

# **SIRA PROGRAM EVALUATION**

## **REVISED MARKET PRACTICE AND PREMIUM GUIDELINES**

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**STATE INSURANCE REGULATORY  
AUTHORITY**

EVALUATION REPORT

**FINAL**

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## ACKNOWLEDGMENTS

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### **ARTD consultancy team**

Wendy Hodge  
Gerard Atkinson  
Jack Rutherford  
Sharon Marra-Brown  
David Wakelin

## CONTENTS

Executive summary .....	4
Market practice and premium guidelines .....	4
The evaluation .....	4
Key findings .....	4
Lessons for consideration .....	5
1. Program background.....	6
1.1 Overview .....	6
1.2 2018 Update of guidelines .....	6
2. Evaluation overview.....	7
2.1 Purpose of the evaluation .....	7
2.2 Evaluation scope.....	7
2.3 Program logic .....	7
2.4 Key evaluation questions .....	10
2.5 Evaluation design .....	10
3. Evaluation findings – Monitoring and compliance activities .....	13
3.1 Introduction.....	13
3.2 Completed activities .....	14
3.3 Effectiveness and appropriateness of activities .....	15
3.4 Barriers to delivery.....	16
4. Review activities.....	18
4.1 Introduction.....	18
4.2 Approaches to review delivery .....	18
4.3 Effectiveness and appropriateness of activities .....	20
4.4 Barriers to implementation .....	21
5. Project management .....	22
5.1 Timeliness of activities .....	22
5.2 Meeting of stakeholder needs.....	22
5.3 Other findings .....	23
6. Conclusions and recommendations .....	24
6.1 Conclusions .....	24
6.2 Lessons for consideration .....	24
Appendix 1. Interview guide .....	26

## EXECUTIVE SUMMARY

### MARKET PRACTICE AND PREMIUM GUIDELINES

The Market Practice and Premium Guidelines (MPPGs) are regulatory instruments made under the *Workers Compensation Act 1987* (the Act) which specify:

- the minimum requirements for policies of workers compensation insurance
- how insurers are to present filings of policies to SIRA for assessment
- how SIRA assesses these filings.

### THE EVALUATION

ARTD was engaged in February 2020 to complete a process evaluation to characterise the activities completed in the 2018-19 financial year (FY18/19) by SIRA to implement the Market Practice and Premium Guidelines (MPPGs). The evaluation adopted a mixed-methods approach to answer the evaluation questions, drawing upon information from desktop research, existing administrative documents, and from interviews with selected key stakeholders involved in the design and delivery of activities.

### KEY FINDINGS

SIRA has demonstrated a commitment to ensuring best practices are followed in a timely manner for the project. The activities have met stakeholder needs and developed and improved operational relationships with stakeholders, which will benefit SIRA in the future and support the workers compensation system. However, monitoring and compliance activities were not delivered as intended. There were also significant opportunities identified to improve the delivery of monitoring and compliance activities to support the MPPGs. SIRA has responded to these FY18/19 delivery challenges and improved reporting from insurers, which is expected to better support the delivery of the next phases of the project.

#### HAVE MONITORING AND COMPLIANCE ACTIVITIES BEEN IMPLEMENTED AS INTENDED?

Evidence indicates that during FY18/19 SIRA did not take a systematic approach to monitoring and compliance against the requirements of the MPPGs. Activities around monitoring and compliance appear to have been implemented, though not necessarily as intended by SIRA and by the MPPGs, particularly in the earlier part of the FY18/19 period which is the focus of this evaluation. The activities that did take place mostly related to icare as the Nominal Insurer (NI); available evidence indicates that monitoring and compliance activities were limited for non-NI insurers beyond assurance that requirements have been met for policies at the filing stage and performance monitoring through the complaints framework. Much of the work relating to compliance fed into the conduct and the outcomes of the NI Review and the activities of the Joint Premium Pricing Oversight Committee (JPPOC) in operationalising these outcomes.

Key barriers to the delivery of monitoring and compliance activities were identified as:

- the technical capability of SIRA to develop and deliver regular monitoring activities
- an ad hoc and reactive approach to compliance
- limitations on SIRA's ability to enforce compliance outcomes
- a focus on the nominal insurer with less monitoring and compliance of specialised insurer practices.

### HAVE REVIEW ACTIVITIES BEEN IMPLEMENTED AS DESIGNED?

Six activities were identified as part of the FY18/19 plan of activity:

- the review of the Nominal Insurer (NI Review)
- the establishment of the JPPOC
- the ongoing delivery of regulatory premium reviews in response to requests from employers who appeal the outcome of the NI Review of their premium
- a review of the NI premium calculation methodology
- supervision of capping requirements under the MPPG's
- supervision of discretionary discounting contrary to the NI's filing.

The first three of these activities were delivered, with the fourth being in a planning stage at the end of the period. Review activities were delivered in line with best practices, using established frameworks and sound processes. Moreover, these activities were both effective and appropriate in supporting SIRA's strategic objectives.

While there were some barriers to implementation of recommendations, the evaluation notes that SIRA has been proactive in addressing these in the most recent financial year.

### LESSONS FOR CONSIDERATION

While the program has experienced a number of challenges, these have generated useful insights that can be applied not only to this program, but also to the management and implementation of future projects.

1. **Develop systematic monitoring and compliance across insurers:** There is a need for a systematic process of ongoing reporting, analysis, monitoring and compliance of policies and premiums against the MPPGs. This includes firstly determining a supervision approach and appropriate risk level, prior to developing and embedding a framework for monitoring and analysis and having an annual plan for undertaking these activities.
2. **Build internal technical expertise:** There is a need for SIRA to have sufficient technical expertise to develop and deliver monitoring and compliance activities. This includes having expertise to support the development of data analysis approaches to support ongoing monitoring and compliance.
3. **Continue to operate JPPOC:** The continued operation of the JPPOC will help to maintain oversight and risk management of the NI as well as provide a line of communication to enable timely responses to changes in the market landscape.
4. **Publication of NI premium calculation methodology:** This report notes that JPPOC is continuing to pursue this stream of activity and recommends that it continues.

