoria, the Monitor concludes that the message for consumers is clear: it pays to shop around by comparing the price of different insurers before purchasing and renewing policies. Further discussion on how the UK is promoting this message is provided later in this report.

Premium differences between locations

Premiums charged by insurers need to cover a range of costs, including the cost of claims (both non-natural peril and natural peril), reinsurance, administrative overheads and a profit margin. The expected cost of claims, which is driven by the expected frequency and size of claims, represents a significant component of the price for home insurance. The variation in premiums between locations as exhibited in Table 3 will therefore be impacted by insurers' assessment of the relative risk profile of each location and the likelihood of a claim being made.

3.2.2 Online vs. insurer provided quotations

In addition to obtaining quotations directly from insurers under statutory notices, the Monitor also obtains quotations from the market place from insurers websites. Table 4 below reports on quotations obtained for the same properties as covered by the statutory notices.

[7] Australian Government Actuary, Report on Investigation into Strata Title Insurance price rises in North Queensland, 2012, and Second Report on Strata Title Insurance Price Rises in North Queensland, 2013.
[8] Australian Government, Addressing the High Cost of Home and Strata Title Insurance in North Queensland, Discussion paper, 9 May 2013, page 8.

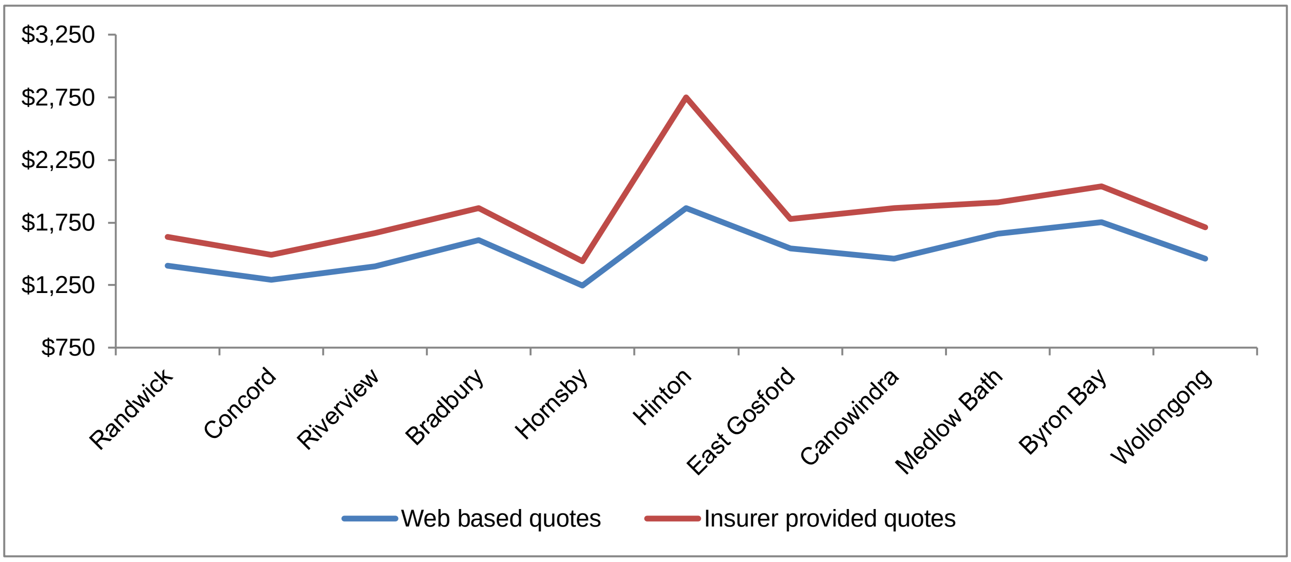
Table 4: Insurer web-based quotes for December 2016 quarter

	NRMA	Allianz	QBE	CGU	Suncorp	Coles	Wool-worths	GIO	Westpac
Randwick	$1,634	$1,126	$1,278	$1,256	$1,733	$716	$1,140	$1,816	$1,965
Concord	$1,529	$1,089	$1,247	$1,248	$1,256	$695	$1,140	$1,371	$2,051
Riverview	$1,486	$1,110	$1,346	$1,230	$1,704	$783	$1,054	$1,913	$1,959
Bradbury	$1,603	$1,221	$1,344	$1,142	$2,676	$835	$1,117	$2,609	$1,963
Hornsby	$1,608	$1,028	$1,199	$1,098	$1,404	$401	$1,188	$1,617	$1,678
Hinton	n/a*	$1,222	$2,708	$2,352	$1,537	$1,388	n/a*	$1,659	$2,208
East Gosford	$1,756	$1,280	$1,639	$1,338	$1,866	$728	$1,089	$2,040	$2,158
Canowindra	$1,427	$1,044	$2,439	$1,152	$962	$1,345	$1,682	$1,093	$2,013
Medlow Bath	$1,940	$1,196	$1,336	$1,186	$2,112	$768	n/a*	$2,293	$2,455
Byron Bay	$1,446	$1,249	$1,575	$1,798	$1,633	$1,242	$2,851	$1,748	$2,227
Wollongong	$1,294	$1,222	$1,559	$1,216	$1,628	$1,143	$1,774	$1,565	$1,746

* Woolworths does not quote prices for Hinton and Canowindra, while the NRMA does not provide an automatic web based quote for Hinton.

