



The benefits of professional standards schemes – limitation of liability and consumer protection measures *update*

Final report to the Professional Standards Councils

26 June 2024



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26 June 2024

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Dear Roxane,

The benefits of professional standards schemes – *update report*

In 2021 the Professional Standards Councils (the Councils) commissioned Taylor Fry to produce a report that examined and evidenced the benefits delivered by professional standards schemes using quantitative and qualitative measures titled *The benefits of professional standards schemes, 31 March 2022* (previous report).

Taylor Fry have been engaged to update our previous report (update report) by providing further context to key findings and adding more detailed comparisons to industry benchmarks. In making these comparisons, we also make allowance for the extent that members of the professions included in the relevant benchmark are also members of professional standards schemes.

This is a final version of the update report and responds to any feedback provided by the Councils on previous versions of this report. All previous versions of this report have been superseded and should not be relied upon by the Councils in its decisions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kevin Gomes'.

Kevin Gomes

Principal

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1

Executive summary

1 Executive summary

Objectives

The objective of this report is to provide an update to our report on *The benefits of professional standards schemes, 31 March 2022* (previous report).

Our previous report included detailed case studies of three professional standards schemes operating in the following mix of sectors¹:

- **Legal** represented by The Law Society of NSW (LSNSW)
- **Finance and accounting** represented by Chartered Accountants Australia & New Zealand (CA ANZ), and
- **Property** represented by the Australian Property Institute Valuers (APIV).

For purposes of this update report, no additional data was sought or obtained on the experience of the schemes which were the subject of case studies in our previous report. However, we have sought to add further context to our previous report by adding more detailed comparisons to industry benchmarks. In making these comparisons, we also make allowance for the extent that members of the professions included in the relevant benchmark are also members of professional standards schemes.

Overall performance of schemes

The analyses of the emerging Professional Indemnity (“PI”) experience continue to support the primary findings of our previous report and indicates:

- Professional Standards Schemes
 - have a positive impact on premium affordability
 - claims experience is in-line or better than the wider PI market
- Evidence of Schemes benefiting from having affiliated insurers with further positive impacts on premium affordability and claims experience.

The support for our key findings is summarised in Table 1.1.

Table 1.1 – Analyses of Benefits of Professional Standards Schemes – Key Findings

Findings	Evidence	Report reference
Professional Standards Schemes have a positive impact on premium affordability	For the 3 sectors we examined (legal sector, finance & accounting, property) – there was a strong <i>inverse</i> correlation observed between the level of coverage by professional standards schemes and the level of premium increases i.e. high coverage = low premium increases The legal sector comprises mainly solicitors and barristers (both of whom are likely to be covered by professional standards schemes). Legal professionals enjoy high level of coverage from	3.2.1

¹ Our previous report referred to Solicitors, Accountants and Built Environment sectors. Our current report uses different sector names (Legal, Finance / Accounting, and Property) in order to align with APRA occupational groupings.

Findings	Evidence	Report reference
	professional standards schemes and have had low premium increases (1% increase between 2015 and 2022 compared to the total PI market of 27%) 3.3.1 The finance and accounting sector comprises accountants (who are likely to be covered by professional standards schemes) as well as other finance professional (who may not be covered by professional standards schemes). At a sector level, finance and accounting professionals have had medium coverage from professional standards schemes and have had medium - high premium increases (50% increase between 2015 and 2022 compared to the total PI market increase of 27%) 3.4.1 The property sector comprises valuers (who may be covered by professional standards schemes) as well as other property professionals (who are unlikely to be covered by professional standards schemes). At a sector level, property professionals have had low coverage from professional standards schemes and have had high premium increases (75% increase between 2015 and 2022 compared to the total PI market increase of 27%)	
The claims experience for Schemes is in-line or better than the wider PI market	Each of the 3 Schemes which were the subject of our case studies (LSNSW, CA ANZ and APIV) were observed to have claims experience trends similar to or better than their industry benchmarks LSNSW has shown stronger reductions in reported claim frequency and average claim size since 2009 than its industry benchmark 3.2.2 CA ANZ has shown stronger reductions in settled claim frequency and average claim size since 2014 than its industry benchmark 3.3.2 APIV has shown stronger reductions in reported claim frequency and average claim size since 2014 than its industry benchmark 3.4.2	
There is evidence of Schemes benefiting from having affiliated insurers with further	LSNSW benefits from having an affiliated insurer (Lawcover), which has a	

Findings	Evidence	Report reference
positive impacts on premium affordability and claims experience	positive impact on premium affordability and claims experience Average premiums for LSNSW members has decreased since 2015, as compared to a small increase for the industry. This suggests that the affiliated insurer Lawcover is recognising and rewarding improvements in the risk environment The loss ratio (i.e. ratio of claims to premium) for LSNSW is reducing, which suggests that the premium reductions are sustainable insofar as they are supported by favourable claim experience	3.2.2 3.2.2

Limitations

Analyses undertaken for the purpose of this report are subject to the same limitations as our previous report. In particular, while our report focuses on the effects that schemes have in respect of professional indemnity insurance claims, we acknowledge that professional indemnity claims against scheme participants may be affected by factors outside the professional scheme. This makes it difficult to directly link observed claim trends to scheme participation. These factors include (but are not limited to):

- Delays in reporting / settlement and/or claims volatility
- The currency of scheme data is limited by the most recent member survey
- Changes affecting the risk of particular industries or occupations
- Systemic impacts such as changes in the economic environment or inflation
- Judicial rulings or legislative changes.

Furthermore, there are several factors that may contribute to insurers failing to give full credit to the risk benefits of professional standard schemes within their professional indemnity rating structures, including:

- Insurers may be unaware of the risk benefits associated with scheme participation
- Insurers may dispute the link between favourable claim trends and scheme participation
- Insurer underwriting and rating decisions may be impacted by competitive or strategic considerations as well as changes to their own risk appetite
- Ratings may be impacted by external systemic changes such as insurance cycles.

These factors act as a limitation on our analysis.

2

Background

2 Background

2.1 Overview of professional standards schemes

Consumer protection is the fundamental aim of professional standards legislation, achieved through, among other things, the limitation of civil liability for occupational members that participate in schemes, which require them to improve their professional standards and the association to implement risk management strategies. The Professional Standards Councils of each state and territory administer the professional standards legislation in a co-operative and harmonised national regulatory system.

Our previous report noted that as at 30 June 2021, there were 17 schemes in force nationally, with the number of occupational association participants subject to these schemes totalling 86,089 (2020: 82,193). The current schemes span a variety of sectors, including:

- Solicitors (5 schemes)
- Barristers (5 schemes)
- Accountants (3 schemes)
- Built Environment² (3 schemes)
- Information Technology (1 scheme).

Appendix A (sourced from our previous report) provides a comprehensive listing of professional standards schemes and the relevant sectors in which they operate.

2.2 Glossary of key terms

The following terms may be used within this report:

Term	Definition
APRA	Acronym for “Australian Prudential Regulatory Authority”
Development year	Years since the insurance was written. Loss ratios for PI insurance tend to develop positively (i.e. increase) over time due to late reported claims and/or increases to case estimates on reported claims
Fitted values	A variable may be “fitted” using a trend line or other statistical model in an attempt to remove the statistical noise
GWP	Acronym for “Gross Written Premium” i.e. insurance premiums gross of reinsurance
loss ratio	Calculated as <i>claims / premium</i> . A loss ratio provides a measure of insurer profitability. Where PI loss ratios are relatively low (<70%) and stable, then insurance pricing is more likely to be sustainable
NCPD	Acronym for “National Claims & Policies Database”, which is an APRA published database providing premium and claims data for liability classes including PI

² “Built Environment” is primarily comprised of surveyors and valuers

Term	Definition
PI	Acronym for “Professional Indemnity”

3

Sector experience and case
studies

3 Sector experience and case studies

3.1 Our approach

This section provides details of our analyses of market sector experience and benchmarking of case studies for the following three professional standards schemes:

Table 3.1 – Market sectors and case study participants

PI Sector ³	Scheme case studies
1. Legal professionals	Law Society New South Wales (LSNSW)
2. Finance and accounting professionals	Chartered Accountants Australia and New Zealand (CA ANZ)
3. Property professionals	Australian Property Institute Valuers (APIV)

Appendix B (sourced from our previous report) provides background information on the selected schemes.

We have utilized professional indemnity experience that emerged since our previous report to:

- highlight premium and claim trends for the market sectors, legal, finance / accounting and property professionals from which the three case studies have been drawn
- update the benchmarking in our previous report with an additional year's data and fitted trends to the schemes' and broader sector experience to highlight differences between the two.

For a description of the data please refer to **Appendix C**, for an explanation of the performance metrics used please refer to **D**.

We cross-referenced quantitative trends against key scheme initiatives and improvements to help identify potential drivers of scheme experience from our previous report. Appendix B of our previous report shows a full listing of initiatives and improvements for each of the case study participants.

The following pages explore the key insights from analyses of each of the three PI sectors and case studies updated for industry data emerging since our previous report.

³ Our previous report referred to Solicitors, Accountants and Built Environment sectors. Our current report uses different sector names (Legal, Finance / Accounting, and Property) in order to align with APRA occupational groupings.

3.2 Legal sector

The following sections provide commentary on the sector-wide premium and claims experience and the benchmarking of the case study.

3.2.1 Legal sector premium and claims experience

Our key findings from analysis of the Legal sector experience are shown below.