# 1. PROGRAM BACKGROUND

## 1.1 OVERVIEW

The Market Practice and Premium Guidelines (MPPGs) are regulatory instruments made under the *Workers Compensation Act 1987* (the Act) which specify:

- the minimum requirements for policies of workers compensation insurance
- how insurers are to present filings of policies to SIRA for assessment
- how SIRA assesses these filings.

The guidelines are applicable to all insurers licensed under the Act with the exception of self-insurers, SICorp, and Coal Mines Insurance. From a practical standpoint, most insurance policies provided under the Act are delivered by icare, which acts as the Nominal Insurer (NI) under the system. Six other insurers provide specialised insurance limited to particular industries; employers can also self-insure under a limited set of circumstances requiring SIRA approval.

Prior to 2015, workers compensation insurance and compliance was managed under a single entity (WorkCover Authority). After the introduction of the *State Insurance and Care Governance Act 2015* (SICG), activities of the WorkCover Authority were devolved into three agencies – SIRA, icare (NI), and Safework NSW, which acts as an independent workplace safety regulator.

## 1.2 2018 UPDATE OF GUIDELINES

The MPPGs were updated in May 2018 and commenced implementation on 1 July 2018. Key changes to the revised MPPGs included:

- a single cap for premium rate increases for experience-rated employers of 30 per cent because of the employer's own claim experience or altered premium methodology
- more timely notice to employers about their premium renewals
- a clarified employer premium review process
- a rebate on all premiums for apprentice wages
- requiring insurers to provide a calculator enabling employers to understand their premiums.

## 2. EVALUATION OVERVIEW

### 2.1 PURPOSE OF THE EVALUATION

The purpose of this evaluation is as a process evaluation to characterise the activities completed by SIRA to implement the MPPGs. These activities fall into the areas of monitoring and compliance activities, and review activities.

### 2.2 EVALUATION SCOPE

The present evaluation is focused on the activities that have taken place in FY18/19 for monitoring and compliance activities and for review activities.

Based on discussions with SIRA staff, including program managers, activities completed in FY18/19 focused primarily on:

- Monitoring and compliance
  - Administration of premium filing processes
  - Spot audits of insurers
  - Supervision of capping and discretionary discounting
  - Analysis of premium complaints data
- Review activities
  - Set up of the Joint Premium & Prudential Oversight Committee (JPPOC)
  - The Nominal Insurer Review which commenced in February 2019 and was delivered in December 2019
  - Premium reviews of insurers

The scope of the evaluation does not extend to evaluating the outcomes and impacts of the 2018 revisions to the MPPGs.

### 2.3 PROGRAM LOGIC

As part of the evaluation process, a program logic was developed in conjunction with SIRA stakeholders involved in the design and delivery of activities. Figure 1 presents the program logic for the activities completed as part of implementing MPPG revisions in FY18/19. A program logic is a one-page diagram that shows the important components of a program and its expected outcomes. The diagram lays out the set of inputs that are required to successfully implement the MPPGs and how these link to policy outcomes as well as the immediate, intermediate and long-term outcomes of activities.

The logic is read from the bottom to the top, with the lower-level outcomes being where SIRA has the largest amount of influence, and higher-level outcomes where SIRA has least influence.

The bottom of the diagram shows that the foundational aspects of activities were ensuring it was appropriately designed and resourced—that is, it had an effective legislative framework,

a market of both insurance providers and employers requiring insurance, and SIRA resources. The foundational assumption of a program logic is that if these inputs are in place, then the reform should be successfully implemented. The policy outcomes related to activities are that:

- workers compensation insurance is fair
- workers compensation insurance is affordable
- workers compensation insurance is financially viable.

