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BY EMAIL ONLY

19 February 2018

Dear Mr Daley

Hannover Life Re of Australasia response to notice issued by Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

We refer to the letter received from the Solicitor Assisting the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry dated 11 January 2018 (**11 January Letter**).

The 11 January Letter posed questions directed to Hannover Life Re of Australasia (**HLRA**) and its associated entities and invited written submissions in response. As explained in HLRA's external solicitor's email to the Solicitor Assisting the Royal Commission on 2 February 2018, HLRA's life insurance business is operationally independent from other Australian businesses of which HLRA's parent company Hannover Rück SE is also the parent (which, by reason of that common parent, are technically "associated entities" of HLRA). Those other Australian businesses are exclusively concerned with general insurance and reinsurance. As advised by HLRA's external solicitors, HLRA is not in a position to address these associated entities in its response, and requested that the Commission contact them directly should additional information be required. We did not receive any response to that email and this response focusses solely on HLRA and does not cover those associated entities.

Enclosed is a copy of HLRA's response to the questions posed in the 11 January Letter.

We had hoped to provide all relevant information to the questions asked by today. Unfortunately it has not been possible for us, in the time available, to finalise our review of files to determine if there are any adverse determinations by the Superannuation Complaints Tribunal (**SCT**) or Financial Ombudsman Service (**FOS**) over the last 10 years that should be included in our response. We have also not been able to finalise our review of ongoing court or tribunal disputes. This work is continuing and we intend to provide it to the Commission by 9 March 2018.

Please contact me should you wish to discuss any aspect of the response.

Yours sincerely,

Gerd Obertopp

Managing Director
Hannover Life Re of Australasia

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**Hannover Life Re of Australasia
response to notice issued by
the Royal Commission into Misconduct in the Banking,
Superannuation and Financial Services Industry**

19 February 2018

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1 ROYAL COMMISSION REQUEST

Background

- 1.1 Hannover Life Re of Australasia Ltd (**HLRA**) provides this submission in response to the questions in the letter dated 11 January 2018 (**11 January Letter**) from the Solicitor Assisting the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (**Royal Commission**) (**Questions**).

2 PREVIOUS REVIEWS

HLRA independent life insurance review

- 2.1 HLRA has sought to take proactive steps to ensure that its life risk insurance and reinsurance businesses comply with regulatory requirements and meet public standards.
- 2.2 In parallel with ASIC's industry review of life insurance claims conducted in 2016 (which encompassed HLRA and which did not identify any evidence of cross-industry misconduct across the life insurance sector in relation to life insurance claims payments and procedures), HLRA engaged an external law firm to conduct a review of its life insurance claims handling process for the period from 2011 to 2016. That external review examined the integrity of HLRA's claims handling system, the adequacy of its product design process, relevant risk factors, claim decisions and HLRA's internal and external dispute resolution processes. It included interviews with key HLRA staff and consideration of a range of materials, including claims files, policies, distribution and administration agreements, processes and procedures and data on complaints and claims. That review identified some potential areas for improvement in HLRA's documentation and processes, however, it did not identify any systemic or significant failures.

3 BUSINESS DESCRIPTION

- 3.1 To assist consideration of HLRA's submissions, the following section gives a brief overview of HLRA's business structure, operations and sources of revenue.

OVERVIEW

- 3.2 HLRA operates a life risk insurance and reinsurance business. It is a wholly owned subsidiary of Hannover Rück SE, Hannover, Germany (**Hannover Re**).
- 3.3 The life insurance business conducted by HLRA in Australia comprises lump sum, total and permanent disablement (**TPD**), trauma and income protection insurance. The business is written either directly or on an inwards reinsurance basis, and on both an individual and group basis.
- 3.4 HLRA's directly written individual business is written under various distribution and administration agreements with third party providers. All inwards reinsurance business for Group and Retail is conducted on a treaty basis, although facultative risks are also covered.
- 3.5 HLRA does not hold an Australian Financial Services licence (**AFSL**). HLRA is authorised by the Australian Prudential Regulation Authority (**APRA**) to carry on an insurance business in Australia under the *Life Insurance Act 1995* (Cth) (**Life Insurance Act**) and is not required to hold an AFS licence to advise or deal in reinsurance, insurance for 'wholesale' clients, or insurance for which an intermediary authorisation is in place with an AFS licensee.