Figure 7 below compares the insurer-provided quotes obtained by the Monitor with the online quotes. The comparison shows consumers could save by purchasing online. Insurers offer, in some cases, sizeable online discounts. Overall, the online quote is around 16% less than the premiums quoted directly by insurers.

Figure 7: Average building and contents premium standard profile quotations for December 2016 quarter by location and source



3.2.3 Movement in premiums quoted in the December quarter

Table 5 below summarises the change in the average of the premiums obtained online and directly from insurers over the period October to December 2016, across the eleven NSW locations.

Differences between the change in total premiums and the base premium (total premium excluding the emergency services levy, GST and stamp duty) reflect a change in the Emergency Services Levy and the compounding effect, via reduced GST and stamp duty on the total premium.

The data below highlights the different pricing behaviour present throughout the industry. It is evident that while some rates increased during the quarter, a number of companies have commenced to taper down their ESL rates in preparation for complete removal by the end of June 2017.

Table 5: Percentage change in premiums between October 2016 and December 2016

	Web based	Insurer provided quotes	
	Total Premium	Total Premium	Base Premium
NRMA	-0.1%	-1.3%	-1.3%
Allianz	0.0%	0.0%	0.0%
QBE	1.9%	6.5%	6.5%
IAG/CGU	2.5%	2.0%	2.0%
Suncorp	-3.9%	-7.9%	-4.0%
Coles	-1.1%	-1.4%	-1.4%
Woolworths	4.9%	4.9%	4.9%
GIO	-3.9%	-7.0%	-1.2%
Westpac	0.0%	0.0%	0.0%

The Monitor does not collect web-based quotes from Onepath/AAMI/Comminsure

3.2.4 Promoting "shopping around"

The Monitor considers it is important that insurers provide policyholders with sufficient information to allow them to check the ESL rates, and to further enhance awareness of premiums charged. Increased information provision is likely to encourage consumers to shop around in search of the best deal to meet their needs. As early as April 2016, the Monitor indicated to insurers that it would like to see information provided on renewal notices that clearly allows policyholders to compare this year's premium with the previous year's premium. This recommendation was reinforced in the Guidelines on the prohibition on engaging in false or misleading conduct. Insurers' policy documents analysed to date by the Monitor have not identified any provider that currently includes the prior years' cost on renewal invoices. However, the NRMA has made significant progress in this area and has been testing various formats in relation to motor policies.

The value that can be gained through greater "shopping around" by insurance consumers has also been a key theme in the UK general insurance market. The Monitor is aware that the Financial Conduct Authority ("FCA") in the UK has recently introduced new disclosure policies around renewals of contracts of general insurance.[9] The new disclosure rules will apply to the industry from 1 April 2017.

The new measures were introduced following research published by the FCA in December 2015 highlighting the tendency for consumers to automatically renew their home and motor insurance policies.[10] This provides opportunities for insurance companies to price renewals differently to new business. Some of the key insights from this research are summarised below.

i) Over one quarter of motor and home insurance customers either do not recall receiving their renewal notice or do not read them. There is therefore considerable opportunity to improve consumer engagement at renewal. Motor insurance consumers tend to switch more than home insurance consumers. Home insurance consumers appear to underestimate the benefits of shopping around and overestimate the time it takes.

   To the extent that this feature is also common to the Australian home and motor insurance market, the Monitor intends that its monitoring of premiums will separately consider new business and renewals. Online quotation monitoring does not provide visibility over the pricing of policy renewals.

ii) For home insurance customers who received a greater than 5% price increase at renewal, disclosing last year's premium amount on renewal policies increases switching or negotiating by 3.2 percentage points. This is equivalent to between 11% and 18% more customers switching or negotiating than would otherwise be the case. There was evidence that the larger the price increase at renewal, the more impact prior year premium disclosure had on switching / negotiating levels. Other forms of disclosure – reminder letters, text messages and emails two weeks after renewal notices, leaflets on shopping around – did little to encourage shopping around.