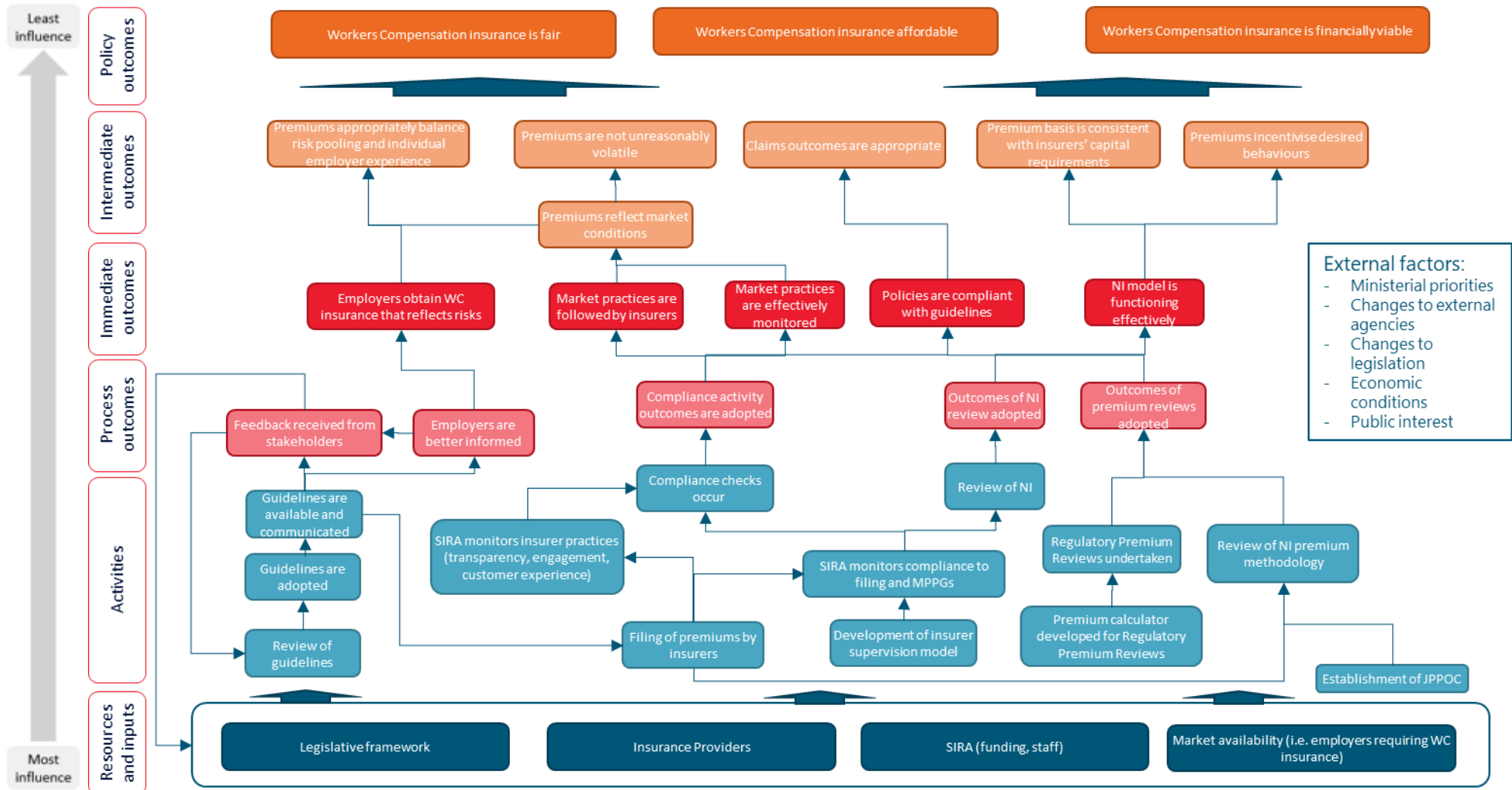
Once activities have been delivered and process outcomes achieved, it is hypothesised that there will be a causal chain of positive outcomes. In this case, the immediate outcomes include:

- employers obtaining workers compensation insurance that reflects risks
- market practices being followed by insurers
- market practices being effectively monitored
- policies are compliant with guidelines
- the NI model functioning effectively.

A set of intermediate outcomes would then lead to the ultimate outcomes—that workers compensation insurance is fair, affordable, and financially viable.



**FIGURE 1. MPPG IMPLEMENTATION PROGRAM LOGIC**



## 2.4 KEY EVALUATION QUESTIONS

The following evaluation questions were developed in consultation with SIRA stakeholders to guide the evaluation activities:

- Have monitoring and compliance activities been implemented as intended?
  - What monitoring and compliance activities were completed in FY18/19?
  - Were these effective and appropriate to achieve compliance with the MPPGs?
  - Are there any barriers to delivery of monitoring and compliance activities?
    - If so, how can these be overcome?
- Have review activities (specifically, the NI Review, Regulatory Premium Reviews, Review of NI Premium Methodology, JPPOC) been implemented as designed?
  - Were the approaches to delivering review activities in line with best practices?
  - Were the activities effective and appropriate (did they identify areas for improvement in policies to meet minimum requirements)?
  - Are there any barriers to implementing recommendations?
    - If so, how can they be overcome?
- Were activities implemented within expected timeframes?
- To what extent are activities meeting the needs of stakeholders?

## 2.5 EVALUATION DESIGN

The evaluation adopted a mixed-methods approach to answer the evaluation questions, drawing upon information from desktop research, existing administrative documents, and from interviews with selected key stakeholders involved in the design and delivery of activities. The original scope of the evaluation also considered the analysis of administrative data as a source of information; however such data were not available as part of the evaluation.

Table 1 presents a matrix linking each of the proposed methods with their ability to address the key evaluation questions.

**TABLE 1. EVALUATION QUESTIONS AND METHODS**

Evaluation question	Desktop research	Program staff interviews	External stakeholder interviews
1. Have monitoring and compliance activities been implemented as intended?	<b>X</b>	<b>X</b>	
5. Have review activities (NI Review, Regulatory Premium Reviews, Review of NI Premium Methodology, JPPOC) been implemented as designed?	<b>X</b>	<b>X</b>	<b>X</b>

Evaluation question	Desktop research	Program staff interviews	External stakeholder interviews
6. Were activities implemented within expected timeframes?	X	X	
7. To what extent are activities meeting the needs of stakeholders?		X	X

## DESKTOP RESEARCH

A desktop analysis of program documentation and available data was completed. This was based on a set of documents provided to us by SIRA, including process and administrative documentation around the MPPGs, review reports (including the NI Review report) and minutes from relevant steering meetings, including JPPOC.

The role of this research was to develop a description of the program activities in the context of policy objectives.

The documents reviewed as part of the evaluation were:

- Workers Compensation Market Practice and Premium Guidelines (21 May 2018 version)
- Independent Reviewer Report into the Nominal Insurer
- EY Review of the Nominal Insurer, Parts 1-3
- SIRA response to the review of the NSW Workers Compensation Nominal Insurer Review
- icare Response to Independent Reviewer's Final Report on the Nominal Insurer NSW Workers Compensation Scheme, for the State Insurance Regulatory Authority
- Regulatory Impact Summary – MPPG Compliance
- Terms of Reference: Joint Premium and Prudential Oversight Committee (17 June 2019 version)
- Joint Premium and Prudential Oversight Committee Minutes 11 June 2019

## SEMI-STRUCTURED INTERVIEWS

Desktop research activities were supplemented with primary research through six interviews with internal and external stakeholders involved in the delivery of activities. The interviews probed in detail questions around:

- monitoring and compliance activities that have been undertaken and their implementation processes
- review activities that have been completed and their implementation processes
- the effectiveness and appropriateness of activities
- challenges to implementation
- unexpected outcomes
- opportunities for program enhancement.