BUSINESS LINES

Group Direct

- 3.6 HLRA's group direct business includes product & pricing, underwriting, claims and administration functions.
- 3.7 Group direct life business is obtained through:
- 3.7.1 industry fund policies (executed through brokers, superannuation consultants or directly with superannuation fund trustees);
 - 3.7.2 corporate policies (executed directly with employers, with the exception of group salary continuance insurance distributed via Coverforce); and
 - 3.7.3 Coverforce distribution agreements including an agreement with Coverforce relating to group salary continuance (**GSC**) insurance contracts, under which a third party provides GSC cover to employers who have members under Enterprise Bargaining Agreements.
- 3.8 The group direct business is largely distributed and administered under third party agreements. Over the period of time addressed by the Questions, these agreements included a claims handling agreement, pursuant to which the third party provided claims handling and administration services, broker administration agreements for the provision of services associated with the administration of agreed group life policies.
- 3.9 Under these agreements, HLRA retains responsibility for making the final decision on the acceptance or declinature of a claim and the ability to conduct third party audits.
- 3.10 All third party providers are required to acknowledge that they operate within their own professional guidelines and must adhere to and sign-off to comply with the Life Insurance Code of Practice (**Code**).

A. Product development and pricing

- 3.11 HLRA undertakes product development and pricing for both industry fund and corporate policies.
- 3.12 Under HLRA's distribution agreement with Coverforce, standard products and pricing are provided to Coverforce. Any non-standard pricing or product terms are referred to HLRA for review. Product Disclosure Statements are prepared by Coverforce and signed-off by HLRA.

B. Underwriting

- 3.13 HLRA are responsible for all underwriting decisions in relation to Group Direct policies.

C. Claims

- 3.14 All initial claim lodgements are made via HLRA's group direct third party providers. These third party intermediaries also communicate with claimant policyholders. Under certain third party agreements, claim files are managed by third parties and then referred to HLRA for a claims decision.
- 3.15 All claims decisions are the responsibility of HLRA and are made within the respective authority limits of HLRA claim assessors.
- 3.16 Where a complaint is directed to the assessor's claim and additional information is provided,

these complaints are managed by an alternative assessor who reviews the claim and makes an independent decision. Where no additional information is provided, the complaint is dealt with by HLRA's Dispute Resolutions Manager. If necessary, a Claims Review Forum or Claims Review Committee can be convened. Where a dispute persists and the policy provides, the dispute may be referred to an Independent Claims Review Committee.

- 3.17 HLRA seeks to resolve disputes prior to trial in a way that is satisfactory to all parties. Its process for settlement of disputes is generally as follows:
- 3.17.1 At the appropriate stage of proceedings, an informal settlement conference (**ISC**) or mediation is arranged at date at time that is agreed to by all parties.
 - 3.17.2 The claimant attends the ISC or mediation with a lawyer and/or a barrister present to provide legal advice.
 - 3.17.3 Following a summary of each parties' position and an analysis of the available evidence, the parties discuss the merits of the claim and commence negotiations in an attempt to resolve the matter.
 - 3.17.4 At mediation, the mediator facilitates the discussion to bring an end result that both parties can agree on. At the ISC the parties seek to agree upon a settlement figure.
 - 3.17.5 In the absence of any settlement agreement, the legal process continues.

D. Administration

- 3.18 Management of insurance data and premium collection, including legislative levies (i.e. stamp duty in relation to the policy) are generally all functions managed by HLRA, with some exceptions under third party agreements.