The legal sector enjoys a high level of coverage from professional standards schemes. PI experience for the sector is favourable and includes⁴:

- Downward pressure on the cost of insurance. Average premium rates increased by only 1% between 2015 and 2022 compared to the total PI market of 27%
- Favourable claims experience with all underwriting year reported loss ratios below 70% and most tracking around 50% or lower

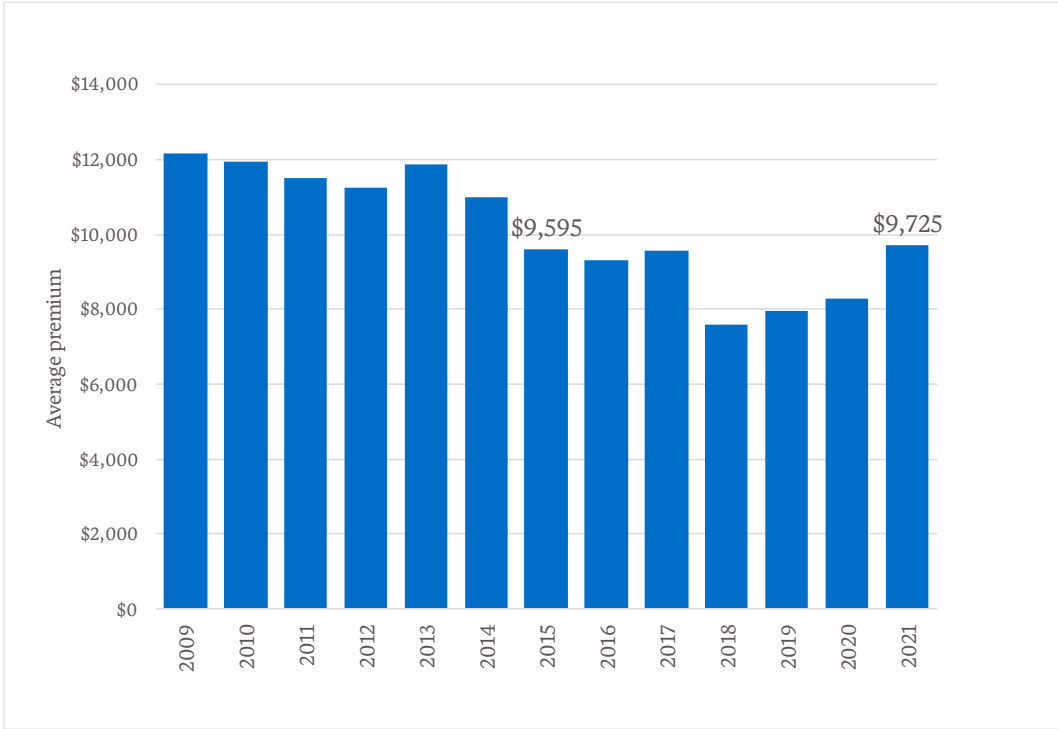
The legal sector comprises mainly solicitors and barristers (both of whom are likely to be covered by professional standards schemes). A variety of professional standards schemes operate within the legal sector, including schemes for solicitors (the Law Societies of NSW, QLD, SA, WA and Law Institute of Victoria) and schemes for barristers in a number of states. Lawcover (a wholly owned but independent subsidiary of LSNSW) is the single provider of approved professional indemnity insurance policies to law practices based in NSW, other states have similar arrangements. Geographically, the solicitors operating within the legal sector are predominately in NSW (43%⁵), with the next highest state VIC accounting for 25%. Consequently the legal PI sector as a whole is considerably influenced by PI experience under the legal professional standards schemes.

The average premium for the Legal sector is shown in Figure 3.1. The average premium reduced between 2009 and 2015 after which it was variable with a 1% increase between 2015 (\$9,595) and 2021 (\$9,725).

⁴ Figures sourced from APRA's NCPD ANALYSIS report *Review of claims trends and affordability of public liability and professional indemnity insurance in Australia* (May 2023)

⁵ Sourced from Urbis report 2020 National Profile of Solicitors

Figure 3.1 – Legal sector average premium

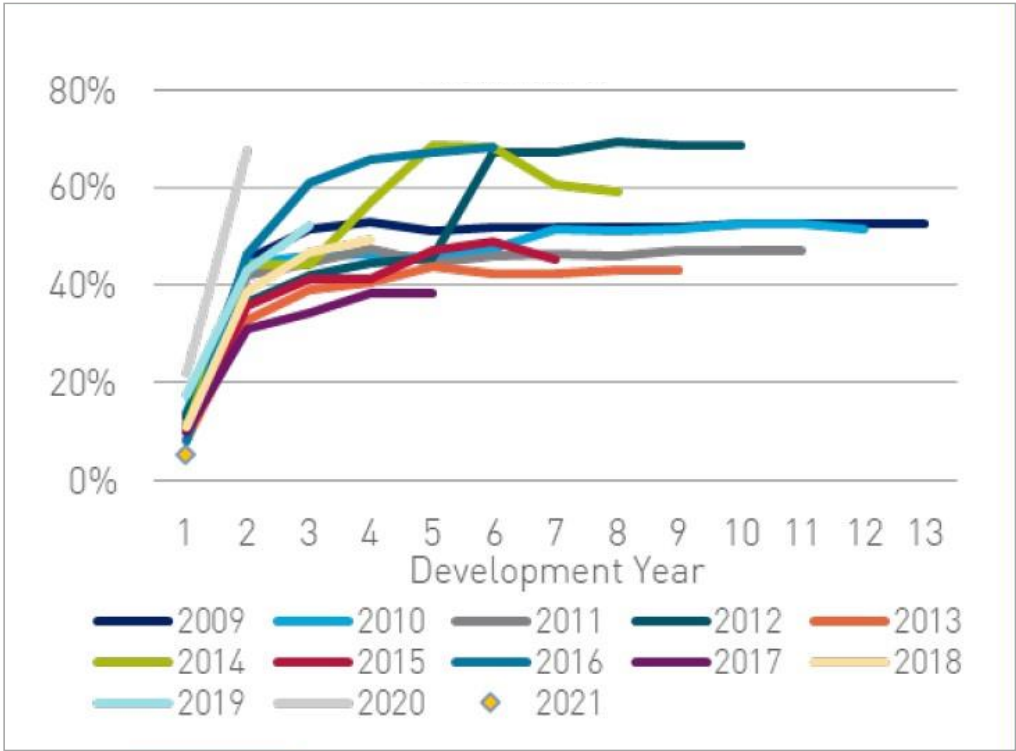


Notes to the chart:

(a) Sourced from APRA data

The reported loss ratios for the Legal sector are shown in Figure 3.2. The reported loss ratios are tracking between 40% to 60% for most underwriting years with no loss ratio currently above 70%.

Figure 3.2 – Legal sector reported loss ratios by underwriting year



Notes to the chart:

- (a) Sourced from APRA's NCPD ANALYSIS report *Review of claims trends and affordability of public liability and professional indemnity insurance in Australia* (May 2023) and APRA NCPD data s report (May 2023)
- (b) Chart lines show gross reported loss ratios (gross paid plus gross case estimates)/GWP by underwriting year

3.2.2 Benchmarking of LSNSW

Our key findings from benchmarking of LSNSW PI experience to the broader Legal sector⁶ (*benchmark*) are shown below.

- A reducing loss ratio trend compared to an increasing trend for the benchmark
- Reducing average premiums compared to a broadly flat trend for the benchmark
- Moderately reducing trends for claim frequency and average claim size compared to benchmark

Reported loss ratio experience

The reported loss ratio experience for LSNSW since 2014 is shown in Figure 3.3. The reported loss ratios for LSNSW show a decreasing trend whereas the broader benchmark shows a moderately increasing trend as highlighted by the linear fits.

Figure 3.3 – LSNSW reported loss ratio



Notes to the chart:

- (a) The gross reported loss ratio for LSNSW calculated as gross reported incurred/premium revenue) - solid pink line (axis on left hand side)

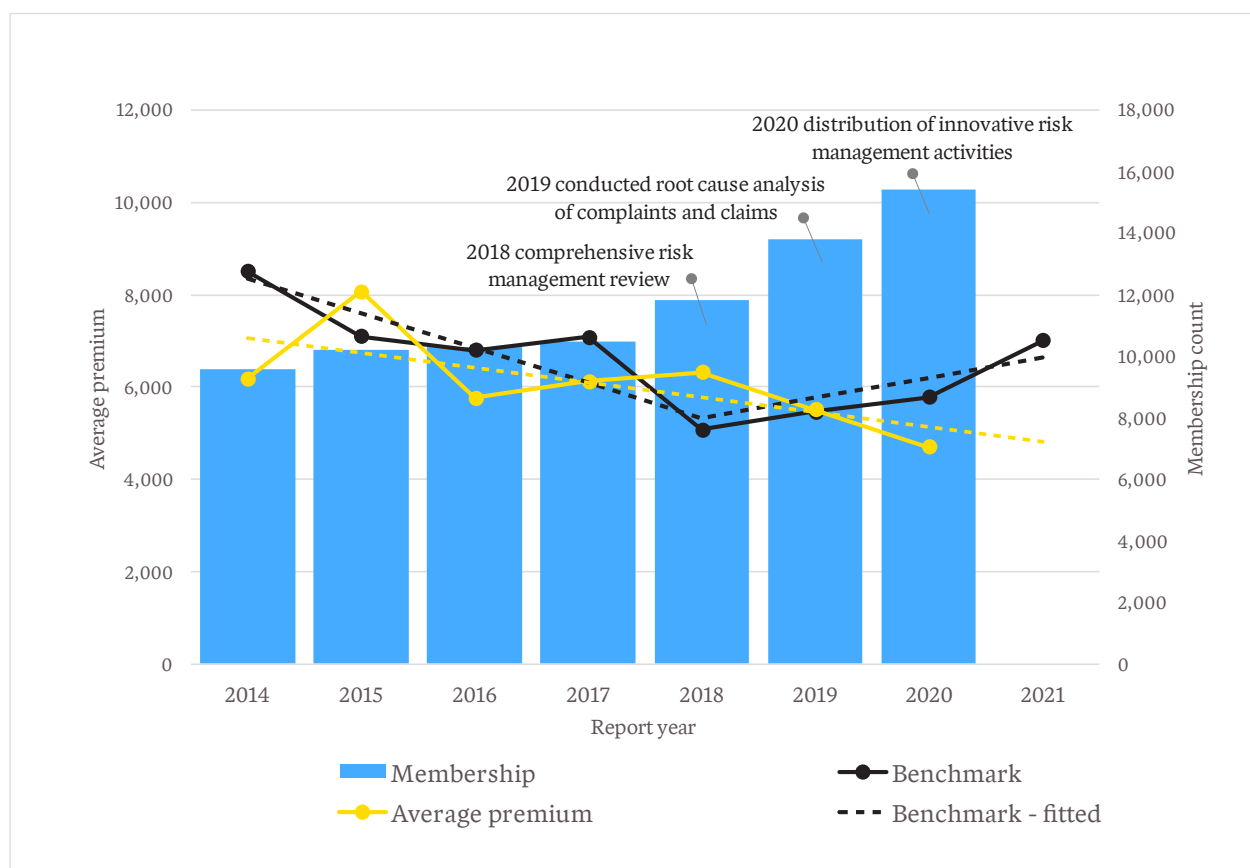
⁶ Benchmark includes experience for the broader legal sector, including solicitors and barristers on a national basis

- (b) Benchmark reported loss ratio for APRA NCPD category Legal calculated as gross reported incurred/ GWP – solid black line (axis on left hand side)
- (c) Count of scheme participants – blue bars (axis on right hand side)
- (d) Callout boxes with initiatives implemented by LSNSW (further detail in Appendix B.1).