Interviews took place by phone and ranged from half an hour to an hour in length.

Interviewees were:

**Current Position, Agency**

Director Policy and Design, WHBCR

Director, Health Policy, Prevention & Supervision

Manager, Insurer Portfolio & Supervision, Insurer Supervision

Senior Regulatory Reviews Officer, CTP Policy Perf & Review

Executive Director, Workers & Home Building Compensation  
Regulation (WHBCR)

Partner, Advisory, Ernst & Young

The interview guide is provided in Appendix 1.

An identified issue for gathering evidence related to the evaluation was the turnover within SIRA since the period under evaluation. As such, at least two stakeholders with knowledge of activities completed within the target period were no longer contactable for interview.

### 3. EVALUATION FINDINGS – MONITORING AND COMPLIANCE ACTIVITIES

This chapter answers the key evaluation question and sub questions:

- Have monitoring and compliance activities been implemented as intended?
  - What monitoring and compliance activities were completed in FY18/19?
  - Were these effective and appropriate to achieve compliance with the MPPGs?
  - Are there any barriers to delivery of monitoring and compliance activities?
    - If so, how can these be overcome?

#### 3.1 INTRODUCTION

In this period, the intended activities supporting the MPPGs were the administration of premium filing processes and ensuring compliance with the MPPGs from insurers in terms of practices. Additional monitoring activities intended for this period were analyses of data on insurers including complaints from companies, and spot audits of insurers to actively monitor implementation.

The primary source of information to address this question was interviews with key stakeholders, along with the documents published as part of the NI Review, which was instigated in part due to monitoring and compliance activities. Historical documentation was not readily available to detail the activities completed during this period, beyond the monitoring activities conducted by EY as part of the NI Review.

Activities around monitoring and compliance appear to have been implemented, though not necessarily as intended by SIRA and by the MPPGs. This was particularly true in the earlier part of the FY18/19 period which is the focus of this evaluation. Most activities that did take place related to icare as the NI. Available evidence indicates that monitoring and compliance activities were limited for non-NI insurers beyond assurance that requirements have been met for policies at the filing stage, and existing systems for receiving complaints about insurers. Much of the work relating to compliance fed into the conduct and outcomes of the NI Review and the activities of JPPOC in operationalising these outcomes.

Monitoring and compliance activities appear to have been ad hoc and reactive in nature, rather than the product of a systematic and regular approach. Moreover, these activities relied on the engagement of external expertise to ensure delivery, which increased the expense of the activities and limited the development of internal knowledge and expertise.

Evidence from interviews also indicated that there were persistent issues around the quality of data being provided in relation to monitoring and compliance activities, which presented challenges in delivery of activities and outcomes.

It is noted there was a clear and substantive framework for the management and investigation of complaints in place, which supported efficient and effective delivery for this ad hoc exercise.

Interviewees felt that the trend in monitoring and compliance activities was positive, with progress being made towards implementing improved monitoring activities and improving the quality of data received from insurers. Interviewees identified opportunities to further improve this through the development of internal capacity and capability to deliver activities.

## 3.2 COMPLETED ACTIVITIES

Monitoring and compliance activities completed in FY18/19 comprised the administration of premium filing processes, spot audits of filings, and the analysis of complaints data. Further details on these activities are provided below.

### 3.2.1 PREMIUM FILING PROCESSES

The administration of premium filing processes was the primary monitoring and compliance activity completed by SIRA in FY18/19. Data were not available on the full extent of these activities in terms of resource inputs or on the outcomes of these activities.

Interviews with key stakeholders indicated that while activities took place within SIRA to monitor premium filing processes, the focus of these activities was on ensuring that filings met basic requirements at the point of filing of the NI. Supervision utilising data analysis looking at the compliance to capping requirements and discretionary discounting was also implemented.

### 3.2.2 MONITORING AND COMPLIANCE OF INSURERS

Activities around ongoing monitoring and compliance with the MPPGs for insurers in FY18/19 were largely confined to investigations around icare as the NI. These investigations consisted of data analysis on policy and premium data to identify compliance with the MPPGs. The focus of this was in the areas of capping requirements, volatility of premiums, and to identify discretionary discounting that was taking place outside of the MPPGs. There were also investigations around return to work outcomes for the nominal insurer. It is noted that icare was reporting data on a monthly basis during FY18/19; however, analysis of these data was confined largely to cost analyses and did not extend to analysis of compliance with guidelines.

Interviews with stakeholders found that monitoring and compliance activities around the MPPGs were not delivered as a systematic and ongoing activity; instead, the analysis process was initiated in August 2018 in response to a significant number of complaints from employers in relation to their premiums. An analysis framework was then developed by SIRA which outlined the metrics required to identify issues relating to compliance with the MPPGs. However, the analysis capability was limited within SIRA and the reporting process (including the coding of data provided by insurers) was not automated; instead the analysis was done using Excel manually to identify issues.

The August 2018 review identified deficiencies in performance against the guidelines which were brought to the attention of icare for resolution. A follow up review by SIRA in January 2019 found that these deficiencies had not been fully resolved. This prompted the instigation of the NI Review process and subsequent regulatory action by SIRA.

No monitoring and compliance activities on policy and premium data to identify compliance with the MPPGs were undertaken around the specialised insurer cohort. Moreover, no monitoring approach was in place to address this cohort beyond the monitoring of complaints information; in the FY18/19 period there were not sufficient complaints about this cohort to warrant further investigation.