Retail Direct

- 3.19 HLRA is a wholesale provider of retail direct insurance products that has outsourced aspects of the design, distribution and administration of its retail direct life insurance products.
- 3.20 The retail direct insurance portfolio comprises approximately 30% of HLRA's overall Australian business.
- 3.21 All retail direct insurance issued by HLRA is distributed and administered by third parties who hold AFSLs, under contractual arrangements with those third parties (**Distributors**). The processes are shared between HLRA and its Distributors for the design, distribution and administration of HLRA's Direct Life Insurance products as set out below:



- 3.22 Under these distribution agreements, functions are allocated between Distributors and HLRA as follows:

A. Product and pricing

- 3.23 HLRA develop and amend product disclosure statements (**PDSs**) jointly with its Distributors, with the extent of contribution varying by Distributor. That is done subject to various checking and approval processes, and HLRA also registers PDSs with ASIC.
- 3.24 Product development and pricing processes are shared functions between HLRA and Distributors. Distributors are responsible for initiating the development and design of new retail direct products or changes to existing products. HLRA has in place internal controls, processes and delegations in relation to product scope and pricing. These internal controls, processes and delegations are applied to all new product or change requests received from Distributors.
- 3.25 Distributors are responsible for customer acquisition, marketing and promotions. HLRA does not have any contact with customers in this regard.

B. Underwriting

- 3.26 HLRA is responsible for all underwriting decisions on retail direct insurance policies. Retail direct insurance policies are assessed through underwriting rules engine technology. HLRA is responsible for creating the rule sets that are used by the rules engines for all Retail Direct clients. Whether the rules engine technology is HLRA or client owned, the rule set that applies is one created and supported by HLRA. Compliance to these rule sets are measured through day to day activity and underwriting audits.

C. Claims

- 3.27 HLRA retains the sole responsibility for claims assessment. However, claims management processes are a shared function between HLRA and its Distributors, with the following processes in place:
- 3.27.1 Policy holders initially call the relevant Distributor under a dedicated service line to lodge a claim and complete the initial paper work.
- 3.27.2 The Distributors provide the claims paper work to customers and then the completed paperwork to HLRA.
- 3.27.3 HLRA will then take sole responsibility for assessing claims.
- 3.27.4 Communications with customers during assessment and about claim decisions varies depending on the Distributor. In some cases HLRA has direct contact with the claimant in relation to claims assessment, but the Distributor communicates claims decisions. In other cases, HLRA communicates claims decisions to policy holders.

D. Administration

- 3.28 The administration of individual retail policies is outsourced to HLRA's Distributors. They provide the policy documentation to the insured after policy issue, including the PDS and other contract material that constitutes the life insurance policy. HLRA's Distributors also undertake post sale policy holder interaction, including communication of changes to Direct Life Insurance policies, and addressing enquiries by policy holders about their policy.
- 3.29 HLRA conducts regular audits of the administration performed by the Distributor, including examining their practices, procedures and controls, and ensuring their systems are aligned to contractual commitments under distribution and administration agreements.

Reinsurance

- 3.30 HLRA's reinsurance business accounts for approximately 50% of its total Australian business. The two types of reinsurance business written by HLRA are reinsurance group and reinsurance retail. The end customers of the reinsurance businesses are superannuation fund members (reinsurance group) and individual life insurance policy holders
- 3.31 HLRA's reinsurance business is a commercial relationship with life insurance companies in Australia through reinsurance contracts (**Reinsurance Agreements**). HLRA does not have a direct contract or relationship with the customers of the life insurance companies with whom HLRA has Reinsurance Agreements.