   This finding reinforces the view expressed by the Monitor in the Guidelines on the prohibition on engaging in false or misleading conduct in relation to the emergency services reform, that for policy renewals after 30 June 2017, insurance companies should aim to provide sufficient information "*…so that each policy holder is able to identify:*

   - *the total premium and the components of base premium, ESL, GST and duty paid by the policyholder during 2016-17,*
   - *the total premium and the components of base premium, GST and duty payable by the policy holder on the renewal issued during 2017-18, and*
   - *the reasons for any change.*"[11]

iii) The evidence from the UK is that home insurance customers who have been with the same firm for five years pay, on average, 70% more than new customers. The research did not find evidence that the higher pricing was driven by risk factors (although the FCA stated that they did not look specifically for evidence that firms were making excess profits as a result).

[9] Financial Conduct Authority, Policy Statement PS16/21, Increasing transparency and engagement at renewal in general insurance markets – feedback on CP15/41 and final rules and guidance, August 2016.
[10] Financial Conduct Authority, Ocassional Paper No. 12, Evidence from field trials in the home and motor insurance markets, December 2015.
[11] Guidelines on the prohibition on engaging in false and misleading conduct, September 2016, para. 45.

iv) Similar evidence was not found in the motor insurance market but the FCA did find that consumers who negotiated prices at renewal reduced their premiums on average by a fifth.

Consistent with the research findings, one of the key changes brought about by the new UK disclosure rules is the requirement to disclose last year's premium alongside this year's premium (with adjustments where there were variations in cover, to ensure like-for-like comparison). The Monitor notes that the UK general insurance industry itself also proposed this change and it has been supportive of the move.[12]

Firms will also be required to communicate the importance of shopping around to consumers before they renew. The FCA has left the exact wording up to the firms, but the Policy Statement suggested the words "*Have you checked that your insurance cover still meets your needs? Have you considered shopping around to find the best deal for the cover you want?"* be used at each renewal.

At the time of the fourth renewal, the message the FCA wants insurers to include in the renewal is "*You have been with us for a number of years. You may be able to get the insurance cover you want at a better price if you shop around."* This disclosure requirement is aimed at addressing the research finding that by the fifth renewal, the premium paid is about 70% higher than for new customers.

3.2.5 Price comparison websites

Price comparison websites ("PCWs") are a tool which have the potential to make shopping around easier for insurance consumers. These websites operate by comparing the features, including price, of particular goods or services that are offered by multiple suppliers, and can facilitate consumer transactions.

PCWs became prominent in the UK in the early 2000s and since then have grown in popularity around the world. When the first general insurance PCW, confused.com, was launched in 2002, around 1% of motor insurance was placed online.[13] The FCA estimates that of the motor policies written in 2013, around one third, equating to more than half of new business, were sold through PCWs. In Australia, a home and contents insurance PCW was established by the Australian Government in 2015 to focus specifically on properties located in North Queensland.[14] The ASIC-operated website was created following a review into the causes of high home insurance costs in North Queensland by the Australian Government Actuary in 2014. There are also government-operated PCWs for health insurance and Compulsory Third Party insurance as well as a number of privately-run PCWs covering home and motor insurance. Work undertaken by the Monitor during the Victorian Fire Services Levy Reform highlighted that there remain inadequacies and gaps in the

[12] Association of British Insurers, "A new deal at renewal – ABI proposal to further improve clarity for customers", July 2014.
[13] Towers Watson, Why aren't we making money…, December 2010.
[14] Refer http://www.nqhomeinsurance.gov.au/

coverage of price comparator websites for the Australian insurance market, including for aspects of residential property insurance.[15]

In November 2016, the Federal Parliament announced an inquiry into home, strata and car insurance industries and the costs and benefits of establishing an independent home, strata and car insurance comparison service in Australia.[16] The inquiry was reportedly motivated by a petition from consumers for a government-run general insurance website and has the support of Senator Nick Xenophon.[17]

The Monitor is aware that there are divergent views about the value of PCWs. The insurance industry in Australia has generally not supported the proposal in relation to home insurance, citing concerns that such websites create an undue focus on price rather than the underlying nature of the insurance cover that a consumer requires.[18] In addition, a number of privately operated insurance PCWs have been criticised for their lack of transparency, degree of impartiality (due to affiliations and ownership structures) and limited market coverage, all of which are factors that can limit their use and effectiveness.

The merits of PCWs have previously been reported in studies by the ACCC,[19] the World Bank,[20] and the FCA.[21] More recently, the UK Regulators Network has published a report into PCWs based on the case studies of three regulators (the FCA, the Office of Gas and Electricity Markets and the Office of Communications) and their experience of the role of PCWs.[22] The Competition and Markets Authority ("CMA") has also recently launched a study into digital comparison tools and how they are working for consumers.[23]

Despite the issues with PCWs, the Monitor considers that they have the potential to be a useful tool for insurance consumers. There is now also a significant amount of literature and international experience that can be drawn upon to overcome some of the shortcomings of the existing PCW's (e.g. California Department of Insurance), and make PCWs more effective to support consumer decision-making.