### 3.2.3 OTHER ACTIVITIES

Other activities completed as part of monitoring and compliance included spot audits of filings, as well as analysis of complaints data from insured organisations about their policies. Limited information was provided on these activities, and no data were available on the level of activity. However, interviews with stakeholders found that there was a sound system in place for the handling of complaints received directly from employers or through the Minister. This system is based on the framework developed by the NSW Ombudsman. Complaints from employers are initially passed on to the relevant insurer for consideration; if the employer is unsatisfied with the response then a customer care consultant is engaged to liaise between the employer and SIRA. If further escalation occurs, the case goes to a SIRA panel that works directly with the insurer to resolve the complaint. For complaints directed through the Minister's office, SIRA engages directly with the insurer to resolve the complaint.

For spot audits, interviews with stakeholders indicated that for these activities, SIRA normally engaged an external organisation to provide advice and support on the technical assessment of policies and premiums. Interviewees noted that while the quality of this work was not in question, it did come at a high financial cost. Moreover, the expertise and knowledge gained from the process was not retained within SIRA to support future monitoring and compliance activity.

## 3.3 EFFECTIVENESS AND APPROPRIATENESS OF ACTIVITIES

The evidence from documentation and stakeholder interviews shows that despite the limitations of the activities undertaken, the activities themselves have been effective in promoting higher quality filings and greater compliance in the most recent financial year, largely as a result of instigating the NI Review and subsequent regulatory penalties.

Moreover, SIRA appears to be making positive progress towards improving monitoring and compliance activities. This was best demonstrated by documentation and discussions around the outcomes of the NI Review, which indicated that recommendations about monitoring and compliance are being adopted, and that the NI have improved their reporting activities and data quality to support this. In addition, a monthly reporting requirement has been instigated for the specialist insurers to better support ongoing monitoring and compliance.

Nonetheless, during FY18/19 there was limited evidence to demonstrate a systematic approach to monitoring and compliance and this was associated with a lack of effectiveness in enforcement. This was identified as a catalyst for the NI Review.

Furthermore, there are still limitations on both the coverage of activities undergoing monitoring and compliance and the coverage of the specialised insurers, as well as a continued reliance on external partners to deliver activities and advice. Interviews with stakeholders found that there is not an automated reporting process in place to support monitoring and compliance activities, and that expertise is not available in-house to develop these capabilities. Moreover, SIRA does not presently receive policy data from the specialised insurers, a prerequisite to automated reporting. This issue is being addressed through SIRA's data modernisation program. This has arisen due to the system of compliance evolving with circumstances rather than being the product of a prescribed performance framework for compliance activities. These factors reduce the effectiveness of activities in supporting ongoing compliance with the MPPGs.

In terms of appropriateness, evidence indicates that where monitoring and compliance activities occurred, they were appropriate in that they reflected alignment with the guidelines and followed a documented framework for implementation. However, as noted above these activities could be expanded and supported to further reinforce their alignment with the guidelines. There is also an ongoing need to ensure that activities and decision-making captures and reflects changes in the marketplace, and feed back into policy discussions around MPPG updates. This can be achieved through systematic capture of outcomes of activities and the assessment of trends in monitoring and compliance activities (such as emergent issues).

### 3.4 BARRIERS TO DELIVERY

Analysis of evidence from documentation and interviews with stakeholders identified barriers to delivery of monitoring and compliance activities that are outlined below.

#### TECHNICAL CAPABILITY

As noted previously, the internal technical capability of SIRA is limited when making assessments in relation to compliance by insurers. There is a reliance on external expertise, both in terms of gaining assurance around filings as well as in delivering monitoring and compliance activities. This presents ongoing risks around expenses as well as developing and retaining internal knowledge.

This issue can be addressed in two ways. First, through the development of increased internal knowledge to reduce the reliance risk. Secondly, through improved capture and dissemination of compliance outcomes, internally and with insurers through the provision of guidance and education activities. The development of internal capacity will also enable more monitoring and compliance activity to be undertaken by SIRA.



## AD-HOC APPROACH

Evidence indicated that many compliance activities were being delivered in an ad-hoc or reactive fashion. This limits the ability of monitoring and compliance to present a complete picture of the insurance system and of the effectiveness of the MPPGs in delivering on its outcomes. It also limits SIRA's ability to respond in a timely fashion to emerging issues in the market. The adoption of monthly data reporting from insurers is a positive step towards improved monitoring and compliance. In addition to this, the development of a systematic approach to reporting that can then support monitoring and compliance with capture of outcomes can help overcome further issues.

## LIMITATIONS OF COMPLIANCE POWERS

One barrier identified by stakeholders relates to the limitations of SIRA as an agency to enforce compliance activity outcomes. The legislation and regulations provide SIRA with some statutory power to compel insurers to undertake actions as a result of findings from compliance activities, but this power is limited in scope. While this was identified as a barrier, in practice stakeholders noted that in most cases insurers have abided by decisions. Stakeholders also noted that enforcement behaviour had improved since the NI Review, which did result in a civil penalty being applied to the NI for non-compliance with the MPPGs. The establishment of JPPOC was also identified as a factor that encourages voluntary compliance through a sound working relationship between icare and SIRA.

## NI FOCUS

A further barrier identified in interviews and documents was the focus of SIRA primarily on the NI as part of compliance and monitoring. The NI is responsible for the vast majority of policies and is therefore the logical focus of any risk management activity; however, limiting activities to the NI reduces the depth of understanding of how the broader insurance system is operating and how the guidelines are being interpreted. It is noted that since FY18/19 SIRA has moved to implement greater oversight of specialised insurers to address this issue.

## 4. REVIEW ACTIVITIES

This chapter answers the key evaluation question and sub questions:

- Have review activities (specifically, the NI Review, Regulatory Premium Reviews, Review of NI Premium Methodology, JPPOC) been implemented as designed?
  - Were the approaches to delivering review activities in line with best practices?
  - Were the activities effective and appropriate (did they identify areas for improvement in policies to meet minimum requirements)?
  - Are there any barriers to implementing recommendations?
    - If so, how can they be overcome?

