

GENERAL INSURANCE CODE OF PRACTICE – 2017 REVIEW

Terms of Reference

Background

The General Insurance Code of Practice (Code) requires the Insurance Council of Australia (ICA) to commission formal independent reviews of the Code from time to time. A thorough independent review of the Code was undertaken in 2012-13 by Mr Ian Enright, with significant stakeholder consultation.

The Code was subsequently significantly amended to incorporate recommendations made by Mr Enright, and the current revised Code commenced on July 1, 2014, with a 12-month transition period.

In addition to formal independent reviews of the Code, the ICA can review the Code on an ad hoc basis in consultation with stakeholders. In light of recent external developments impacting the general insurance industry since the commencement of the 2014 Code, the ICA Board has instructed the ICA to carry out a further, more targeted review of the Code.

Recent developments

Relevant recent and ongoing reviews, reports and developments include:

- The Federal Government's December 2016 Proposals Paper on product design and distribution obligations and ASIC's product intervention power, in response to recommendations of the Financial System Inquiry
- The Senate Inquiry into the general insurance industry, due to report on June 2017
- The Senate Inquiry into consumer protection in the banking, insurance and financial sector, due to report on March 30, 2018
- The independent review of the financial system external dispute resolution framework, due to report by March 31, 2017
- ASIC's 2016 reports on the sale of add-on insurance through motor vehicle dealers
- ASIC's 2016 report on its industry-wide review of life insurance claims
- ASIC's Enforcement Review Taskforce's pending consideration of the adequacy of ASIC's enforcement regime in relation to industry codes of conduct to deter misconduct and foster consumer confidence
- The findings of the ICA's consumer research into effective disclosure of product information
- The commencement of the Financial Services Council's Life Insurance Code of Practice in October 2016, which includes provisions concerning product design and disclosure, vulnerable consumers, sales practices and advertising, CCI-specific sales and disclosure requirements, and restrictions on claimant interviews and surveillance
- The Australian Bankers' Association's independent review of the Code of Banking Practice-
- The ICA's Effective Disclosure Taskforce's recommendation to develop guidance on the principles of transparency in fulfilling the Code's objectives of more informed relations between insurers and their customers, and the promotion of trust and confidence in the industry

- The General Insurance Code Governance Committee's ongoing own-motion inquiry into claims investigations and outsourced services
- Mental Health First Aid Australia's recently released principles for working with people with mental health problems and financial difficulties

Scope of review

Taking into account the Code objectives, and the above recent developments, the review of the Code will consider the operation and effectiveness of:

- Section 4: Buying insurance
- Section 5: Standards for employees, authorised representatives and authorised financial services licensees acting on behalf of a Code subscriber
- Section 6: Standards for service suppliers
- Section 7: Claims
- Section 8: Financial hardship
- Section 10: Complaints and disputes
- Section 13: Monitoring, enforcement and sanctions

The review should also consider expansion of the scope of the Code in response to any of the above listed reports, reviews and other industry codes.

In addition, the review should consider the extent to which the Code complies with the requirements of ASIC's *Regulatory Guide 183: Approval of financial sector codes of conduct* (RG 183) and the implications of seeking approval of the Code from ASIC.

The review may consider any other matter relevant to the Code, and it must take into account changes in law and practice since the 2012-13 independent review.

The review must specifically take into account any relevant recommendations or findings concerning the conduct of insurers from ASIC, the Financial Ombudsman Service (FOS) and the Code Governance Committee (CGC).

Process

The ICA will be responsible for carrying out the review.

The ICA must consult during the course of the review and in relation to any proposed findings or recommendations with:

- The ICA's National Code Committee
- The ICA's Consumer Liaison Forum
- The CGC
- ASIC
- Financial Ombudsman Service

The ICA may consult with any other organisation or individual as it sees fit, and may seek expert advice on specific matters as it sees fit.

The ICA must provide a quarterly report to the ICA Board on the progress of the review until its conclusion.

The review may be conducted in stages as appropriate in order to take account of forthcoming external reports or reviews.