Work undertaken by the Monitor during the Victorian Fire Services Levy Reform highlighted that whilst the property insurance market is characterised by a relatively large number of competitors and relatively low barriers to entry, the existence of large price differentials between insurers for identical properties and low rates of switching by consumers suggest that the degree of effective

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[15] Office of the Fire Services Levy Monitor (2014), Discussion Paper – Enhancing the consumer experience of home insurance: Shining a light into the black box.
[16] Refer http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Generalinsurance/Terms_of_Reference.
[17] https://www.onebigswitch.com.au/news/2016/11/21/press-release-consumers-urged-to-support-campaign-for-simpler-insurance-comparison
[18] https://anziif.com/members-centre/articles/2016/11/government-run-price-comparison-website-could-lead-to-poor-consumer-outcomes-says-ica?p=1&mbs=&cat=all
19 ACCC, The comparator website industry in Australia, An Australian Competition and Consumer Commission report, November 2014
[20] The World Bank, Report No. 78783-BG, Public Sector-Operated Price Comparison Websites: Case Studies and Good Practices, June 2013
[21] Financial Conduct Authority, Thematic Review TR14/11, Price Comparison Websites in the General Insurance Sector, July 2014.
[22] UKRN, Price comparison websites, Final Report, 27 September 2016.
[23] https://www.gov.uk/government/news/cma-launches-study-into-digital-comparison-tools

competition in the industry is much weaker than normally presumed. There are characteristics of the property insurance market that contribute to a lack of transparency in contracts of insurance, creating information asymmetry that works against the interests of the consumer.[24] The effectiveness with which insurers communicated with their policyholders, particularly in residential property insurance, was also questioned.[25]

The Monitor considers that more effective communication and disclosure by insurers can play a fundamental role in helping consumers make informed decisions. A well-developed PCW has the potential to enhance competitive price pressure in the property insurance market and would help raise consumer awareness of price differences and price consciousness more generally.

3.2.6 ESL rates

In October 2016, the Monitor issued a notice under Section 57 of the Act requesting information and records in relation to historical monthly ESL rates for each of eight classes of insurance, defined to align with the classes of insurance set out in the Return of Premium forms submitted annually by insurance companies to the Department of Justice. In addition to this data, this notice also requested respondents to describe the company's plans and strategies in relation to removal of ESL, and produce sample copies of relevant documents relating to communication of the ESL reform.

The notice was issued to the following ten insurance companies (and their brands in parentheses), namely:

- Insurance Australia Ltd (NRMA, CGU, Coles, WFI Insurance)
- AAI Ltd (Suncorp, AAMI, GIO, Vero)
- QBE Insurance (Australia) Ltd
- Allianz Australia Insurance Ltd
- Commonwealth Insurance Ltd
- AIG Australia Ltd
- Zurich Australian Insurance Ltd
- Youi Insurance
- Hollard (Woolworths Insurance)
- Westpac General Insurance

Collectively, these companies account for around 95% of the household (home and contents) insurance premiums, 64% of commercial property insurance premiums and 91% of motor insurance premiums received in NSW. These figures are based on the premiums declared to the Department of Justice in the 2015-16 Return of Premium forms.

The data on monthly ESL rates provided by insurance companies have been analysed by the Monitor's Office and the data is summarised in the charts below.