A. Product and pricing

- 3.32 HLRA does not drive the end-consumer product design of the life companies with whom it has Reinsurance Agreements. Rather, it reactively provides product review and confirmation. Likewise, HLRA does not control the final consumer price provided to the end-customer by a life company in relation to its products.
- 3.33 Prior to entering into a Reinsurance Agreement with a life company, HLRA provides the reinsurance pricing of the life company's products. This may be in the form of a reinsurance premium rate, or a percentage of the life company's customer rates. After entering into a Reinsurance Agreement, HLRA is able to alter the reinsurance premium rate outside of any guarantee periods.
- 3.34 After entering into a Reinsurance Agreement, under normal circumstances, the life company is not able to make changes to its products without HLRA's prior written consent, however:
- 3.34.1 where HLRA does not agree to proposed product changes, or if there are disagreements about pricing, the life company is not restricted from seeking reinsurance from other reinsurers.
- 3.34.2 where the life company makes changes to the product without HLRA's prior written consent, HLRA reserves the right to alter the terms of the Reinsurance Agreement.

B. Underwriting

- 3.35 HLRA makes underwriting decisions on cases above thresholds which are pre-agreed between HLRA and the life company.

C. Claims

- 3.36 Under the terms of Reinsurance Treaties, cedants are given claim authority limits allowing them to make payment on claims without referral to HLRA. HLRA makes claim decisions on cases above thresholds which are pre-agreed between HLRA and the life company.
- 3.37 To ensure that claims are being assessed in line with the policy terms and industry practice, HLRA undertake regular reviews and audits of cedant claim management practices and decisions.
- 3.38 Complaints that fall within the cedants' claims authority limits are dealt with directly by the cedant company. HLRA are directly involved with complaints that exceed the claim authority limit.

D. Administration

- 3.39 HLRA undertakes the reinsurance administration of Reinsurance Agreements.

OVERARCHING BUSINESS PRACTICES

Corporate Governance

- 3.40 The Board of HLRA is responsible for the overall corporate governance of the entity, including:
- 3.40.1 approving HLRA's strategic direction;
 - 3.40.2 establishing goals for management and monitoring the achievement of these goals;
 - 3.40.3 internal controls and management information systems;
 - 3.40.4 appraising and monitoring financial and other reporting;
 - 3.40.5 capital management; and
 - 3.40.6 risk management.
- 3.41 The Board comprises six directors (of which three are independent non-executive directors) with a broad range of expertise and experience appropriate to the entity's business and the industry which it operates in. The Board delegates the operation and administration of the entity to the managing director who is accountable to the Board.
- 3.42 Directors are required to keep the Board advised, on an ongoing basis, of any interests that could potentially conflict with those of the entity.
- 3.43 All directors' remuneration (other than that of the managing director) is approved at an AGM of the shareholder.
- 3.44 The Board seeks to discharge its responsibilities in a number of ways:
- 3.44.1 an annual business plan and budget is reviewed and approved by the Board;
 - 3.44.2 three Board meetings are held each year to monitor performance against budgetary and financial benchmarks;
 - 3.44.3 directors are responsible for ensuring financial statements that are presented to the parent entity and regulatory bodies are prepared in accordance with Australian Accounting Standard AASB 1038 Life Insurance Contracts, the Financial Sector (Collection of Data) Act 2001 and the Corporations Act 2001;
 - 3.44.4 HLRA's Appointed Actuary is responsible for investigating the financial condition of the entity including the valuation of policy liabilities, solvency and capital adequacy requirements in accordance with the standards applied by the APRA and for providing advice to executive management and the Board as required under prudential standards and the Life Acts;
 - 3.44.5 Investment Guidelines are approved by the Board. Investment management decisions in accordance with the requirements of the Guidelines are delegated to an external investment manager in accordance with an Investment Management Agreement; and
 - 3.44.6 adoption of various policies such as the Risk Appetite Statement, Risk Management Strategy, Target Capital, ICAAP Summary Statement, Remuneration Policy and Fit &



Proper Policy (under which the Board assesses annually the responsible persons (including individual directors) of the entity for their fitness and propriety in holding their responsible person positions).

