



5 September 2014

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
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Parliament House
Canberra ACT 2600

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Dear Sir/Madam

INQUIRY INTO PROPOSALS TO LIFT THE PROFESSIONAL, ETHICAL AND EDUCATION STANDARDS IN THE FINANCIAL SERVICES INDUSTRY

The Insurance Council of Australia¹ (Insurance Council) welcomes the opportunity to participate in the Committee's inquiry into proposals to lift the professional, ethical and education standards in the financial services industry (the Inquiry). The Insurance Council supports initiatives to enhance the competence and standing of professionals in the industry.

Our submission focuses on the first part of the Inquiry's terms of reference; specifically, the adequacy of current qualifications required by financial advisers. The Insurance Council has participated in consultations initiated by the Australian Securities and Investments Commission (ASIC), including CP 212 and CP 153, and our comments here are consistent with our submissions made to these consultations.

In relation to the second part of the terms of reference, on mandated professional standards or rules of professional conduct governing financial advisers, we note that the *General Insurance Code of Practice* is the longstanding code that governs the professional and ethical behaviour of professionals in the general insurance industry, including employees and representatives authorised by insurers to provide advice to retail clients. The code is widely recognised as setting the benchmark for industry self-regulation in Australia, and promotes the continuous improvement of the industry through appropriate education and training.

As a general comment relevant to the approach which the Committee will take in its deliberations, the Insurance Council would urge the Committee to make a clear distinction between issues relevant to insurance brokers/advisers and those concerning financial planners. Reflecting the Corporations Act, the Inquiry's terms of reference use the term

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. March 2014 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$41.4 billion per annum and has total assets of \$111.5 billion. The industry employs approximately 60,000 people and on average pays out about \$111 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).



'financial adviser' in a broad sense that includes insurance advisers. However, the risks associated with a general insurance product are very different to other investment-based products such as superannuation, margin lending or funds management. Further, financial planners usually advise on a range of products (ranging from investment-based to general insurance products) and are required to have the requisite knowledge and product expertise across these products. In contrast, brokers and other insurance advisers frequently only advise on general insurance products and some advisers adopt a general advice only model.

Current training requirements for 'Tier 2' GI products appropriate

Currently, most general insurance (GI) products are regulated as 'Tier 2' products under ASIC Regulatory Guide (RG) 146, which attract less comprehensive requirements due to the simple nature of these products. Advisers providing general and personal advice on Tier 2 products are currently required to attain an education level equivalent to the 'Certificate III' level under the Australian Qualifications Framework (AQF).

The Insurance Council considers the current AQF Certificate III level, which is targeted to entry level employees who respond to customer enquiries in a sales and service environment, is appropriate in light of the advice offered in the GI industry. GI advisers typically provide general advice on product features, including scope of cover, sum insured, premium, excesses, exclusions and any endorsements to cover. Where personal advice is provided, it is generally routine in nature, for example, a sales and service consultant recommending the selection of insurance excess based on the customer's claims history. This type of scaled personal advice is quite simple to provide and usually given over the phone by sales and service staff members.

There is no evidence to suggest that there is an issue with Tier 2 advice. We note that ASIC has proposed increased education requirements for Tier 2 advisers in CP 212 to prevent an increased gap between Tier 1 and Tier 2 advisers. However, we submit that any increase in education and training requirements pertaining to Tier 2 products require a much more considered analysis of any shortcomings specific to the requirements for these products.

If staff advising in relation to Tier 2 products were required to increase mandatory education as proposed in CP 212, this would lead to substantial changes to members' training programs with significant additional cost. One insurer has estimated that the proposals in CP 212 would increase training costs by approximately \$3,000-\$4,000 per adviser. This could be an unsustainable cost in the call centre operating environment and we understand may lead to some insurers adopting a no advice operating model throughout their general insurance operations. Such an outcome would hinder the accessibility of advice to retail clients.

The appropriate classification of GI products

Personal sickness and accident insurance

Personal sickness and accident (PSA) insurance is the only GI product currently classified as a 'Tier 1' product under RG 146. This classification has been an ongoing concern for our members.

ASIC's rationale for the Tier 2 level of training for GI products is set out in RG 146 at 146.39. RG 146 states while general insurance products carry certain risks, they are relatively



straightforward, do not have any investment component, are subject to standard terms and conditions except for previously disclosed variations, and are of limited life, often 12 months.

However RG 146 at 146.40 provides that in the case of PSA insurance products, these are ranked as Tier 1 because:

In contrast to Tier 2 products, personal sickness and accident insurance may be complex and the choices a client makes may have an increased potential to impact significantly on the client's financial situation. As a result, we believe that clients place greater reliance on an adviser's competence for advice on these products. Further, our regulatory experience has led us to conclude that a higher standard of training is required to advise on this type of product."
(our emphasis)

However, the Insurance Council submits that PSA insurance is not more complex than other GI products.

The trigger for cover is the happening of a defined accident and/or illness during the period of insurance. If an accident or sickness results in disablement (partial or total), which are clearly defined, or a number of listed events, then the insured receives a benefit. These events are usually clearly set out in a table with the benefit amount and include events such as death, broken bones and loss of sight.

There are exclusions for pre-existing conditions, but these are also found in types of policies that ASIC does not consider complex such as travel insurance and which are also commonly understood in the context of private health insurance.

PSA insurance also shares the characteristics of other GI products referred to by ASIC in its reasoning that these products should be Tier 2: they have a set period of cover (legally they cannot be for a period of more than 12 months), no investment component and largely standard terms and conditions. In addition, they can generally be cancelled at any time and changed at renewal (and sometimes during the period of insurance).

We believe PSA's current classification as a Tier 1 product is based on a mistaken impression that PSA is similar to life insurance. The Insurance Council submits that there is currently not an appropriate distinction being made between the nature of the PSA product sold by general insurers and those by life insurers.