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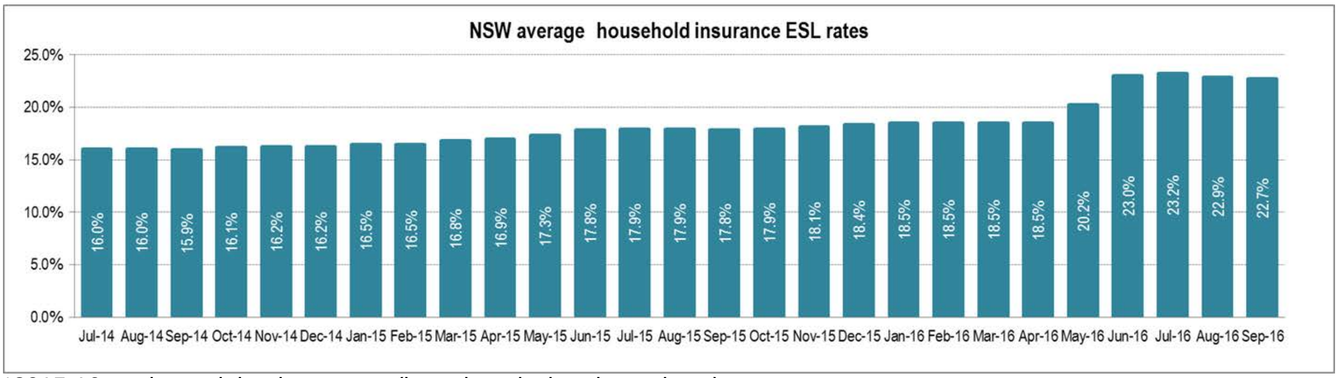
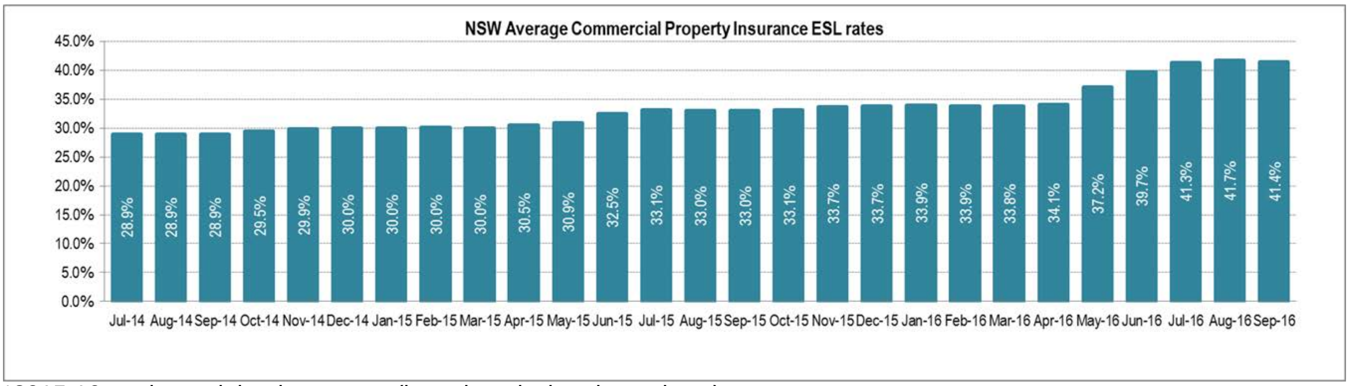
[24] Refer to the Monitor's Second Quarterly Report, for the quarter ended 30 September 2016, for a discussion of these factors.
[25] Office of the Fire Services Levy Monitor (2014), Discussion Paper – Enhancing the consumer experience of home insurance: Shining a light into the black box.

Figure 8: Household insurance



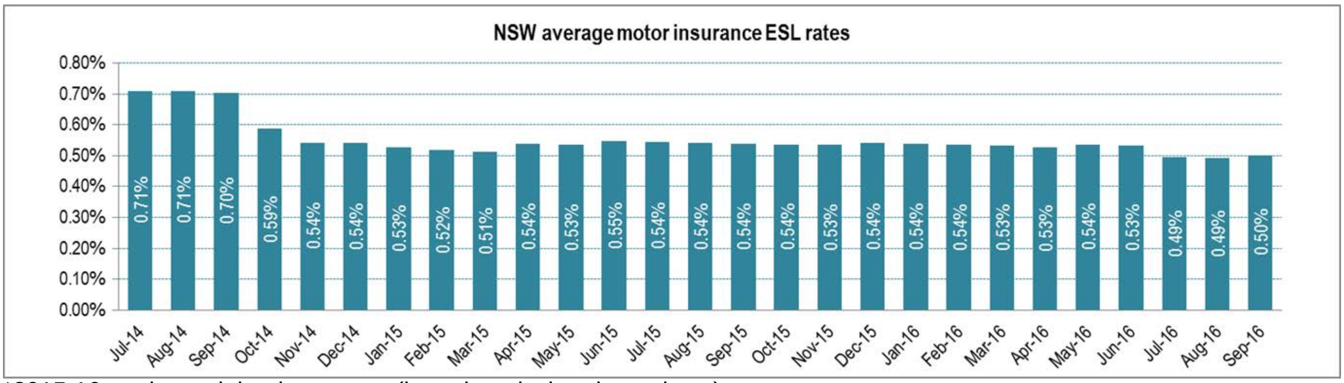
*2015-16 market weighted averages (based on declared premiums)

Figure 9: Commercial Property Insurance



*2015-16 market weighted averages (based on declared premiums)

Figure 10: Motor insurance



*2015-16 market weighted averages (based on declared premiums)

It is apparent that ESL rates for both household and commercial property insurance have been rising since July 2014 but marked step changes are evident since around May/June 2016. ESL rates for commercial property insurance are also generally significantly higher than that for home and contents insurance. ESL rates for motor insurance have generally remained stable over time.