Average premium

The average premium for LSNSW since 2014 is shown in Figure 3.4. The average premium for LSNSW shows a decreasing trend whereas the overall industry benchmark shows variable although an overall flat trend.

Figure 3.4 – LSNSW average premium



Notes to the chart:

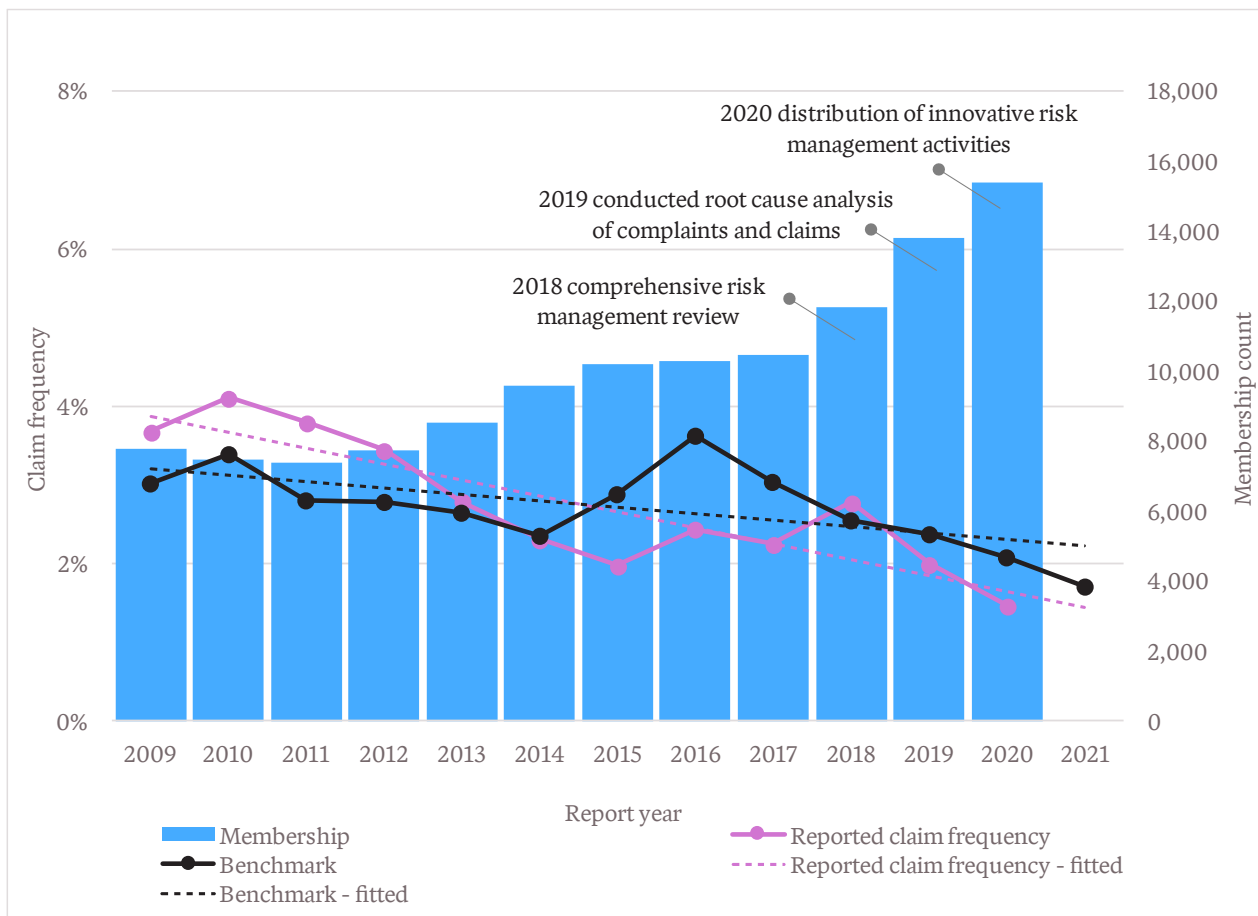
- (a) The reported loss ratio - solid yellow line (axis on left hand side)
- (b) Benchmark reported loss ratio for APRA NCPD category Legal – solid black line (axis on left hand side)
- (c) Count of scheme participants – blue bars (axis on right hand side)

Callout boxes with initiatives implemented by LSNSW (further detail in **Appendix B.1**).

Claims count experience

Figure 3.5 shows the claim frequency experience for LSNSW since 2009 against the industry benchmark and the respective linear fits. The reported claim frequency for both LSNSW and the broader benchmark show a decreasing trend although stronger for LSNSW than for the benchmark as highlighted by the linear fits.

Figure 3.5 – LSNSW claim count experience



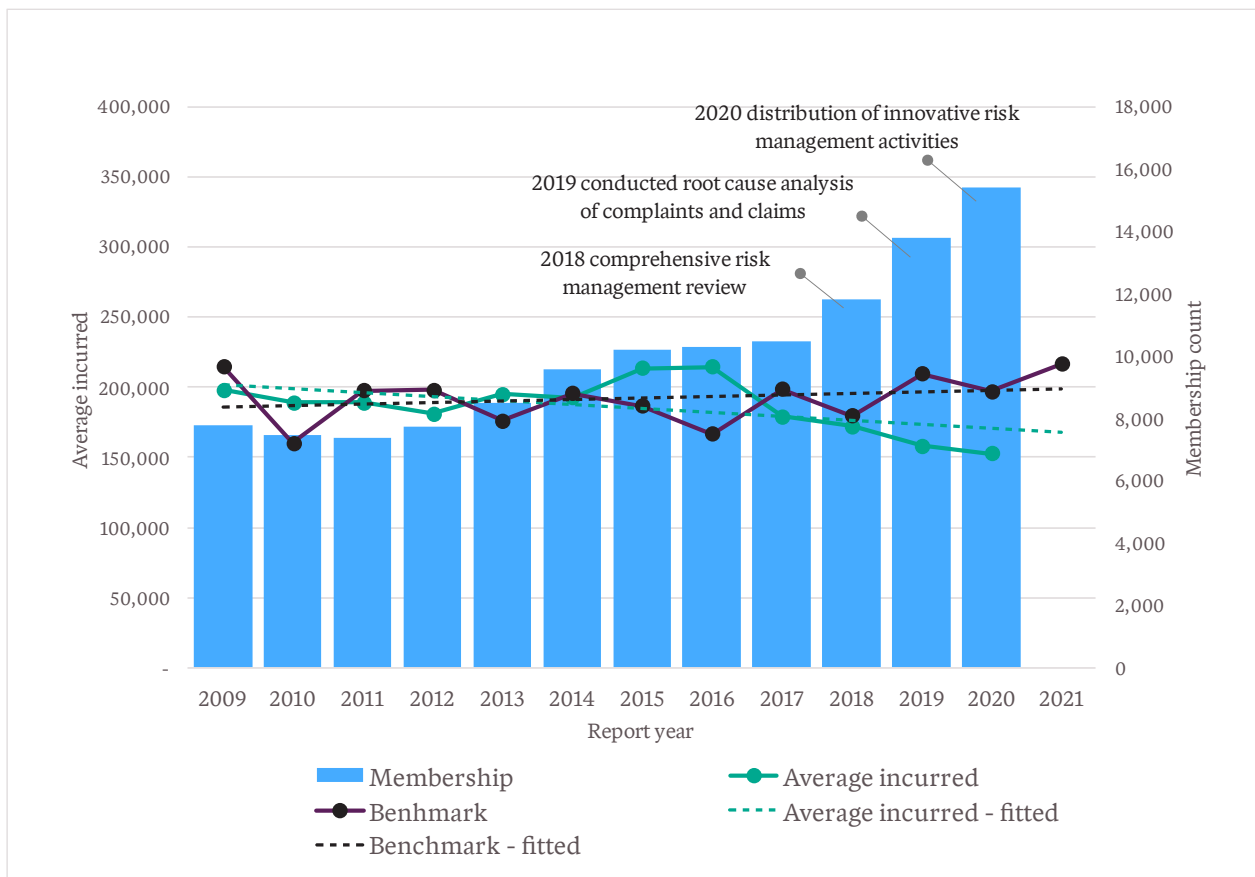
Notes to the chart:

- (a) Actual reported claim frequency for LSNSW participants – solid purple line (axis on left hand side)
- (b) Benchmark reported claim frequency for APRA NCPD category Legal – solid black line (axis on left hand side)
- (c) Count of scheme participants – blue bars (axis on right hand side)
- (d) Callout boxes with initiatives implemented by LSNSW (further detail in **Appendix B.1**).

Claim size experience

The claim size experience for LSNSW since 2009 is shown in Figure 3.6. The average incurred size since 2009 has shown a moderately decreasing trend for LSNSW whereas the industry benchmark shows a moderately increasing trend as shown by the linear fits.

Figure 3.6 – LSNSW claim size experience



Notes to the chart:

- (a) The actual average incurred size - solid green line (axis on left hand side)
- (b) Benchmark average incurred size for APRA NCPD category Legal – solid black line (axis on left hand side)
- (c) Count of scheme participants – blue bars (axis on right hand side)
- (d) Callout boxes with initiatives implemented by LSNSW (further detail in **Appendix B.1**).

3.3 Finance and accounting sector

The following sections provide commentary on the sector-wide premium and claims experience and the benchmarking of the case study.

3.3.1 Finance and accounting sector premium and claims experience

Our key findings from analysis of the finance and accounting sector is shown below.