### 4.1 INTRODUCTION

For this evaluation, four activities were identified by program managers as being part of the FY18/19 plan of activity for reviews:

- the review of the Nominal Insurer (NI Review)
- the establishment of the JPPOC
- the ongoing delivery of regulatory premium reviews in response to requests from employers who appeal the outcome of the NI review of their premium
- a review of the NI premium calculation methodology.

Of these, the first three items were found to have been implemented in line with their aims. However, the review of the NI premium calculation methodology only reached a formative stage by the end of FY18/19.

### 4.2 APPROACHES TO REVIEW DELIVERY

This element of the evaluation investigates whether the approaches to delivering review activities were in line with best practices for the types of review activity delivered.

#### NI REVIEW

The NI Review and associated processes were delivered in line with accepted best practices around the delivery of independent reviews of programs and organisations. Specifically, evidence from stakeholders involved with the design and delivery of the NI Review demonstrated that the review satisfied criteria in relation to the following areas.

- Planning – the review was established in a systematic and time-bound fashion, with a clearly articulated scope and rationale.
- Governance – the review was set up with clear terms of reference, a steering committee in place and with links to decision making processes within SIRA.
- Independence – the review was developed and delivered by an external party to SIRA. Interviewees consistently noted that SIRA leadership provided the reviewer with independence to carry out their work unhindered.

- Stakeholder engagement – the review undertook both a process of engagement with directly affected stakeholders (SIRA, icare) as well as soliciting information from broader stakeholders through an open submission process.
- Risk management – the review report and recommendations take into consideration the risks of current operations on delivery of outcomes.
- Resource management – adequate resources were made available by SIRA to support the delivery of the review.
- Communications – the review has been released publicly. Moreover, key stakeholders were provided with a right of reply in respect to recommendations. This was utilised by both SIRA and icare.

## JPPOC

For JPPOC, there is evidence that best practices have been largely followed in the set up and administration of the committee. There are Terms of Reference in place for the committee that are well defined and accessible, though the version provided as part of this evaluation shows that these were only in draft form at the end of the FY18/19 period. However, stakeholder interviews indicated that the terms of reference had been both adopted and updated. Furthermore, the committee had met on a monthly basis since its inception. Stakeholders noted that the success of the model in delivering outcomes had precipitated the formation of a second committee operating on a similar model to look at the claims assessment process.

A full suite of minutes from JPPOC meetings were not available for assessment for the purposes of the evaluation. However, the minutes that were provided were consistent with best practice for committee meetings, clearly outlining attendees, the topics of discussion at the meeting, the actions agreed and the responsible parties for executing these actions.

## REGULATORY PREMIUM REVIEWS

Interviews with stakeholders found that regulatory premium reviews had been delivered over the FY18/19 period. There are clear processes in place to manage the receipt, processing and delivery of these reviews within required timeframes. Where delays in the process occurred, this was identified as being the result of seeking legal or technical advice to support decisions. Based on the available evidence, these reviews would appear to be following best practices, though the evaluation was not able to examine the content of reviews themselves.

## REVIEW OF NI PREMIUM METHODOLOGY

Based on evidence from available JPPOC minutes, the review of the NI premium methodology had been in the planning process at the end of FY18/19 but had not been implemented by that point. However, the planning appears to have followed a sound approach, with the organisation of a working group with technical expertise and representation both from SIRA and icare, as well as from external advisors. It is understood that this approach resulted in the development of a report with recommended changes that were subsequently adopted.

## 4.3 EFFECTIVENESS AND APPROPRIATENESS OF ACTIVITIES

This element of the evaluation asks whether the activities were effective and appropriate supporting the implementation of the MPPGs.

### NI REVIEW

Evidence from interviews and from the review itself indicates that the review was both effective and appropriate. In particular, the review process enabled greater scrutiny of the NI and acted as a catalyst for reform activities. In addition to this, the conduct of the review identified numerous opportunities for improvements to processes which have subsequently been adopted. Furthermore, the review resulted in improved scrutiny of activities, with monthly reporting being provided to the SIRA board and to the Minister on activities arising from the review process.

### JPPOC

The setting up of the JPPOC has made a positive contribution, particularly in managing the activities of the nominal insurer. Moreover, stakeholders reported that the creation of a joint committee to monitor the performance of the NI which was jointly chaired by SIRA and the NI has enabled greater and more positive communication between the two agencies. Communication issues were identified as an issue by stakeholders prior to the establishment of the NI Review.

### REGULATORY PREMIUM REVIEWS

The regulatory premium reviews are effective in their delivery of activities in a timely and systematic manner. However, there is evidence to indicate that there may be a lack of clarity from stakeholders in the review process around the scope of the reviews, which impacts on the appropriateness of these activities in meeting stakeholder needs and supporting higher level objectives. Specifically, it is not clear to appellants that adherence of the NI to the MPPG filing principles outlined in Section 5 of the MPPGs are not within scope for review activities and that the review scope is limited to determining whether “the employer’s premiums have been written in accordance with the premium filing of the insurer” (Section 8.5.5). This could benefit from clarification with stakeholders, potentially through communications and guidance.

As a further observation on the effectiveness of activities, although outside of the FY18/19 scope of the evaluation, since the NI Review the premium review process has improved in terms of the support for recommendations from the regulatory premium review process.

### REVIEW OF NI PREMIUM CALCULATION METHODOLOGY

Analysis of the outcomes of the review of the NI premium calculation methodology indicate that it was both appropriate and potentially effective. Minutes from JPPOC meetings and the terms of reference demonstrate a sound case for the review activity. Furthermore, evidence

indicates that the establishment of the review subsequently led to reporting on changes that can be made to the methodology to improve premium calculations in future.