The recent rise in ESL rates reflects the pricing decisions adopted by insurance companies to ensure recovery of their respective contributions to the emergency services authorities in the final year of the emergency services funding scheme. Based on discussions with a number of insurers, it is noted that insurance companies are intending to reduce the ESL rates applied to insurance policies as the date of the transition approaches. Recent data received by the Monitor supports this intention and shows that a number of large insurance companies commenced reducing ESL rates in December, as part of a process to completely remove the charge by 1 July 2017.

The Monitor acknowledges that insurance companies should be able to set ESL rates in 2016-17 at levels which enable them to recover their funding obligations. However it has advised insurers that they should:

- Be mindful of the need to ensure that any tapering of ESL rates throughout 2016-17 is moderated so that rates charged to policyholders are fair.[26] This is because tapering during 2016-17 will mean that the change in total premiums experienced by individual policy holders when renewing their policies may be significantly different solely because of the time of year the renewal falls due.
- Take care to explain to policyholders the reasons for any movement in premiums after 30 June 2016, particularly where those movements involve changes to the ESL component of the premiums.[27] As discussed in Section 2 of this report, the Monitor has noted an increase in the number of enquiries / complaints received from policyholders renewing their policies in the December 2016 quarter, who have experienced an increase in their ESL rates. Based on the responses to the Monitor's notice, the Monitor is concerned that whilst many insurance companies are communicating to their policyholders about the removal of the ESL and have put in place procedures to educate call centre staff about the change, insufficient effort is being made to accurately explain changes in ESL rates to policyholders renewing during those months when ESL rates were increased.

The Monitor will also require insurance companies to demonstrate that there has been no over-recovery of contributions in total through the ESL over the financial years 2015-16 and 2016-17 combined. As indicated in the Guidelines on the prohibition against price exploitation, ESL collected in excess of the aggregate contributions for the two financial years will be regarded as price exploitation unless appropriate arrangements are made (as approved by the Monitor) to return the over-collection to policyholders.[28] The Monitor understands that insurers are making an effort to carefully monitor levels of ESL collection in the lead up to the transition in order to avoid over collection.

3.2.7 Baseline pricing data

In early December 2016, the Monitor issued a notice under Section 57 of the Act seeking to obtain certain pricing information from insurance companies. The information requested relates to base premiums, ESL charges and gross premiums at a monthly aggregate level from July 2015, along with the volume of policies written each month.[29] The data sought is required to identify new business and renewals. As highlighted earlier, the Monitor considers that its monitoring of premiums

[26] Guidelines on the prohibition against price exploitation, September 2016, Guideline 7 (page 15)
[27] Guidelines on the prohibition on engaging in false or misleading conduct, September 2016, para. 36.
[28] Guidelines on the prohibition against price exploitation, September 2016, para. 47-50.
[29] Data on total sum insured, split between new business and renewals, was also requested but only for home building and contents insurance.

should separately consider new business and renewals. Online quotation monitoring does not provide visibility over the pricing of policy renewals. The Guidelines on the prohibition against price exploitation indicated the Monitor's interest in the pricing of new versus renewed policies[30].

The data was requested for six classes of policies that are subject to contribution under the emergency services funding scheme.

The notice was issued to insurance companies that were identified as having an obligation to contribute to the funding of emergency services in NSW by virtue of having declared premiums to the Department of Justice in their 2015-16 Return of Premium form.

To date, the Monitor has received a number of enquiries from the industry relating to this notice as set out below.

i) **Requirement to respond** – The Monitor's information requests are tailored to meet specific requirements. In some cases it is appropriate to seek data from all insurers. In other cases obtaining information from a sample of companies is sufficient and others can be exempted from responding. Companies should be aware that under the Act the definition of "insurance company" is broad[31], and where an exemption from an obligation to respond is granted, it applies only to the specific notice in question, not more generally.

ii) **Requests for extension of time** – A number of companies have to date requested an extension of time for submission of responses beyond the due date. The Monitor has granted extensions of time where appropriate.

iii) **Scope of information requested** – The Monitor's information requests are designed specifically to enable the Monitor to obtain the information necessary to effectively conduct its statutory functions. Requests for information are issued with due consideration being given to balancing the Monitor's data requirements with the level of burden it imposes on the companies.[32]

Insurance companies should note that the Monitor will require them to provide updated information in the notice in future months and that they should therefore ensure that appropriate resources and procedures are in place to do so.

Insurance companies should also be mindful of the need to respond to the information requested in a notice in a fulsome manner and with due care and attention. Where responses received do not

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[30] For example, refer to Guideline 11 of the Guidelines on the prohibition against price exploitation

[31] In the case of this notice, the reference made to the classes of policies of insurance in items 1-6 of the Return of Premium form was intended to assist with the definition of the relevant classes of policies and to clarify what is to be reported, particularly given the different types of business relationships between industry participants.
Under the Act, insurance company means a person, partnership, association or underwriter that:

(a) issues or undertakes liability under policies of insurance against loss of or damage to property situated in New South Wales, or

(b) receives premiums in respect of such policies of insurance on behalf of, or for transmission to, a person, partnership, association or underwriter outside New South Wales.