Key differences relate to:

- Duration: PSA is limited to annual contracts;
- Assessment process: PSA does not require medical assessment however life insurers will;
- Premium: reflects that the benefits are limited in duration.

Insurance Council members advise they typically offer PSA as part of a broader general insurance package for farms, small businesses and tradespersons. Members have highlighted that the current classification results in a complex situation where advice can be provided on some aspects of an insurance package (Tier 2 components) but not the PSA



component. This means the Tier 1 classification, which was intended to improve the quality of advice, has the perverse outcome of preventing advice and consumers make cover choices without the benefit of an opinion or recommendation from a knowledgeable insurance adviser.

The Insurance Council submits for these reasons it is inappropriate to require advisors of PSA products to undertake the same level of training as advisers of more complex products in the areas of financial planning, securities, derivatives, managed investments, superannuation, life and broking insurance. Furthermore, current Tier 1 requirements impose an unnecessarily high training burden given that general insurance staff would spend generally at most 5% of their time on PSA products with the rest taken up with Tier 2 products.

The Insurance Council strongly supports the reclassification of PSA insurance as a Tier 2 product. This would align PSA with all other general insurance products, encouraging advice, while streamlining and reducing compliance costs.

Consumer credit insurance

We are concerned about, and strongly object to, previous proposals put forward by ASIC to reclassify consumer credit insurance (CCI) from being a Tier 2 to a Tier 1 product. If CCI were to be reclassified, there would be significant commercial repercussions for insurers which may necessitate insurers moving towards a 'no advice' model when selling these products. This would have a perverse outcome of reducing assistance available to consumers and have a detrimental impact on consumer understanding.

ASIC has cited the complexity of CCI and recent reviews in support of its reclassification proposal. We note that since ASIC's review of CCI in 2011, general insurers have made a range of improvements responding to ASIC's recommendations. We also note that many of the concerns identified are in relation to point of sale disclosure issues and the provision of ongoing information, where enhancements to product information would have a much more direct impact than increases in education requirements.

The Insurance Council has worked proactively with ASIC in exploring the benefits of a new disclosure document tailored to individual CCI products that would serve as an additional tool in the selling process, however the product is distributed (for example, through banks or motor dealers). This work is currently on hold pending the outcome of the Committee's Inquiry.

We are concerned that views about the complexity of CCI are informed by a misunderstanding about the material differences between CCI and life products. Although maintaining some similarities in terms of events for which protection is provided, there are some key differences that should be considered.

CCI has a simple application process. Our members advise there are no blood tests or medical examinations required. CCI protects the financial obligations of a customer against acquired debts in the event of sickness, accident, involuntary unemployment, or passing away. The cover generally provides a single payment to clear a debt in the event of death and sickness/disability and with unemployment will either clear or pay out the debt depending on the claim circumstances.



Life insurance, however, provides customers with the opportunity of providing ongoing financial security for an insured's family or an income stream to their beneficiaries. Solutions can also be tailored to a customer's individual circumstances and needs (for example, through individual underwriting, premium structure).

Consistent with the characterisation of simple Tier 2 products in RG 146, CCI does not carry an investment component, has a limited duration and is subject to a cap on commissions. Having regard to these characteristics, a higher level of training and expertise is warranted for advisers who engage in life insurance discussions with clients, than those that engage in CCI protection discussions.

Reclassification of CCI may not achieve the more informed decision making by consumers sought by ASIC. Rather, it may lead insurers to either partly factor the cost increase into the product, move away from advice distribution models or discontinue the product altogether.

The need for a nuanced and targeted approach to reform

We note that the catalyst to the recent reform proposals was the recommendation by the Committee, in its 2009 inquiry into financial products and services (the Ripoll inquiry), for the minimum training and qualification standards for financial advisers to be raised. This recommendation was based on observations made in relation to shortcomings of advice provided in relation to complex investment products. Subsequent reform proposals have not incorporated any meaningful distinction between these products and those that are less complex in nature, such as GI products.

Our experience is that a 'one size fits all' training model does not work effectively for general insurance. The problematic nature of such an approach is highlighted by proposals in CP 212 to mandate a number of additional generic knowledge requirements for Tier 1 products, including PSA insurance. The proposed additional areas of knowledge for example, budgeting, financial structures and taxation implications, life stages and their characteristics, and concepts in behavioural economics do not have specific or sufficient relevance to PSA insurance to support the associated costs that would be necessary to meet the increased standards.

We are also concerned that recent proposals have blurred the distinction between personal and general advice. For example, CP 153 proposed an enhanced assessment and professional development framework, including a mandated national exam, applying to personal as well as general advice. It is not clear what benefit there is in requiring employees that only provide specified general information – that is, they do not exercise discretion or tailor information to a client's circumstances – to sit a national exam.

On the matter of advice definitions, it is worth noting the Financial Systems Inquiry's Interim Report asked for feedback on the merits of amending the general advice definition in the Corporations Act, perhaps relabelling it as product information. In view of the unsatisfactory operation of the general advice definition, the Insurance Council submission on the Interim Report supported a comprehensive review with the goal of separating out the disparate elements currently covered within the one definition.

While it may be appropriate for increased education proposals to apply to personal advice on Tier 1 products, the case has not been made for such proposals to also apply to general advice or advice on Tier 2 products. For simple products, or where personal circumstances



are not taken into consideration, it is reasonable to consider that a lower training standard is warranted. This will ensure that reforms are targeted to the issues originally identified by the Ripoll inquiry.

If you have any further questions or comments please contact John Anning, Insurance Council's General Manager Policy, Regulation Directorate on tel: [REDACTED] or email: [REDACTED].

Yours sincerely

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