## 4.4 BARRIERS TO IMPLEMENTATION

### NI REVIEW

The primary barrier observed by stakeholders to the delivery of the NI Review was that of icare in providing information in a transparent and timely manner. This was also observed as part of monitoring and compliance activities. This issue impacted on the delivery timelines for the review and led to conclusions being made in the review which were then contested by icare using data that had not been provided as part of the review.

A further barrier was the alignment of review processes with other activities being delivered by SIRA and by icare, in particular the premium filing processes. This meant that some recommendations could not be readily implemented without impacting on other activities and had to be delayed.

### JPPOC

No barriers to implementation were identified in relation to the activities undertaken relating to the JPPOC.

### REGULATORY PREMIUM REVIEWS

The currency of industry classifications for employers was identified as a barrier to the delivery of regulatory premium reviews. As the review processes for these classifications are not undertaken on an annual basis, they are limited in capturing and classifying new business types, which impacts how such businesses are classified by insurers. This can result in potentially incorrect classifications and the issuing of premiums that are not appropriate to the business, in turn increasing the number of reviews undertaken.

### REVIEW OF NI PREMIUM METHODOLOGY

No barriers to implementation were identified in relation to the activities undertaken relating to the review of the NI Premium Methodology.

## 5. PROJECT MANAGEMENT

This chapter answers the key evaluation questions:

- Were activities implemented within expected timeframes?
- To what extent are activities meeting the needs of stakeholders?

It also examines whether there were other relevant findings identified as a result of the evaluation process.

### 5.1 TIMELINESS OF ACTIVITIES

Notwithstanding the absence of regular monitoring and compliance activities, activities were undertaken in a timely fashion where they were undertaken. Stakeholders did note that icare was not timely in providing information for review purposes, and that this impacted internal timelines for the completion of the NI Review, though it was externally published on time.

#### MONITORING AND COMPLIANCE ACTIVITIES

In terms of the timeliness of monitoring activities, multiple stakeholders reported that these activities were generally timely with respect to guidelines, though no data were available to directly characterise timeliness.

#### REVIEW ACTIVITIES

Stakeholders reported that review activities were generally timely with respect to the timeframes articulated to the public. Some internal delivery milestones for the NI Review were delayed due to circumstances outside of SIRA's control. These appear to have been managed as well as possible given the circumstances.

### 5.2 MEETING OF STAKEHOLDER NEEDS

For SIRA, the activities undertaken in FY18/19 have been seen to benefit the organisation by driving greater oversight of insurers and improving compliance. This is strongly attributed to the delivery of the NI Review and associated outcomes. The establishment of JPPOC has also enabled SIRA to have greater working oversight and monitoring capability. Stakeholders generally agreed that the activities met the needs of SIRA through alignment with its strategic objectives, particularly in managing risks. The criticisms of activities largely focused on the fact that activities were predominantly reactive and ad hoc in nature, and that needs could be better met in future through proactive approaches to monitoring of insurers.

While the NI was not interviewed as part of the evaluation, stakeholders with direct experience of working alongside them noted that despite the compliance-driven nature of the review activities and initial difficulties in engagement, the end result has been an improved relationship with SIRA. This is evidenced by the continued and active participation of the NI in the JPPOC and its activities and the implementation of recommendations from

the review. Stakeholders noted that the process has led to a greater mutual understanding of roles and activities, and respect between the two organisations.

Stakeholders interviewed for the evaluation had mixed views in relation to whether the needs of employers had been met. While the complaints process was seen to operate well, and the NI Review enabled the voice of employers to be heard as part of the process, there was a view that the absence of proactive monitoring activity meant that issues were not being addressed prior to them turning into formal complaints. The continued limitations of monitoring capabilities contributed to the persistence of this issue.

For other organisations, including peak bodies and employee unions, stakeholder views were that while the delivery of the NI Review and associated recommendations was viewed generally positively, there were some stakeholders who felt that the recommendations did not extend far enough and that penalties could have been stronger.

### 5.3 OTHER FINDINGS

In terms of other findings, stakeholder interviews did not readily identify any unintended consequences that arose from the activities undertaken in support of the MPPGs in FY18/19. However, some stakeholders raised concerns that establishing the impact of recommendations made and implemented as the result of these activities (such as from the NI Review) may be difficult as a result of the impacts of COVID-19 on workplaces and in turn, on the workers compensation insurance claims and subsequent premiums. This would need to be considered in future evaluation activities.

## 6. CONCLUSIONS AND RECOMMENDATIONS

### 6.1 CONCLUSIONS

Throughout the evaluation process stakeholders noted that SIRA is a relatively young agency, having only been established in 2015. This means that for the period under evaluation activities were being considered in the context of an organisation which had not yet been in operation for three years and was still finding its feet from an operational standpoint. The fact that the agency was established to serve an existing market and system of insurance has meant that its capabilities have had to be developed rapidly to meet the needs of this market. As a result, activities have had to be prioritised with respect to others.

In this case, the NI Review and the activities that precipitated it proved there have been issues in the delivery of monitoring and compliance against the MPPGs. SIRA has had to act from a position of reaction rather than being able to proactively anticipate and address risks.

Nonetheless, the activities that have been undertaken have demonstrated a commitment to ensuring best practices are followed. The activities have also developed and improved operational relationships with stakeholders which will benefit SIRA in the future and support the workers compensation system. The NI Review outcomes are likely to drive improved compliance and improved stakeholder outcomes, and this is already being observed in terms of current activities by the agency.

This evaluation concludes that while there are significant opportunities to improve the delivery of activities to support the MPPGs, the activities of FY18/19 have already precipitated positive improvements. The continuation of these improvements should be encouraged and supported.

### 6.2 LESSONS FOR CONSIDERATION

While the program has experienced a number of challenges, these have generated useful insights that can be applied not only to this program, but also to the management and implementation of future projects.