At a sector level, finance and accounting professionals have had **medium coverage** from professional standards schemes. PI experience for the sector includes:

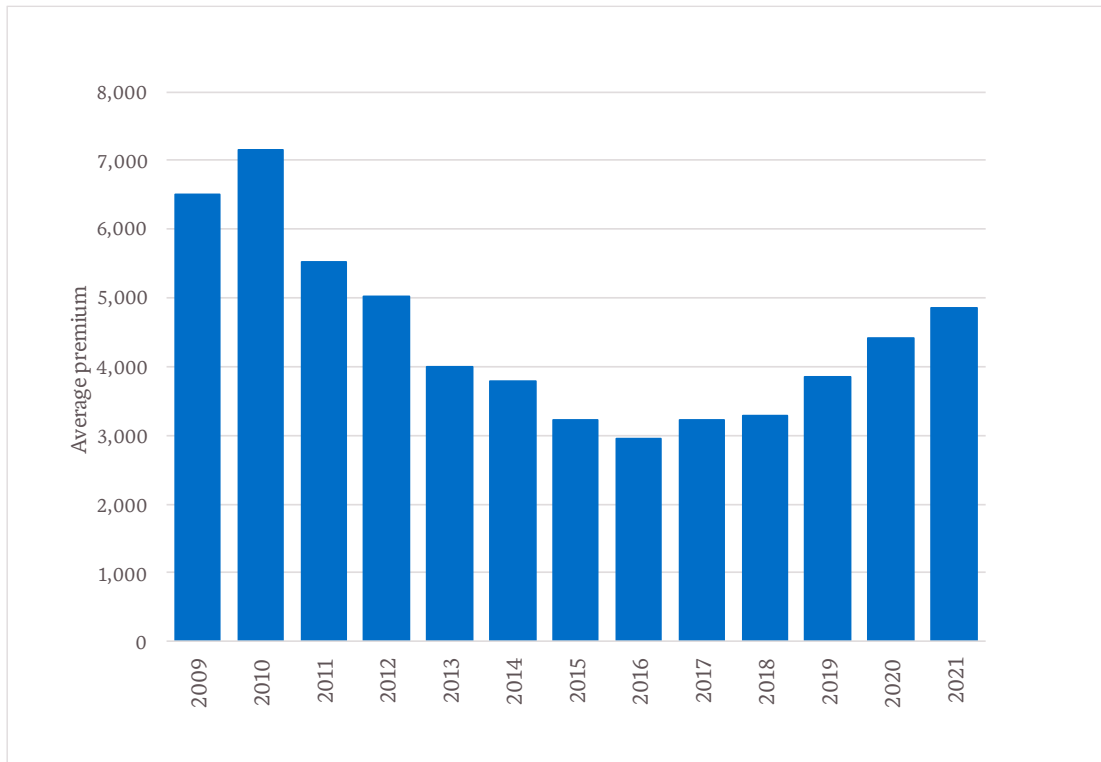
- Increasing average premium rates with a 50%⁷ increase between 2015 and 2022 compared to the total PI market increase of 27% (noting that between 2010 and 2015 the average premium almost halved)
- Unfavourable loss ratios of between 80% to 120% for a number of older underwriting years although evidence of improved loss ratios for more recent years (which will have benefited from the increases to average GWP)

The finance and accounting sector comprises accountants (who are likely to be covered by professional standards schemes such as CA ANZ or CPA) as well as other finance professionals (who may not be covered by professional standards schemes). Consequently, at a sector level, finance and accounting professionals have had **medium coverage** from professional standards schemes. Furthermore, even where finance and accounting professionals are members of a scheme, they obtain PI cover from the broader insurance market unlike members of the legal professional standards schemes which typically have an affiliated insurer. This likely contributes to the less favourable PI experience for the finance and accounting sector.

The average premium for the finance and accounting sector is shown in Figure 3.7. We have used the APRA category financial occupations as the sub-group accounting sector data was not available. For our previous report we compared loss data between financial occupations and the sub-group accounting and found them to be broadly similar. The increase in average premium between 2015 and 2022 for financial occupations is the same as for accounting ie 50%.

⁷ From APRA's NCPD ANALYSIS report *Review of claims trends and affordability of public liability and professional indemnity insurance in Australia* (May 2023) for sub-category accounting

Figure 3.7 – Finance and accounting sector average premium

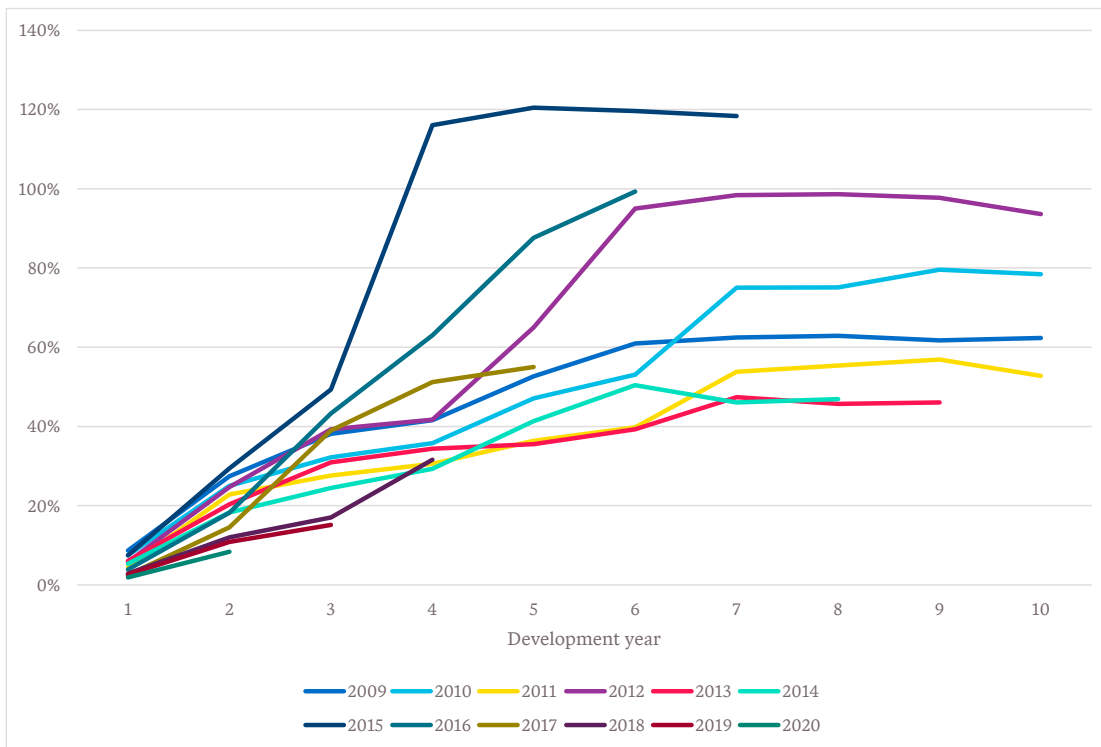


Notes to the chart:

(a) Sourced from APRA category Financial occupations

The reported loss ratios for the finance and accounting sector are shown in Figure 3.8. The reported loss ratios for three of the older underwriting years are around 100% or more. The loss ratios for more recent years are tracking between 40% to 80%.

Figure 3.8 – Finance and accounting sector reported loss ratios by underwriting year



Notes to the chart:

- (a) Sourced from APRA financial occupations
- (b) Chart lines show gross reported loss ratios (gross paid plus gross case estimates)/GWP by underwriting year

3.3.2 Benchmarking of CA ANZ

Our key findings from benchmarking of CA ANZ experience to the broader financial sector⁸ (*benchmark*) are shown below.

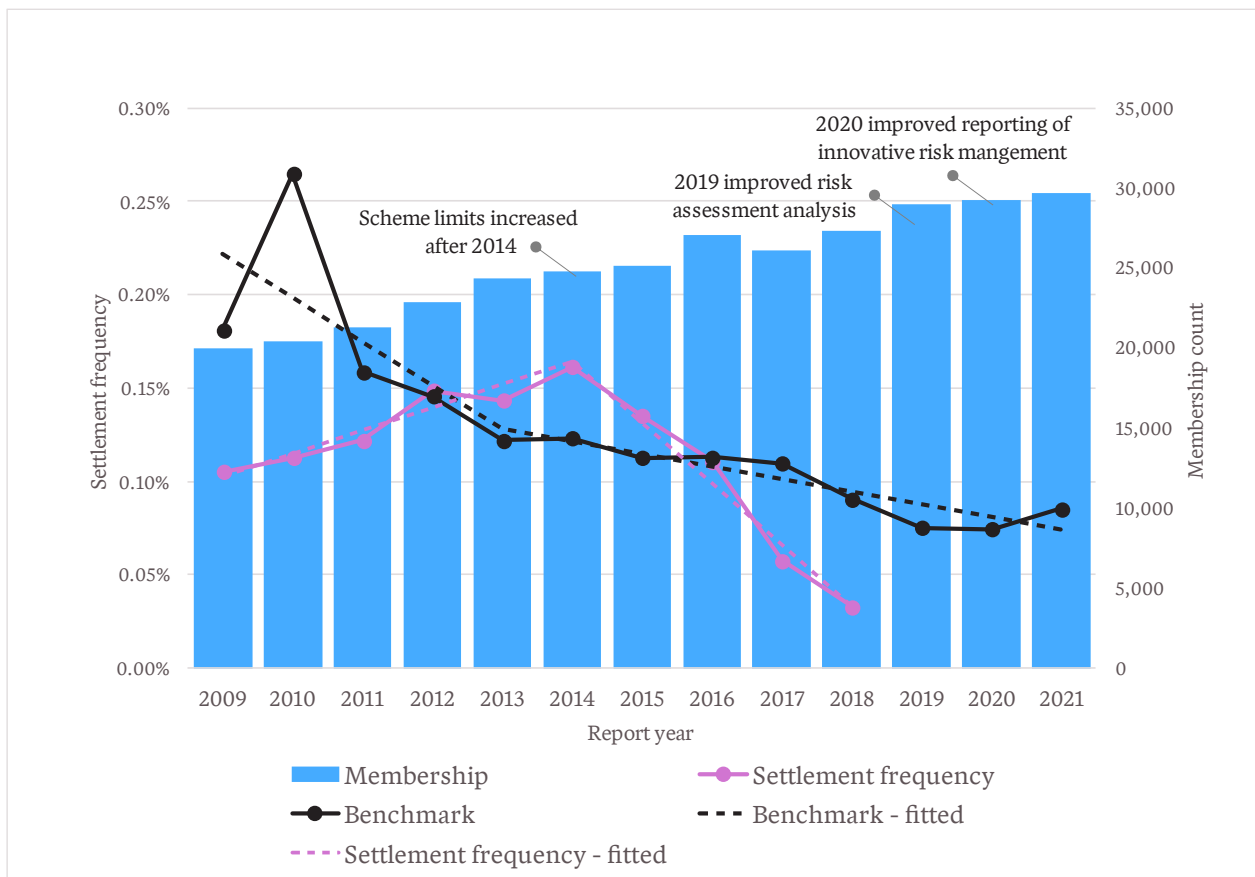
- A reducing trend in settlement frequency since 2014
- A moderately reducing trend in settlement size compared to a moderately increasing trend for the benchmark

Number of claims settled experience

Figure 3.9 shows the settled claims frequency experience for CA ANZ and the industry benchmark since 2009. The overall frequency of settled claims decreased from 2009 to 2021 for both CA ANZ and the industry benchmark noting there has been a strong decrease in settled claims for CA ANZ since 2014.