[32] For example, some insurance companies operate as integrated underwriter and retailer whilst others may operate as underwriters selling business through various agents or intermediaries. In the case of the latter, where both parties receive premiums for relevant classes of insurance, both would declare premiums to the Department of Justice. The Monitor considers that the reference to what was included by the company in the Return of Premium form would be helpful in clarifying what policy data should be included in the company's response to the notice. It should not be read as limiting the type of information that the Monitor is seeking to obtain.

contain responses of an acceptable quality, the Monitor may regard this is as being non-compliant, and appropriate action will be taken.

3.3 Other

3.3.1 June 2016 notice

On 17 June 2016, the Monitor issued a notice under Section 57 of the Act requesting certain insurance data from insurance companies as at 31 March 2016. This notice was sent to 123 of the 172 insurers registered with the Department of Justice (excluding self-insurers and insurance brokers).

The information requested in the notice was provided by the Monitor's Office to NSW Treasury, pursuant to an Information Sharing Agreement between the offices. The information has been used by NSW Treasury to assist in determining the appropriate levy rate for the Emergency Services Property Levy.

All outstanding responses from this notice were followed up and received during the December 2016 quarter and no further actions are required.

3.3.2 2015-16 Return of Premium forms

Return of Premium forms for the 2015-16 financial year were due to be submitted by insurance companies to the Department of Justice by 30 September 2016. In October 2016, the Monitor's Office requested and received copies of the 2015-16 returns from DOJ under the Information Sharing Arrangement between our offices.

4 Compliance activities

The compliance activities occurring during the December 2016 quarter related to the Monitor's review of industry compliance with the obligation on insurers to issue certain mandatory information with any invoice or statement about price that they issue to policy holders, and the Monitor's release of a proposed declaration form that the Chief Executive Officer of each insurance company is asked to sign.

4.1 Section 30 notice

On 22 July 2016, the Monitor issued a notice under Section 30 of the Act ("Section 30 notice"), in the NSW Government Gazette, along with guidance on the nature and effect of the notice. The Section 30 notice sets out a message from the Monitor about the changes to the funding of emergency services. The Section 30 notice applies to insurance companies (or persons acting on their behalf) that issue to any person, an invoice or other statement as to the price payable for the issue of a regulated contract of insurance. It requires that insurance companies, or the person issuing an invoice or other statement for a regulated insurance policy, must include in their documents to policy holders, a copy of the Section 30 notice.

The guidance published with the Section 30 notice, advised the market that the Monitor would allow a grace period of 12 weeks from the date of the notice (i.e. by 17 October 2016), for insurance companies to achieve full compliance with the obligation to include the section 30 notice with policy documents they issue.

On 10 November 2016, the Monitor commenced an audit of the industry's compliance with the Section 30 notice. The Monitor issued a notice under Section 57 of the Act, requiring insurance companies to provide details of their compliance with the obligation to publish information in the Section 30 notice for policies issued between 19 October and 10 November 2016 and to provide evidence substantiating that they had complied. The notice required companies to produce copies of invoices or other statements issued on three specific dates: 19 October 2016, 26 October 2016 and 2 November 2016. To minimise the administrative and compliance cost imposed on companies, the Monitor limited the scope of the requirement to the provision of no more than 100 invoices in total for each date, so long as the invoices reflected a fair representative sample of the invoices issued across all brands on those days.

The data set of companies to receive the notice to produce information was initially those that submitted a 2015-16 Return of Premium form to the Department of Justice, except where the companies were marked as self-insurers. (That data set is being updated with more current information as it becomes available). The Section 57 notice to all known insurance companies less any self-insured entities, was issued to 155 companies. Further information was provided by some respondents, resulting in a total auditable sample of 139 entities to which the Section 30 notice applies, as at the time of writing. The Monitor granted extensions of time to submit responses to 19 companies.

Reminder notices were sent to companies who had neither provided a response by the due date nor requested an extension of time for submission. The Monitor will be following up with these companies in early 2017.