- 3.45 The Board's Risk Management Strategy provides a framework for identifying areas of significant business risk and maintaining appropriate and adequate controls and monitoring procedures, in addition to ensuring compliance with legal and regulatory requirements. The Board is responsible for reviewing and overseeing the Strategy and ensuring the appropriate corporate governance structure.
- 3.46 To assist it in the execution of its responsibilities, the Board has established a Board Charter, and Board Audit, Risk and Remuneration Committees with their own Charters:
- 3.46.1 The Audit Committee is responsible for ensuring compliance with HLRA's accounting policies and internal control framework and the industry's regulatory environment and advising the Board on the quality and reliability of financial information prepared for use by the Board in determining policies or for inclusion in the financial report. The appointed auditor, the managing director, the company secretary and appointed actuary are invited to Audit Committee meetings. The Appointed Auditor meets at least once a year with the Audit Committee without management being present.
- 3.46.2 The Risk Committee is responsible for oversight of the implementation and operation of the Company's Risk Management Strategy. The managing director, chief risk officer, company secretary, assistant company secretary, appointed actuary, senior corporate actuary and appointed auditor are invited to the Risk Committee meetings.
- 3.46.3 The Remuneration Committee is responsible for conducting regular reviews of the Remuneration Policy and making annual recommendations to the Board on the remuneration of the managing director, of direct reports to the managing director and executive management. The Remuneration Committee is selected from the non-executive directors of the Board with a minimum of three members. The Chairperson of the Remuneration Committee must be an independent director with the majority of members being independent directors.
- 3.47 HLRA has also adopted a Code of Conduct that requires all managers and employees to act lawfully, ethically and with integrity in their dealings with business partners, regulators, the community and employees, striving at all times to enhance the reputation and performance of the entity.

Internal complaints and whistleblower systems

- 3.48 HLRA has had in place a Whistleblower Policy since 2017. Under that policy, HLRA encourages the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving HLRA staff and/or business partners. The Whistleblower Policy also specifies that HLRA will fully comply with the special protections available at law to whistleblowers for certain disclosures. The Whistleblower Policy is distributed to all existing staff members at the date the Policy is approved by the Board and provided to all new staff members (including contractors) during their induction.
- 3.49 A Whistleblower report is given to the Risk Committee at every meeting.
- 3.50 HLRA also operates a 'Suggestion box' system (a locked box in the staff kitchen) whereby employees and contractors can anonymously (or not as they feel comfortable) suggest improvements or raise issues that are important to them. There is no formal guidance as to what can be lodged in the suggestion box.
- 3.51 While internal complaints and concerns are received from time to time these are mainly

related to internal staff disputes that are handled by Human Resources.

Training and Compliance

- 3.52 To ensure that staff continue to improve their knowledge and stay abreast of industry developments, HLRA provides relevant staff with both internal and external training covering soft skills, medical, legal, compliance and other issues.
- 3.53 Leading up to implementation of the Code, HLRA conducted an extensive 'gap analysis' across its business and made changes to its systems and process to ensure consistency with the mandatory customer service standards outlined in the Code. All relevant HLRA staff were provided with training conducted by the Australian and New Zealand Institute of Insurance and Finance leading up to the adoption of the Code on 30 June 2017. Additionally, HLRA appointed a dedicated Code consultant who was actively involved in the Code's industry development and working groups.