⁸ Benchmark includes experience for the broader financial sector, including accountants and other financial professionals

Figure 3.9 – CA ANZ settlement frequency



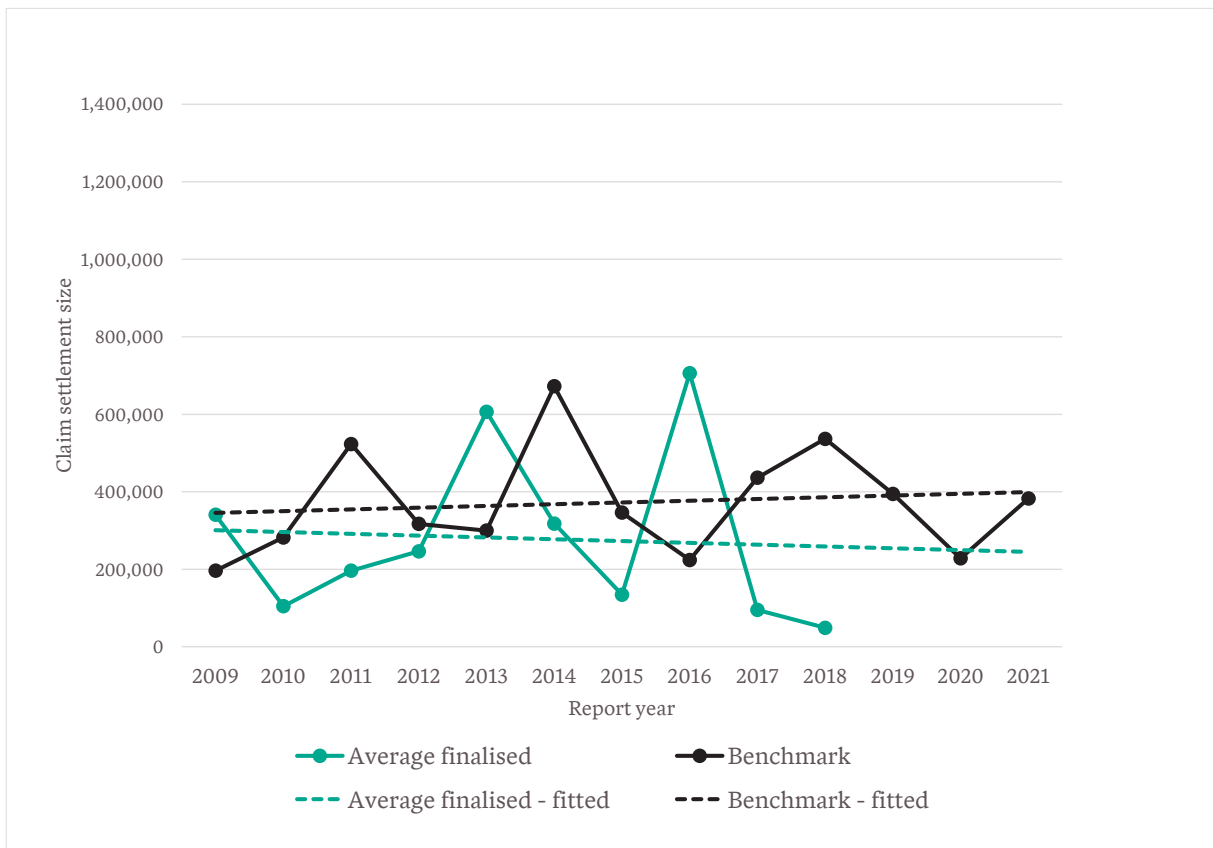
Notes to the chart:

- (a) Actual settlement frequency for CA ANZ participants – solid purple line (axis on left hand side)
- (b) Benchmark settlement frequency for APRA NCPD category Financials – solid black line (axis on left hand side)
- (c) Count of scheme participants – blue bars (axis on right hand side)
- (d) Callout boxes with initiatives implemented by CA ANZ (further detail in **Appendix B.2**).

Claim size experience

Figure 3.10 shows the settlement size experience for CA ANZ and the industry benchmark since 2009. The majority of settled claims are relatively small although some years, such as 2013 and 2016 for CA ANZ contain large claims that push up the overall average settlement size. The settlement size of CA ANZ shows a slight decreasing trend, the settlement size for the industry benchmark shows a slight increasing trend. We note that for both CA ANZ and the industry benchmark there is considerable variability in settlement size, driven by a few very large claims, which produces more uncertainty in the observed trends.

Figure 3.10 – CA ANZ average settled claims



Notes to the chart:

- (a) The actual settled claim size – solid green line (axis on left hand side)
- (b) Benchmark average settlement size for APRA NCPD category Financials – solid black line (axis on left hand side)

3.4 Property sector

The following sections provide commentary on the sector-wide premium and claims experience and the benchmarking of the case study.

3.4.1 Property sector premium and claims experience

Our key findings from analysis of the property valuers sector are shown below.

At a sector level, property professionals have had low coverage from professional standards schemes. Analysis of sector experience indicates that the continuing increase in average premium for property valuers does not reflect the more recent benign claims experience:

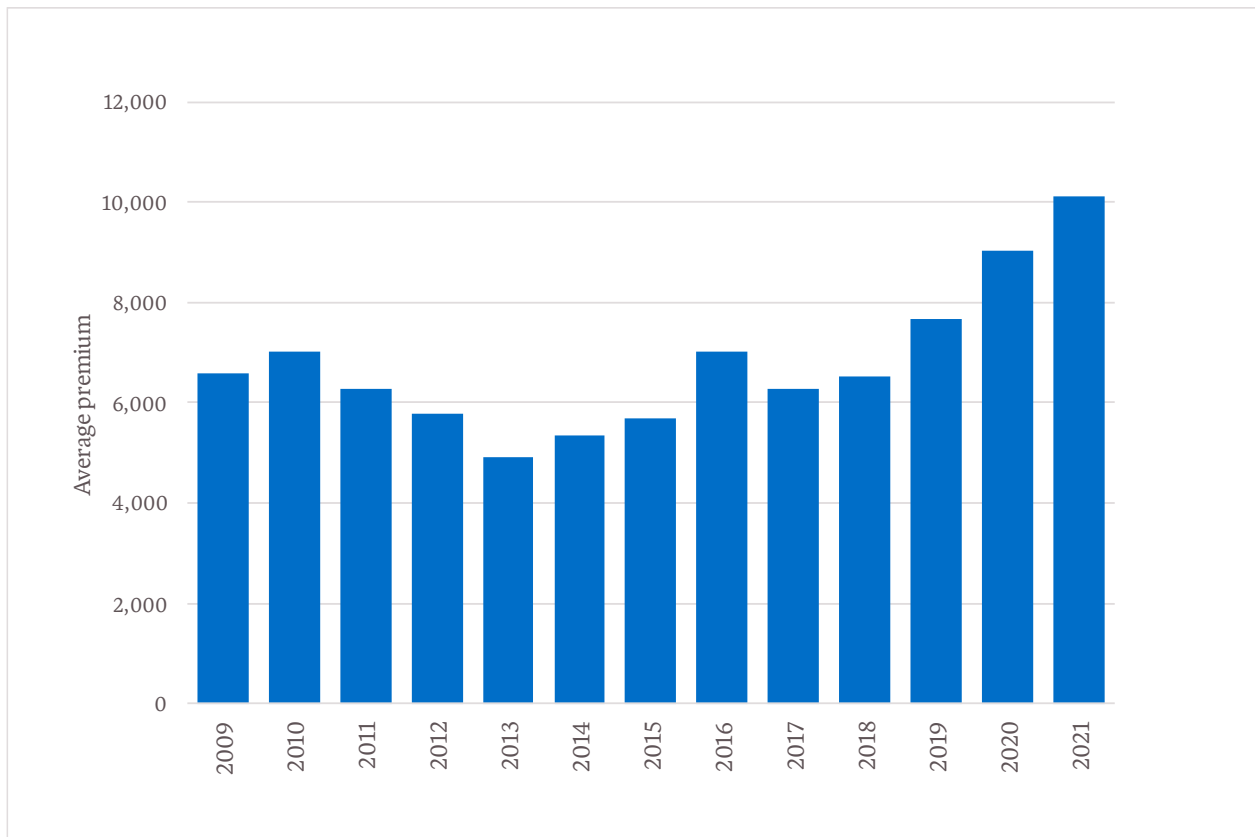
- Increasing average premium rates with a 75% increase for the property sector between 2015 and 2022 compared to the total PI market increase of 27%
- Moderate to unfavourable loss ratios for the property sector for underwriting years prior to 2015 although very favourable claims experience since then with reported loss ratios below 25% for underwriting years from 2016 (which will have taken some benefit from the increases to average premium)

The property sector comprises valuers (who may be covered by professional standards schemes) as well as other property professionals (who are unlikely to be covered by professional standards schemes). At a sector level, property professionals have low coverage from professional standards schemes and

consequently there have been limited opportunity for property professionals (including valuers) to benefit from the positive impact which professional standards schemes have on premium affordability.

The average premium for property valuers is shown in Figure 3.11. The average premium for property valuers has increased by 75% between 2015 and 2021.