The Monitor's Office has commenced its review and analysis of the information received from respondents to date. The early observations as at the time of writing are as follows:

- The quality and coherence of the information provided varies.
- The Monitor commends the efforts that many companies have demonstrated by responding fully and transparently to the notice.
- More than half of the respondents either fully complied both with the requirement to produce information and with the obligations to issue the section 30 notice with their policy documents, or disclosed minor challenges complying which they either had or were actively remedying in full. For example, a number of respondents identified non-compliance with the Section 30 obligation for a limited number of invoices either due to delays in systems readiness, programming errors or business oversight. In most cases, these respondents initiated remedial action by advising the relevant policyholders or put in place controls to prevent a repeat occurrence. Only a small number of respondents raised some more serious challenges achieving full compliance with the section 30 notice.
- Entities such as these that engage with the Monitor and demonstrate they are actively endeavouring to comply with the Act and are committed to identifying and resolving any anomalies in the compliance outcomes they achieve, are demonstrating their willingness to act in the public interest.
- The Monitor was disappointed with the quality and completeness of some responses. For example, a number of insurers did not provide:
    - Direct responses to the specific questions raised in the notice but rather, provided a "data dump" of invoices they had issued, without any context.
    - Sufficiently complete information in their response to enable the Monitor to assess their level of compliance, or there were certain omissions in their response that raised concerns. The Monitor is investigating these matters.

4.2 Compliance with guidelines

The Monitor has issued insurance companies with a template which contains the form of the declaration that the Chief Executive Officer ("CEO") of each company is required to issue and sign, committing that:

- the company will implement systems and procedures to ensure that no ESL will be included in premiums paid by policyholders from the implementation of the emergency services levy reform; and
- the company will not increase base premiums paid on regulated contracts of insurance issued solely in anticipation of the implementation of the emergency services levy reform.

A copy of the standard template is included in Appendix A.

The CEO declaration was foreshadowed in the Monitor's Guidelines on the prohibition against price exploitation, issued in September 2016. The Guidelines indicated a submission date of 31 December 2016, however, the Monitor subsequently extended this to 31 January 2017 following representations made by the ICA on behalf of insurers about perceived delays in the passing of the legislation abolishing the ESL.

Guideline 5
The Monitor expects each insurance company will implement internal controls designed to ensure that no ESL will be charged on new policies issued or policies renewed from 1 July 2017 and that base premiums do not rise before this date in anticipation of the removal of ESL on this account alone. The Chief Executive Officer of each company is requested to provide the Monitor by 31 December 2016 a signed standard form declaration committing the company not to charge ESL on new policies issued or on policies renewed from 1 July 2017, or to anticipate removal of the ESL in base premiums before this time. Each commitment received will be published on the Monitor's website.

In issuing the standard form declaration, the Monitor recognised the reservations expressed by some members of the insurance industry about having to provide such a declaration in circumstances where the NSW Parliament has not yet passed legislation to abolish the emergency services levy. Whilst the Monitor appreciates the industry's concerns, the Monitor also notes that neither the Treasurer, nor any other representative of the NSW Government, has announced that the previously stated intention to pass such legislation has altered or that the proposed implementation date for the emergency services levy reform has changed. Nevertheless, to address the industry's concern, the Monitor has worded to declaration such that no specific reference is made to the proposed date of the emergency services levy reform. The effect of this is that whilst insurance companies are required to provide the signed standard form declaration by 31 January 2017, the declaration itself does not specify a date by which the elements of the commitment must be satisfied.

4.3 Other correspondence

Under section 16 of the Act, a contravention notice may be issued to an insurance company by the Monitor if the Monitor considers the company has contravened the prohibition on price exploitation. Under section 17 of the Act, a prevention notice can be issued to an insurance company by the Monitor if the Monitor considers that doing so will aid the prevention of price exploitation. The Monitor is required to include in the quarterly report particulars of any notice given under section 17.

No notices have been issued under section 17 during this quarter.

Appendix A: CEO Declaration Template

Declaration

I [name of officer] declare, on behalf of

Company Name: ____

A.C.N:

____

Registered Address:

____

, that the company:

(a) will implement appropriate systems and procedures to ensure that no emergency services levy ("ESL") will be included in or form part of the premiums paid, or payable, for the issue, renewal or variation of regulated contracts of insurance by the company from the implementation of emergency services levy reform, which is defined in section 3 of the *Emergency Services Insurance Levy Monitor Act* 2016; and

(b) will direct, in writing, each person acting on the its behalf in issuing, renewing or varying regulated contracts of insurance, to implement, appropriate systems and procedures to ensure that no ESL will be included in or form part of the premiums paid or payable for those regulated contracts of insurance from the implementation of emergency services levy reform ; and

(c) has not increased, and will not increase, base premiums paid or payable for the issue, renewal or variation of regulated contracts of insurance by the company in anticipation of the implementation of emergency services levy reform, for this reason alone; and

(d) has directed, in writing, each person acting on its behalf in issuing, renewing or varying regulated contracts of insurance, not to increase the premiums paid or payable for the issue, renewal or variation of regulated contracts of insurance in anticipation of the implementation of emergency services levy reform, for this reason alone.

Dated:

Signed:

………………………………………………..

Title …………………………………………