4 METHODOLOGY

Interpretation of key terms

- 4.1 For the purpose of this response we have applied the definition of "misconduct" contained in the Commission's Terms of Reference.
- 4.2 We have treated HLRA behaviour which "falls below community standards and expectations" and is accordingly responsive to the Questions as including:
- 4.2.1 Failure to adhere to the principles outlined by the Code. HLRA was bound by the Code (which commenced on 1 October 2016) from 30 June 2017;
- 4.2.2 Repeated significant breaches of compliance and regulatory standards or requirements;
- 4.2.3 Discriminating against a minority group (without actuarial evidence);
- 4.2.4 Engaging in unethical, unconscionable or unreasonable behaviour;
- 4.2.5 Behaviour or conduct that has resulted in formal complaints with industry regulators such as the Financial Ombudsman Service (**FOS**) or the Superannuation Complaints Tribunal (**SCT**), where those complaints have been upheld;
- 4.2.6 Behaviour or conduct that has resulted in legal proceedings and/or the engagement of legal representation due to ongoing dissatisfaction with HLRA's service, and where there have been findings in favour of the complainant;
- 4.2.7 Selling financial products that do not meet the needs of target customers or do not provide value to these customers;
- 4.2.8 Failing to address conduct which is found to be inappropriate or unacceptable; and/or
- 4.2.9 Failure to follow HLRA's Claims philosophy and Claims Guidelines.

Scope

- 4.3 In order to assess and identify behaviour or conduct of the kind referred to in the Questions, each of the three business lines of HLRA, described in paragraphs 3.6 to 3.39 above, have made various enquiries and investigations as set out below.

- 4.4 The enquiries and investigations relate to the period 1 January 2008 to 1 January 2018.
- Group Direct*
- 4.5 In order to respond to the Questions, Group Direct has considered its business activities, as well as the activity under outsourcing agreements with brokers/third parties (referred to in paragraph 3.8 above).
- 4.6 The enquiries and investigation conducted by Group Direct cover product and pricing, underwriting, claims and administration functions.
- 4.7 In relation to the claims function, we considered the results of the following:
- 4.7.1 SCT decisions;
 - 4.7.2 Litigated claims and decisions;
 - 4.7.3 FOS decisions;
 - 4.7.4 Reassessments and complaints;
 - 4.7.5 Quality Verification process;
 - 4.7.6 Regulatory inquiries concerning HLRA.
- 4.8 To assist in investigations and enquiries, the following material has been reviewed:
- 4.8.1 Litigated claims register;
 - 4.8.2 SCT register;
 - 4.8.3 FOS complaints register;
 - 4.8.4 Product development records such as pricing notes and actuarial advice;
 - 4.8.5 Internal discussions regarding general industry shortcomings and instances where they were applicable to HLRA;
 - 4.8.6 Internal discussions regarding product decisions;
 - 4.8.7 Documents recording communications where additional engagement has been required in order to explain HLRA's underwriting rationale;
 - 4.8.8 Underwriting guidelines or documentation used to assess risk;
 - 4.8.9 Claims Guidelines;
 - 4.8.10 Treaty Claim Authority limits;
 - 4.8.11 Ex-gratia register;
 - 4.8.12 Reassessments;
 - 4.8.13 Quality Verification reviews;
 - 4.8.14 Complaints about the underwriting process made to AIA, Noble Oak and UHG that

have subsequently been referred to HLRA.

Retail Direct

- 4.9 The scope of investigations conducted by Retail Direct includes claims handling, policy administration, distribution services (quoting, policy issuing, policy terms and disclosures), product development and pricing practices.
- 4.10 As part of its enquiries and investigations, Retail Direct has also considered the impact of outsourcing agreements with its Distribution Partners, and in what capacity they may act on HLRA's behalf.
- 4.11 It has also considered the four main functions the Distribution Partners perform, being distribution, administration, claims handling and product development.
- 4.12 It has not considered the marketing undertaken by its Distribution Partners (including customer acquisition, promotions and sales). HLRA does not have contact with customers at any time in connection with these functions, nor has it appointed third parties to perform these functions for it, or on its behalf.
- 4.13 In relation to the claims function, enquiries and investigations have been made into results of the following in order to identify potential misconduct or conduct falling below community standards:
- 4.13.1 SCT decisions;
 - 4.13.2 Litigated claims and decisions;
 - 4.13.3 FOS decisions;
 - 4.13.4 Reassessments and complaints;
 - 4.13.5 Quality Verification process;
 - 4.13.6 Regulatory inquiries concerning HLRA.
- 4.14 In addition to the materials referred to at paragraph 4.13 above (as they relate and are relevant to the Retail Direct business line), Retail Direct has reviewed annual audit reports of each Distributor's business practices. These reports examine each Distributor's practices, procedures and controls and ensuring their systems are aligned to contractual commitments under the Distribution Agreements.