Figure 3.11 – Property sector average premiums

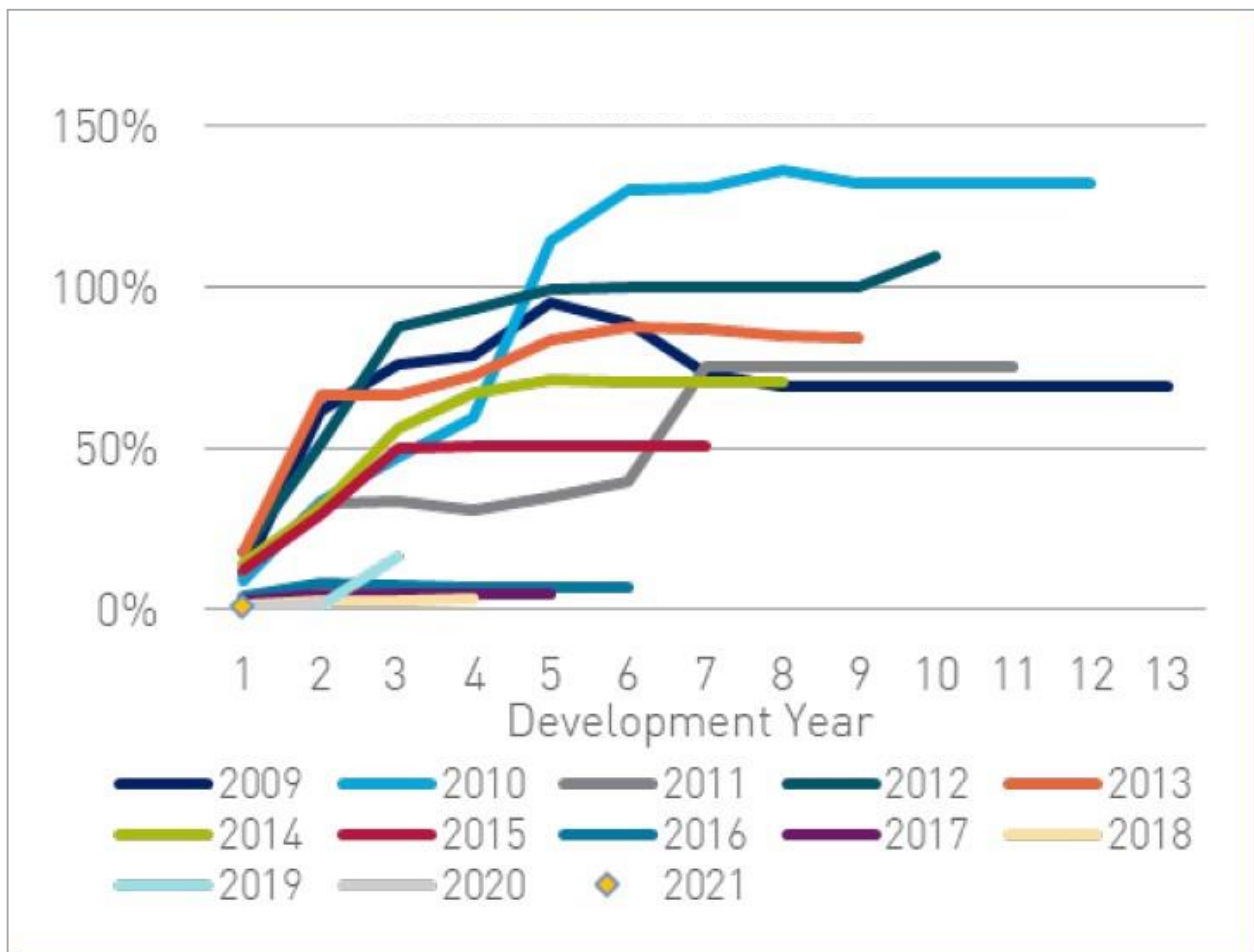


Notes to the chart:

(a) Source APRA NCPD data and APRA's NCPD ANALYSIS report *Review of claims trends and affordability of public liability and professional indemnity insurance in Australia* (May 2023).

The reported loss ratios for the property sector are shown in Figure 3.12. The loss experience for the older underwriting years (2014 and prior) are mixed with loss ratios between 70% to 130%. The loss experience for more recent years is more favourable with loss ratios all under 25% at this stage of development.

Figure 3.12 – Property sector reported loss ratios by underwriting year



Notes to the chart:

- (a) Sourced from APRA's NCPD ANALYSIS report *Review of claims trends and affordability of public liability and professional indemnity insurance in Australia* (May 2023) and APRA NCPD data s report (May 2023)
- (b) Chart lines show gross reported loss ratios (gross paid plus gross case estimates)/GWP by underwriting year

3.4.2 Benchmarking of APIV

Our key findings from benchmarking of APIV experience to the broader sector (*benchmark*) are shown below.

Favourable trends in APIV claims experience compared to benchmark continue to support an improving risk environment:

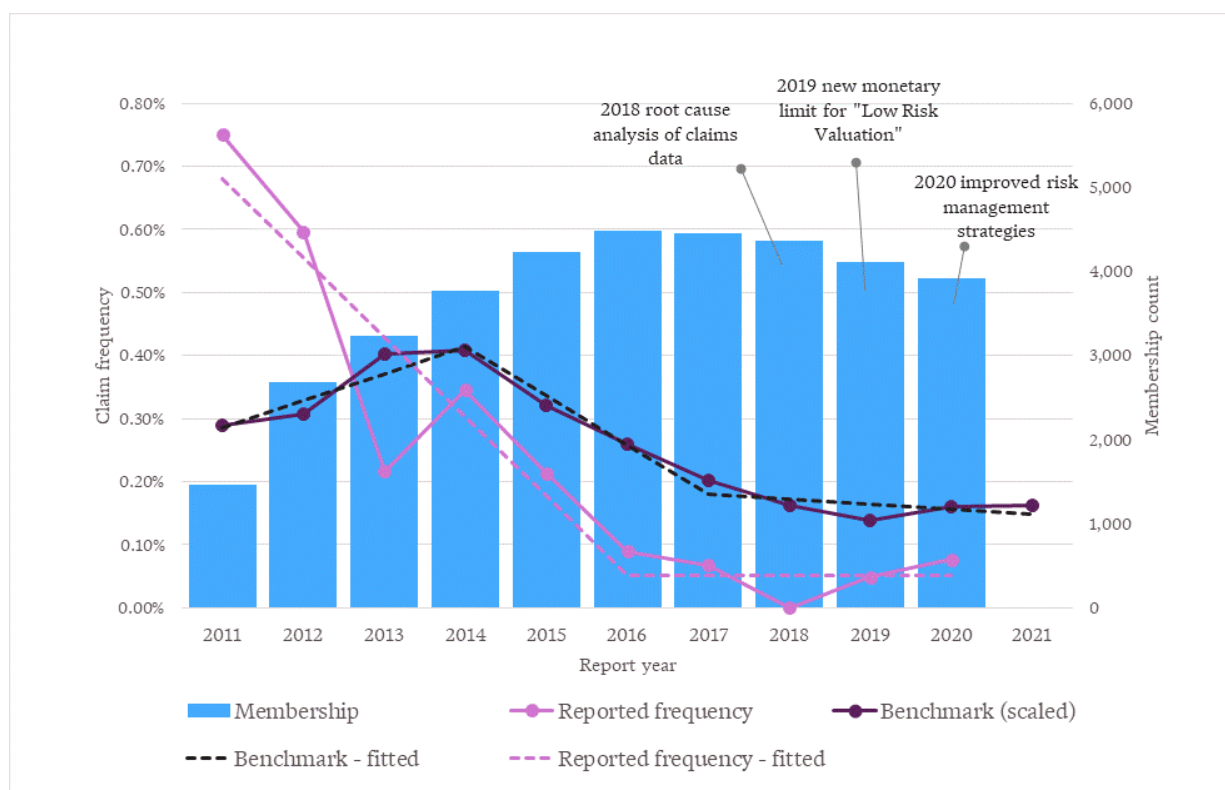
- Claim frequency is flat after 2015 (similar to the benchmark frequency) with a very low frequency of one claim for every 200 members although much lower for more recent years.
- Average claim size shows a strongly reducing trend whereas the benchmark shows a moderately increasing trend

We have used the APRA category real estate as the benchmark as property valuers data was not available. For our previous report we compared loss data between real estate and the sub-group property valuers and found them to be broadly similar.

Claim frequency experience

Figure 3.13 shows the claim frequency for APIV and the industry benchmark since 2011. The claim frequency for both APIV and the industry benchmark have generally reduced since 2011. The trend in claim frequency for APIV reduced strongly between 2011 and 2016 and thereafter flattened as shown by the fitted lines. The claim frequency as a percentage of participants is low with approximately 1 claim per 200 participants although considerably lower for 2016 to 2020.

Figure 3.13 – APIV claim frequency



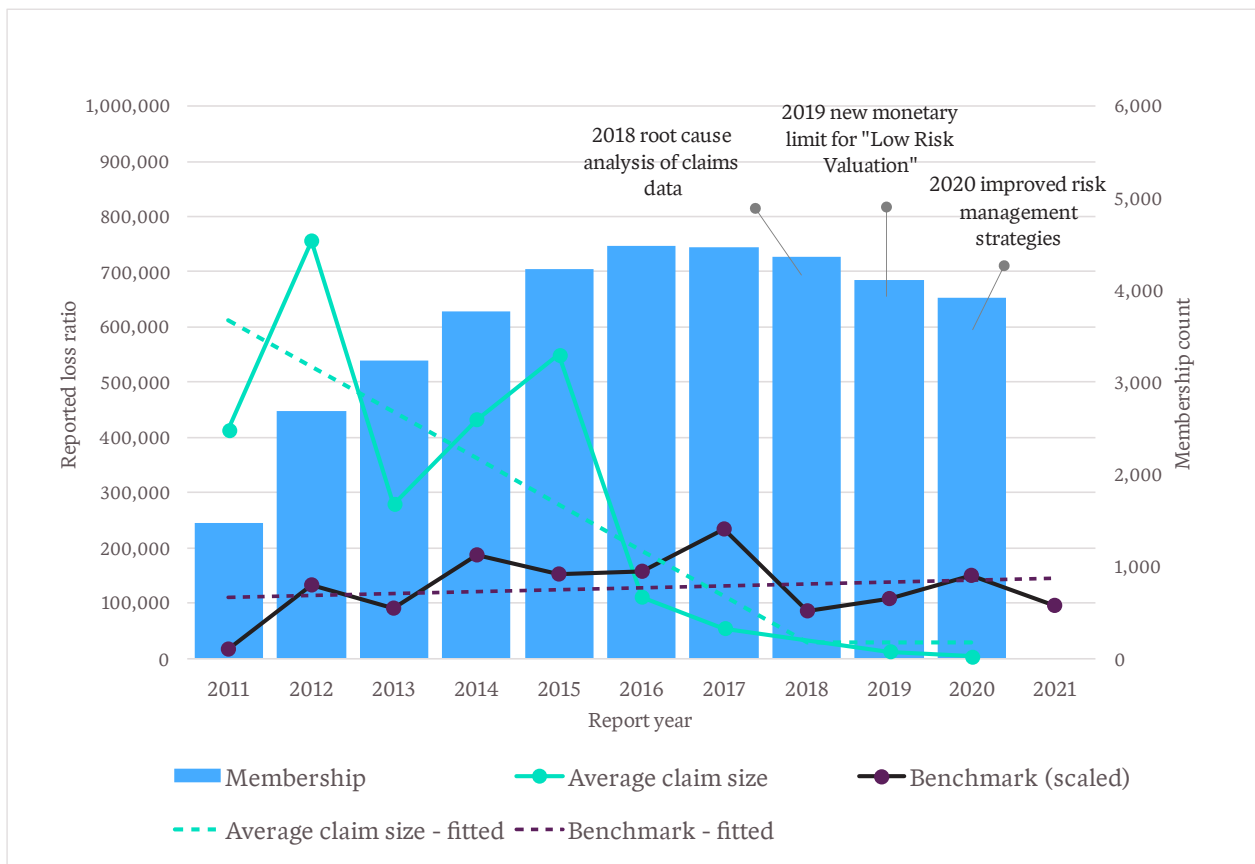
Notes to the chart:

- (a) Actual reported claim frequency for APIV participants – solid purple line (axis on left side of chart)
- (b) Benchmark claim frequency for APRA NCPD category Real Estate – black solid line (axis on left side of chart)
- (c) Count of scheme participants – blue bars (axis on right-hand side)
- (d) Callout boxes with initiatives implemented by APIV (further detail in **Appendix B.3**).