1. **Develop systematic monitoring and compliance across insurers:** The evaluation identified that in FY18/19 there was limited monitoring and compliance in relation to policies and premiums. Where this took place it was ad hoc and reactive to external pressures such as complaints from employers. There is a need to put in place a systematic process of ongoing reporting, analysis, monitoring and compliance. This firstly determining a supervision approach and appropriate risk level, prior to developing and embedding a framework for monitoring and analysis and having in place an annual plan for undertaking these activities. The report notes that this capability has been partially developed through the activities of JPPOC, the establishment of a monthly reporting requirement for both the NI and specialist insurers, and work associated with the Workers Compensation Data Modernisation project.



8. **Build internal technical expertise:** There is a need for SIRA to have in place sufficient technical expertise to develop and deliver monitoring and compliance activities. This includes having expertise to support the development of data analysis approaches to support ongoing monitoring and compliance. This will reduce the current reliance on external providers of services (and associated expenses), and better leverage SIRA's own internal knowledge of the Workers Compensation system and the MPPGs.
9. **Continue to operate JPPOC:** The establishment of the JPPOC has been a positive outcome of the NI Review in terms of both supporting the implementation of recommendations as well as in improving the operational relationship between SIRA and the nominal insurer. Its continued operation will help to maintain oversight and risk management of the nominal insurer as well as provide a line of communication to enable timely responses to changes in the market landscape.
10. **Publication of NI premium calculation methodology:** This report notes that JPPOC is continuing to pursue the publication of more information on how the NI estimates premiums to increase transparency to the market and recommends that it continues.

## APPENDIX 1. INTERVIEW GUIDE

Hi, my name's (insert name of ARTD consultant) from ARTD Consultants. As you know, we've been contracted by SIRA to complete a process evaluation of its FY18/19 activities relating to Workers Compensation Market Practice Premium Guidelines reform. The aim of the evaluation is to understand the activities completed over this period, and to identify opportunities for process enhancement. Part of the evaluation involves us interviewing key stakeholders to explore their experiences. The interview will take around half an hour to an hour.

All the information you give ARTD will be kept secure and confidential. The feedback from you and other people we interview for the evaluation will be combined and will then go into the report that we write for SIRA. In our report, nothing you say will be attributed directly to you.

Are you happy for us to conduct the interview? [Yes/No]

Do you mind if I record the conversation for my note taking purposes? [Yes/No]

Do you have any questions for me before we start?

### BACKGROUND

11. Can you briefly describe your role in relation to the Workers Compensation Market Practice Premium Guidelines reform activities?
  - a) If needed, probe on:
    - Set up of the Joint Premium & Prudential Oversight Committee (JPPOC)*
    - The Nominal Insurer Review*
    - Administration of premium filing processes*
    - Spot audits of insurers*
    - Premium reviews of insurers*
    - Analysis of premium complaints data*
    - Ensuring that information about premium calculation is available to employers*
    - Other monitoring and compliance activities*
12. Are you still involved in delivering these activities? In what way?
13. If you are no longer involved, over what period did you have a role?

### REVIEW ACTIVITIES

14. Were you involved in the development and delivery of the NI Review, Regulatory Premium Reviews, establishment of JPPOC, and Review of the NI Premium Methodology? Which ones? In what ways? [IF NO, SKIP TO NEXT SECTION]
15. Can you briefly describe for me the administrative arrangements for the review processes?

16. What pleased you about the way the reviews were delivered?
17. Did anything surprise you about how the reviews were delivered?
18. In what ways did the reviews align with SIRA's strategic objectives at the time it was designed?
19. What factors supported the delivery of the reviews?
20. What factors hindered delivery? How were these addressed?
21. Were review activities delivered within the planned timeframe? If not why not?
22. What has been the role of executive leadership (both at SIRA as well as Ministry and Cabinet) in supporting and guiding the review processes?
23. What kinds of business processes were put in place to implement recommendations?
24. Do you feel that the reviews were completed consistent with their Terms of Reference?
25. Do you feel that the reviews have met expectations from stakeholders? If not, which stakeholders and why?
26. If you were asked to undertake the reviews now, what would you do differently and why?

## MONITORING AND COMPLIANCE ACTIVITIES

27. Were you involved in the development and delivery of monitoring and compliance activities? In what way? [IF NO, SKIP TO NEXT SECTION]
  - a) If needed, probe on:
    - Administration of premium filing processes*
    - Spot audits of insurers*
    - Analysis of premium complaints data*
    - Other monitoring and compliance activities*
28. Has data on insurer practices and compliance with the MPPGs been collected and reported on?
  - a) What have been the administrative arrangements for collecting and reporting on data?
  - b) What kinds of data have been collected and reported on?
  - c) How accurate and comprehensive has the reporting been?
  - d) How useful has the information been for your work?
  - e) How useful has it been to other stakeholders?
  - f) How regular and timely has reporting been?
29. In what ways does the monitoring and compliance activities align with SIRA's strategic objectives?
30. What factors have supported the delivery of monitoring and compliance activities?

31. What factors have hindered delivery? How have these been addressed?
32. Are compliance activity outcomes being enforced and adopted? Why/why not?
33. Have activities been delivered within planned timeframes? If not why not?
34. What has been the role of executive leadership (both at SIRA as well as Ministry and Cabinet) in supporting and guiding monitoring and compliance processes?
35. What kinds of business processes are in place to help sustain implementation of monitoring and compliance?
36. Do you feel that activities have supported the needs of stakeholders? If not, which stakeholders and why?
37. If you were asked to design and set up business processes to support implementation of monitoring and compliance activities now, what would you do differently and why?

## FINAL QUESTIONS

Some final questions now about the Market Practice Premium Guidelines and the activities to support them.

38. What have been the main achievements of the activities supporting MPPGs over this period in your view?
39. What lessons have been learned from your experience?
40. Were there any unintended consequences (positive or negative)?

Are there any questions that you have for me?