Reinsurance

- 4.15 The enquiries and investigations conducted by the Reinsurance business line cover product and pricing, underwriting and claims functions.
- 4.16 In relation to the claims function, we considered the results of the following:
- 4.16.1 SCT decisions from cedants;
 - 4.16.2 Litigated claims listings from cedants;
 - 4.16.3 FOS decisions from cedants;
 - 4.16.4 Ceding Company Audit reports (Reinsurance);

- 4.16.5 Treaty Claim Authority limits;
- 4.16.6 Regulatory inquiries concerning HLRA.

Overarching business practices

- 4.17 In addition to the above material relevant to the various business lines, we considered:
- 4.17.1 Corporate governance policies; committee reports; as set out in paragraph 3.44.6 above;
 - 4.17.2 HLRA's Code of Conduct;
 - 4.17.3 the Whistleblower Register (we note that to date there have been no entries on this register);
 - 4.17.4 Submissions to the employee suggestions box;
 - 4.17.5 HLRA's Remuneration Policy.
- 4.18 In responding to the Questions, HLRA has not listed instances where (for example) claims or complaints were initially made against HLRA but were subsequently withdrawn by the claimant, or where an independent third party or body determined or adjudicated the matter in HLRA's favour. In the period 2008 to 2017 inclusive:
- 4.18.1 a total of 84 SCT complaints were withdrawn or determined in HLRA's favour (out of a total of 149 claims lodged); and
 - 4.18.2 a total of 14 litigated claims were withdrawn or determined in HLRA's favour (out of a total of 387 claims lodged).
- 4.19 HLRA has also not considered settled claims, where allegations of "misconduct" or conduct falling below community standards and expectations may have been made, but were not admitted by HLRA, and where the claims were resolved on a no-admissions basis. In the period 2008 to 2017 inclusive:
- 4.19.1 a total of 40 SCT complaints were settled (out of a total of 149 complaints lodged); and
 - 4.19.2 a total of 324 litigated claims were settled (out of a total of 387 claims lodged).
- 4.20 We also did not include circumstances where HLRA declined to underwrite certain risks and where no further concern or dissatisfaction was notified to it after communicating its decision and the reasons for its decision to the applicant.

5 RESPONSE TO QUESTIONS 1-4

Question 1 - Misconduct

- 5.1 Yes. See Annexure A, which also sets out the nature, extent and effect of the identified misconduct.

Question 2 - Below community standards and expectations

- 5.2 Yes. See Annexure B, which also sets out the nature, extent and effect of the identified responsive conduct/behaviour/practice/business activity.

Question Three

- 5.3 The information sought by Question 3 relevant to the matters identified in response to Questions 1 and 2 is set out in Annexures A and B, respectively.