Claim size experience

The claim size experience for APIV and the industry benchmark since 2011 is shown in Figure 3.14. The average claim size shows a strong downward trend between 2011 and 2016 after which it shows a flat trend, the industry benchmark shows a broadly flat trend.

Figure 3.14 – APIV average claim size



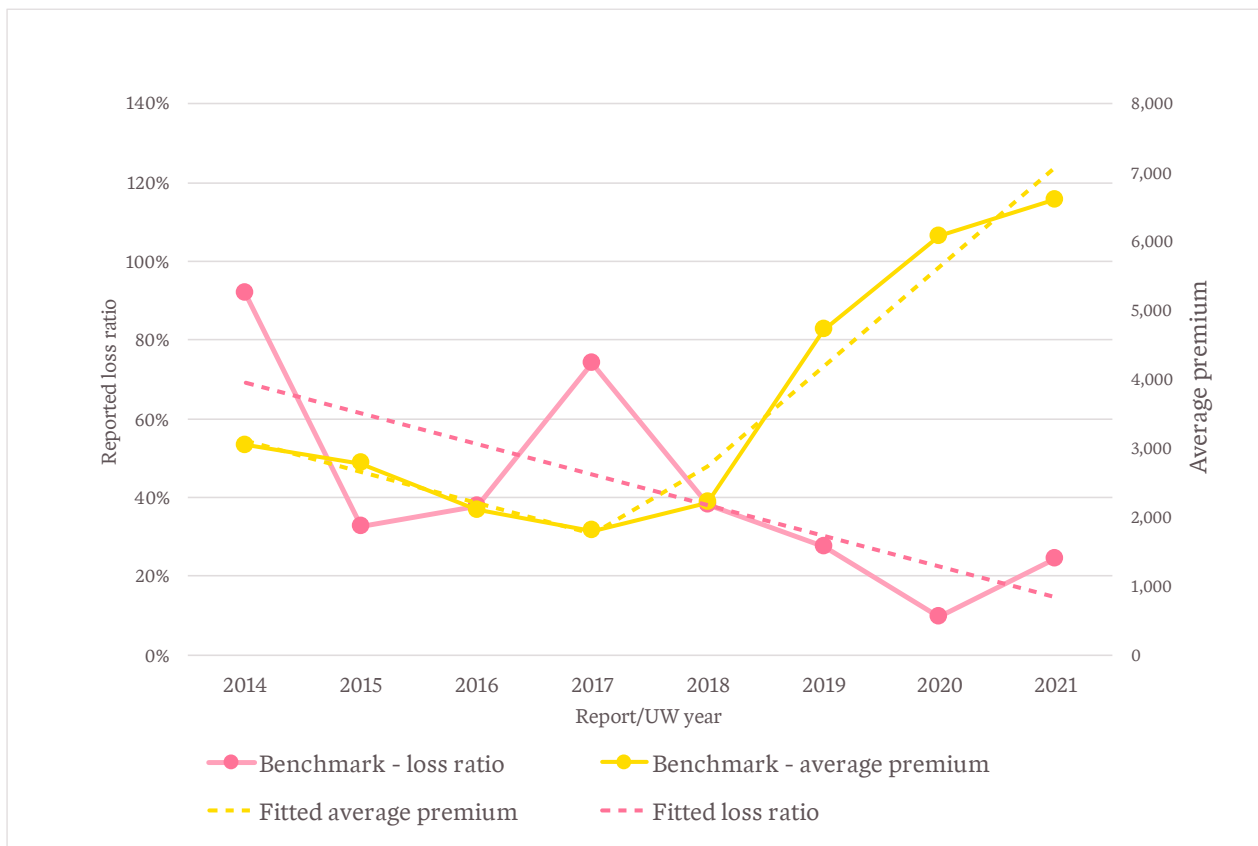
Notes to the chart:

- (a) Actual average claim size – solid green line (axis on left side of chart)
- (b) Benchmark average claim size for APRA NCPD category Real Estate – black solid line (axis on left side of chart)
- (c) Count of scheme participants – blue bars (axis on right-hand side)
- (d) Callout boxes with initiatives implemented by APIV (further detail in **Appendix B.3**).

Industry reported loss ratio and average premium experience

Figure 3.15 shows the industry benchmark experience for reported loss ratio and average premium since 2014. The benchmark average premium increases strongly after 2018 although this appears not to reflect the improving loss ratio experience.

Figure 3.15 – Industry loss ratio and average premium experience



Notes to the chart:

- (a) Benchmark reported loss ratio for APRA NCPD category Real Estate – pink line
- (b) Benchmark reported loss ratio for APRA NCPD category Real Estate – yellow line



Appendices

Appendix A Scheme listing

As at 30 June 2021, there were 17 schemes in force nationally, with the number of occupational association participants subject to these schemes totalling 86,089 (2020: 82,193).

Table A.1 offers a listing of professional standards schemes and the relevant sector.

Table A.1 – Listing of professional standards schemes as at 30 June 2021

Scheme	Sector
Association of Consulting Surveyors National Ltd	Built Environment ⁹
Australian Computer Society Inc	Information Technology
Australian Property Institute Valuers Ltd	Built Environment
Bar Association of Queensland Ltd	Barristers
Chartered Accountants Australia and New Zealand Inc	Accountants
Chartered Surveyors Ltd (formerly RICS Valuers Ltd)	Built Environment
CPA Australia Ltd	Accountants
Institute of Public Accountants Ltd	Accountants
Law Institute of Victoria Ltd	Solicitors
Law Society of New South Wales Ltd	Solicitors
Law Society of South Australia	Solicitors
Law Society of Western Australia Inc	Solicitors
New South Wales Bar Association Ltd	Barristers
Queensland Law Society Ltd	Solicitors
South Australian Bar Association Inc	Barristers
Victorian Bar Association Inc	Barristers
Western Australian Bar Association Inc	Barristers

⁹ “Built Environment” includes Surveyors and Valuers

Appendix B Case study participants

This section provides background information on the case study participants. We have included the recent initiatives in Section B.1.2 by way of example only, drawn from self-reporting by the case study participants in their annual Professional Standards Improvement Program reports to the Professional Standards Councils.

B.1 LSNSW – Case study 1

B.1.1 Background

Law Society NSW (LSNSW) is an occupational association for solicitors practicing in NSW (expanded to other states and to Incorporated Legal Practices in 2018). Participants can obtain primary PI cover through a single insurer (Lawcover) and top-up cover through Lawcover or the commercial market. The current scheme commenced in November 2018 and allows for a limitation of liability, ranging from \$1.5m to \$10m.

B.1.2 Recent initiatives

Reporting year	LSNSW Key initiatives/improvements
2017	Updated participant renewal and application forms relating to scheme obligations including a declaration, undertaking and acknowledgement of the requirement to comply with Professional Standards Legislation. Undertook internal scheme monitoring reviews. Reported outcomes with improved departmental application processes.
2018	Conducted a comprehensive risk management review to provide an updated risk management framework. Considered information from a wider variety of sources to inform risk management strategies, with clear links to risk management controls. Sources included: Lawcover, statutory regulator, the Legal Services Commissioner and internal departments, including Professional Standards Department. Identified top six causes of loss using notifications of claims data, with some identifiable root causes. Linked new risk management initiatives to the data findings, including new CPD on client management, health and wellbeing, and risk management.
2019	Developed and delivered a new scheme platform to automate scheme and association participant applications. This established robust scheme monitoring processes. The new platform: ▪ Moves away from older, less reliable technology ▪ Improves security by integrating the scheme application with LawID (LawID is a new identity verification system) ▪ Increases the data/fields captured in the scheme database ▪ Introduces systems and processes to ensure that all scheme data must be recorded when processing applications ▪ Improves the audit trail of the scheme data ▪ Allows for new functionality for applicants, including participant applications,

Reporting year	LSNSW Key initiatives/improvements
2020	Discretionary Higher Cap applications, and Online uploading of practice stationery. Conducted root cause analysis by gathering and analysing data from a range of internal and external sources, including: ▪ Regulatory complaints data and trends ▪ Insurance claims data and trends from the approved insurer ▪ Practice, compliance and regulatory data from the Law Society departments and committees. Identified seven realms of risk, which represent those areas with the greatest potential to be detrimental to the ability of participants to provide legal services that meet required professional standards, and improve those standards. Took new measures to address the detected root causes during the reporting period such as through CPD sessions and launching initiatives. Audited all law practices for their annual scheme disclosure audits. Despite the unprecedented implications of the pandemic, the Society reduced the rate of participants' non-compliance with disclosure requirements from 14% in 2019 to 2% in 2020. Non-compliant law practices were contacted by phone and email to inform them of the issue and educate them about the professional standards legislation requirements. Responding to emerging risks in the legal profession: The Law Society released the Future of Law and Innovation of the Profession Report (the FLIP Report) in March 2017. The outcome of the FLIP Report was set out in its 19 recommendations for the Law Society to implement. In 2020, the Law Society launched a number of successful FLIP Program initiatives, including: ▪ Evolving the FLIP online portal, which is part of the Law Society's website. The portal facilitates information across all sectors of the profession about developments in legal technology, work process improvements and client focused services including via podcasts and the FLIP events. ▪ The ground-breaking FLIP Stream research partnership between the Law Society and the University of New South Wales. The Law Society funds the University's research and innovation projects for five years, with a new topic to be focused on each year. Topic in 2020: The sustainability of law and lawyers. The research is hosted on the FLIP online portal and further disseminated to the participants through the FLIP Program. Generating regular reports from databases to inform and assist with monitoring scheme participation requirements. Reports include: ▪ Monthly data reports to identify participating incorporated legal practices with legal practitioners that are not Solicitor participants and scheme participants. Participation of all legal practitioners is a prerequisite of ILP entity scheme participation. ▪ Quarterly data reports to identify participating law practices that have legal practitioners who are not registered as scheme participants. ▪ Data reports are run post 1 July to identify those law practices recorded as

Reporting year	LSNSW Key initiatives/improvements
	participating in the scheme that have legal practitioners who have not renewed their Solicitor participants (Law Society participation year commences 1 July). Scheme participating law practices with legal practitioners who are not registered as scheme participants are contacted by phone and email and notified of their non-compliance. Where non-compliance is not rectified, follow-up contact will be made with the law practice.