*Question Four**Background*

- 5.4 The following is relevant context to HLRA's answer to Question 4.
- 5.5 HLRA was the principal employer of the Hannover Life Re of Australasia Ltd Superannuation Plan (**Plan**). The corporate trustee of the Plan was LRA Superannuation Plan Pty Ltd. The corporate trustee was a subsidiary of HLRA.
- 5.6 The Plan was a corporate superannuation plan. The Plan membership was limited to employees of HLRA. The Plan closed to new members in 1998. In that year the majority of the Plan members elected to transfer from the Plan into accumulation style superannuation plans. Approximately eight members remained within the Plan.
- 5.7 The directors of the corporate trustee were members of the Plan with an equal number of member elected and employer nominated directors. The directors of the Plan were not separately remunerated for their roles as directors beyond their staff salaries from HLRA (i.e. no remuneration was paid to those directors from the Plan). The corporate trustee maintained registers of Relevant Interests and Duties for all Responsible Persons of the corporate trustee as defined in the APRA Prudential Standard 520 – Fit and Proper, from January 2014. The Plan did not have any employees and the administration of the Plan was outsourced to Mercer (Australia) Pty Ltd and subsequently Mercer Outsourcing (Australia) Pty Ltd.
- 5.8 The Plan provided a defined benefit to the members. HLRA contributed into the Plan on behalf of members at a rate recommended by the Plan's consulting actuary. The contributions were to provide adequate funding within the Plan for the provision of the defined benefits to members and payment of the administration expenses of the Plan.
- 5.9 The Plan members could also salary sacrifice into an accumulation style benefit within the Plan. The accumulation benefit was credited annually with a crediting rate that was based on the underlying investment earnings. Final member benefits under the Plan were the total of both the defined benefit component and any accumulation component.
- 5.10 By way of confirmation, the quantum of operating expenses did not impact the benefits paid to Plan members as the benefits were defined as per formulas in the trust deed that referred to length of service and final average salary. The accumulation benefits were also not impacted by the quantum of expenses as the crediting rate was based on the underlying investment earnings rate.
- 5.11 The superannuation benefit entitlements of 2 members of the Plan were transferred to the Mercer Super Trust (**MST**) via a successor fund transfer on 8 December 2015. The value of the investments transferred to the MST were calculated by the consulting actuary by reference to the transferring members' benefit entitlements. The remainder of the monies in the Plan were used to pay a retirement benefit to the last remaining member of the Plan in February 2016 and to cover the cost of winding up the Plan.
- 5.12 At the request of the corporate trustee, its RSE licence was cancelled on 9 December 2016. The corporate trustee was deregistered on 16 February 2017.

Response

- 5.13 *Question 4(a)*: In the past 10 calendar years, members' funds were not applied for any purpose other than investment of those funds, administration expenses of the Plan or payment of benefits to members.
- 5.14 *Question 4(b)*: Not applicable.
- 5.15 *Question 4(c)*: The administration expenses were generally uniform during the period under review, with the exception of the years in which the triennial review was prepared by the Plan's consulting actuary. The triennial reviews were prepared in the financial years ended June 2008, June 2011 and June 2014. The cost of this review added approximately \$10,000 to \$20,000 to administration expenses in those years. The administration expenses consisted of:
- 5.15.1 Fees for the external administrators of the Plan (i.e. Mercer (Australia) Pty Ltd and subsequently Mercer Outsourcing (Australia) Pty Ltd). These external administrators were responsible for maintaining the financial records of the Plan, processing payments from the Plan, calculating retirement benefits, calculating insured benefits, preparing annual benefit statements and reports for members and providing regular reporting to the Plan's trustee.
 - 5.15.2 Fees for the Plan's consulting actuary including fees for the triennial review of the Plan and the calculation of the employer's contribution rate.
 - 5.15.3 Preparation of annual financial statements.
 - 5.15.4 Audit of the annual financial statements.
 - 5.15.5 External legal fees incurred by the Plan.
 - 5.15.6 APRA prudential fees.
 - 5.15.7 Corporate trustee indemnity insurance.
 - 5.15.8 Group life insurance to provide cover for unfunded death and total and permanent disablement benefit entitlements to members. The group life premiums were paid to HLRA as the Plan's group life insurer. The sums insured were calculated by the external administrator and applied against standard premium rates.

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ANNEXURE A: MISCONDUCT: NATURE, EXTENT AND EFFECT

See attached document.



ANNEXURE B: BELOW COMMUNITY STANDARDS: NATURE, EXTENT AND EFFECT

See attached document.