B.2 CA ANZ – Case study 2

B.2.1 Background

Chartered Accountants Australia & New Zealand (CA ANZ) is an occupational association of professional accountants in Australia and New Zealand, which has had a professional scheme in place in NSW since 1997. Participants obtain PI cover primarily through two brokers (Aon, Marsh) who deal with several insurers. The current scheme commenced in October 2019 and allows for a limitation of liability ranging from \$2m to \$75m.

B.2.2 Recent initiatives

Reporting year	CA ANZ Key initiatives/improvements
2017	<i>Scheme monitoring review</i> - Reported actions taken from findings identified within scheme monitoring reviews provided improvements to scheme monitoring processes by either bridging knowledge gaps or enhancing documents. <i>Complaints and discipline review</i> - Changes made to the Conduct and Complaint process fully implemented by August 2016 with a substantial reduction in the backlog of unresolved complaints.
2018	<i>Risk management review</i> Conducted a full risk management review consistent with ISO21000:2018 - Integrated risk management strategies relating to scheme management into broader risk management plan. Analysis of complaints and discipline data focused on root cause analysis and informing risk management strategies. <i>Initiatives introduced in 2018</i> Internal data governance working group formed representing relevant functions across the whole organisation – will establish and implement the rules for data controls (to increase the accuracy of member database) - Where participants have confirmed they have non-compliant policies via the annual Scheme questionnaire, CA ANZ enhanced the required info for them to return to compliance - Audit of PSL Compliance plan

Reporting year	CA ANZ Key initiatives/improvements
	- Amended scheme questionnaire to obtain details of notification events and claims - Updated Regulation CR2 to increase member's awareness and compliance w the need to have the disclosure statement on their website and to provide a copy of the scheme to clients on request.
2019	Improved questionnaire template to participants on their obligations to disclosure their limited liability status in all documents given to a client or prospective client. <i>Risk management activities</i> - Reviewed scheme risk analysis to ensure risks identified by Crowe Horwath (engaged by CA ANZ) included in the risk assessment table Organisation-wide Risk Management Framework developed and the appointment of a new CA ANZ General Manager- Risk, Compliance and Operational Excellence - Internal reporting and approval process formalized.
2019/20 Professional Standards Councils' Annual Report	CA ANZ launch a benefit of a professional standards scheme video - Provided information for what a professional standards scheme means for the accountancy profession, and what is expected of CA ANZ participants of public practice. - Communicates to the associations' participants on consumer protection in the delivery of professional services in Australia and that participants are held to account, which is to the benefit of every one of their consumers and the professional itself.
2020	<i>Scheme monitoring improvements</i> Significant improvements to the member questionnaire, including adding further parameters to collect targeted information on AFSL participants and confirm professional indemnity insurance for all member services provided Development of an online portal for quality reviewers to communicate audit findings with the association, which anticipates an increase in speed and effectiveness. <i>Risk analysis</i> Reporting innovative risk mitigation activities in response to emerging professional and consumer risks identified from reviewing your Professional Standards Scheme Risk Management Strategy and Plan for Managing Risk, including: - Changes to regulations for member CPD including a minimum level of ethics training - Quality reviewer access to an online portal - Continuing quality reviews of participants throughout COVID-19 via remote access - Digitising exams - Free member access to counselling services. <i>Financial services additional risk reporting</i>

Reporting year	CA ANZ Key initiatives/improvements
	▪ Providing wide-ranging and granular additional risk reporting on financial services provision ▪ Extensive risk mitigation strategies in relation to risks reported in the 2019 report and further risks identified during reporting year ▪ Engagements with external consultants, including insurance brokers, to discuss emerging consumer risks identified by the Professional Standards Councils.

B.3 APIV – Case study 3

B.3.1 Background

Australian Property Institute Valuers Limited (APIV) is an occupational association for property valuers practising in Australia. APIV participants obtain PI cover through a number of different brokers/insurers. The current scheme commenced in September 2021 and allows for a limitation of liability ranging from \$1m to \$20m.

B.3.2 Recent initiatives

Reporting year	APIV Key initiatives/improvements
2017	Developed a new member application which includes clear declaration agreement requiring a member to confirm compliance with the items outlined within the Professional Standards Improvement Program, further reinforced within the confirmation letter from the association reaffirming their scheme compliance obligations.
2018	Maintained effective continuing professional development monitoring requirements and compliance using the annual compliance questionnaire and annual compliance audit. ▪ Required participants to upload details of their development annually to their online system. <i>Insurance standards (Section 2.4)</i> ▪ Working with participants to achieve compliance in sufficiency of cover and excess higher than the standard. This section was well monitored using the annual compliance questionnaire. Also monitored via Annual Compliance Audit (from PSIP) Used annual compliance questionnaire to monitor professional indemnity insurance data from both participants and brokers effectively. <i>Notification and claims data</i> ▪ Maintained detailed notifications and claims data, as well as comprehensive root cause analysis, trend analysis and links to risk management strategies. ▪ All claims and notifications data recorded on a comprehensive database. Conducted an organisational and operational capability review throughout 2018 to align strategy with organisational functions and structure and address evident capability skills gaps.

Reporting year	APIV Key initiatives/improvements
2018/19 Professional Standards Councils' Annual Report	<i>Improved initiatives</i>
	■ All APIV Registers updated and enhanced; all forms, letters and email templates updated and enhanced ■ Improvements made to questionnaire (requiring participants to provide info regarding the monetary ceiling of each company where there is a group of companies) ■ Smooth transition into and commencement of the APIV scheme in Tasmania ■ Conversion of APIV by-laws to participant policy ■ Website reviewed and updated with additional resources.
	The Councils approved one amendment to a scheme during the reporting period, for the Australian Property Institute Valuers Ltd. The amendment demonstrated the association's recognition of a changing risk environment. ■ Amendment created a new monetary limit based on a type of lower risk work 'low risk valuation' monetary limit. ■ Applied a risk-based methodology to determine the applicable monetary limit for those participants who undertake valuations that have a low incidence of claims or have claims of a lower value. ■ The amendment encourages participants of APIV to consider the risks inherent in their valuation work and use this to inform their PI requirements.
2019	<i>Monitoring</i> ■ Monitoring of scheme requirements, including member insurance standards, through the Compulsory Compliance Questionnaire at renewal, in applications and in the Annual Compliance Audit. ■ 100% review rate of participant applications and renewals for scheme compliance <i>Risk management</i> ■ Identification of emerging threats in industry of technology and cyber risk through reviews and improvements made to APIV's Risk Register and Risk Management Framework ■ Developed a new cyber risk management solution 'cyber solution' for participants comprising a suite of cyber risk identification and mitigation tools, including a tailor-made cyber insurance policy. <i>Root cause analysis</i> ■ Implementation of root cause analysis to risk management systems and professional indemnity claims data. ■ Bolstered by APIV's Compulsory Compliance Questionnaire and scheme governance, root cause analysis was incorporated coherently to notifications and claims data received from scheme participants. ■ APIV responded to this analysis through risk management actions including member education and enforcement of continuing professional

Reporting year	APIV Key initiatives/improvements
2019/20 Professional Standards Councils' Annual Report	development requirements. The Councils worked with the Australian Property Institute Valuers Limited (Valuers) to incorporate the Councils' guidance on Model Code of Ethics Principles into a training module as part of the Valuers participants' continuing professional development (CPD) program. The Councils commended the Valuers' efforts in advancing their self-regulatory initiatives and invited an ongoing dialogue with the association to consult on developments in professional ethics.
2020	Reviewed many forms, processes and templates that communicated member scheme obligations as part of their continuous improvement approach. Some included: 2020 Compulsory Compliance Questionnaire implemented as of 1 January 2020 – Various improvements have been made to this year's Questionnaire (e.g. question requiring participants to provide information regarding the Monetary Ceiling of each company where there is a group of companies). - Claims Information Form – This Form is to be used by a member reporting the details or a notification or claim relating to valuation of real property to the APIV. Improvements have been made to this form to capture more in-depth information such as the purpose of valuation work and, where relevant, hold harmless/release/indemnity provisions were incorporated into the retainer agreement. APIV consistently reports comprehensive professional indemnity insurance claims data informed by a detailed claims notification system for their participants. The Valuers fully utilised the benefits of obtaining the data by undertaking in-depth analysis and using insights to inform risk management strategies, including: - The various member alerts and weekly member news items regarding trends identified and risk management strategies - The ongoing enforcement and review of CPD requirements, including the annual completion of an online module on the Standing Instructions annually and the RMM, which must be completed by all valuers every three year - Collection of valuation data from APIV member firms as of 2020 to enable a deeper understanding and analysis of claims and notifications data. Currently reviewing their complaints and discipline process as part of their scheme compliance plan.

Appendix C Data

C.1 Data listing

The main sources of data for this report are shown in the following sections.

C.1.1 Data for previous report

The charts reference data up to 2020 from our previous report. The data used is shown in Appendix C of our previous report.

C.1.2 Data for this report

We have used the following data sources:

- 2021 APRA NCPD data
- APRA's NCPD ANALYSIS report *Review of claims trends and affordability of public liability and professional indemnity insurance in Australia* (May 2023)
- Scheme PSIP reports
- URBIS 2020 National Profile of Solicitors report.

Appendix D Details of our analysis

The details of our performance metrics used in the analyses are shown below.

D.1 Comparisons against APRA NCPD benchmarks

Industry benchmarks were constructed from the 2021 APRA NCPD data for the three occupation groups Legal (for LSNSW), Financial (for CA ANZ) and Real Estate (for APIV).

The performance metrics for the schemes and benchmarks are shown in the table below.

Performance metric	Schemes	Benchmark ^(b)
Claim frequency	Reported claims/membership count	Reported claims/ risk count
Settlement frequency	Settled claims/membership count	Finalised claims/ risk count
Claim size	Reported incurred/claim count	Reported incurred/ claim count
Settlement size	Finalised amount/finalised count	Finalised amount/ finalised count
Reported loss ratio	Reported incurred/premium revenue ^(a)	Reported incurred/ GWP
Average premium	Premium revenue/membership count ^(a)	GWP/risk count

Notes to the table:

(a) Available for only LSNSW

(b) Benchmarks were typically scaled to enable a clear comparison of trends between the scheme and benchmark



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