

Name (of submitter):

Independent Review Initial Consultation Paper: list of consultation questions

Key areas to be considered	Response
<b>2.1 Financial Hardship</b>	
<p>2.1 <i>Does the Code provide adequate protections to ensure customers facing financial difficulties are obtaining suitable and appropriate assistance from insurers? If not, how can it be improved?</i></p> <p><i>For example:</i></p> <p>(a) <i>Should the Code adopt the expectations identified by ASIC relating to financial hardship? If not, why not?</i></p> <p>(b) <i>Should the Code more explicitly address financial hardship in relation to the payment of premiums or distinguish between assistance available to those with short-term financial hardship, compared to those for whom financial hardship is more entrenched. If so, how?</i></p>	
<p>2.2 <i>How can the Code and/or its administration encourage greater compliance with financial hardship obligations, particularly where third party debt collectors are involved?</i></p>	
<p>2.3 <i>Are other mechanisms more appropriate than the Code to address issues related to the assistance insurers provide customers facing financial hardship, and if so, what and why?</i></p>	
<b>2.2 Customer vulnerability</b>	
<p>2.4 <i>Is the Code in line with community expectations regarding customer vulnerability? If not, how can it be improved? For example:</i></p>	

Key areas to be considered	Response
<p>(a) <i>Should the Code promote inclusive product and service design to better address customer vulnerability? If so, how?</i></p> <p>(b) <i>Are there other types of vulnerability or disadvantage that need to be more explicitly addressed by the Code?</i></p> <p>(c) <i>How could the Code require or encourage better identification of potential vulnerabilities, other than at the point of claim? Should the assumption of vulnerability in the Code be reversed in certain situations such as those involving trauma? If so, how could the Code be amended to achieve this?</i></p> <p>(d) <i>How should the Code promote enhanced responses to customers experiencing heightened levels of vulnerability, particularly during a catastrophe?</i></p>	
<p>2.5 <i>How can the Code and/or its administration encourage greater compliance with vulnerability obligations?</i></p>	
<p>2.6 <i>Are other mechanisms more appropriate than the Code to address issues related to the assistance insurers provide vulnerable customers and if so, what and why?</i></p>	
<p><b>2.3 The Code and the law</b></p>	
<p>2.7 <i>How effectively does the Code interact with the law and how, and in what areas, could this be improved?</i></p> <p>(a) <i>Are paragraphs 18 and 20 of the Code sufficient to manage any conflict or inconsistency between the Code and the law? What changes would you propose to these paragraphs, if any, and why?</i></p>	

Key areas to be considered	Response
<p>(b) <i>Are there any paragraphs of the Code that should be amended or removed due to subsequent regulatory changes? If so, which paragraph and why?</i></p>	
<p>2.8 <i>How can the Code go beyond the law? And would it be appropriate to do so?</i></p> <p><i>For example:</i></p> <p>(a) <i>Paragraph 21 of the Code and the general obligation of AFS Licensees to provide financial services efficiently, honestly and fairly.</i></p> <p>(b) <i>Paragraphs 28 and 38 of the Code and the general obligation of AFS Licensees to ensure representatives are adequately trained and competent to provide the financial services.</i></p> <p>(c) <i>Paragraph 43 of the Code and design and distribution requirements relating to financial products for retail clients.</i></p> <p>(d) <i>Paragraph 79 of the Code and the Cash Settlement Fact Sheet.</i></p> <p>(e) <i>Part 11 (Complaints) of the Code and enforceable paragraphs of RG 271.</i></p>	
<p>2.9 <i>In which areas could the Code help Code subscribers meet legal obligations by setting out good practice?</i></p>	
<p><b>2.4 Retail insurance and wholesale insurance</b></p>	
<p>2.10 <i>Should the application of the Code to retail and wholesale insurance – and in particular small and medium sized enterprises (SMEs) – be reviewed and if so, how?</i></p>	

Key areas to be considered	Response
2.11 <i>If there were different application for SMEs, should the Code adopt the AFCA definition of an SME as an organisation with less than 100 employees?</i>	
2.12 <i>Should the Code distinguish between the commitments of insurers for consumers dealing directly with an insurer and those who have an intermediary (including insurance brokers) acting on their behalf? If so, how?</i>	

Other parts of the Code	Response
<b>3.1 Key obligation – honest, efficient, fair, timely and transparent</b>	
3.1 <i>Do you have any feedback on the practical operation of the over-arching obligation in paragraph 21, including whether the Code could expand on what ‘honest, efficient, fair, transparent, and timely’ means, in the context of general insurance?</i>	
3.2 <i>Do you consider that paragraph 21 is restricted in its operation by paragraph 22, and if so, why? How could this be addressed?</i>	
<b>3.2 Standards for Employees and Distributors</b>	
3.3 <i>Do you have any feedback about the practical operation of Part 4 of the Code, including the relevant definitions in Part 16? Does it deal effectively with ensuring that Code subscribers are accountable for the conduct of their employees and distributors?</i>	
3.4 <i>Should the Code be more prescriptive on the training requirements for employees, distributors and service suppliers? If so, how would the Code achieve this given the different and varied roles across the industry?</i>	

Other parts of the Code	Response
<b>3.3 Standards for Service Suppliers</b>	
3.5 <i>Do you have any feedback about the practical operation of Part 5 of the Code, including the definition of Service Supplier in Part 16? Does it deal effectively with ensuring that Code subscribers are accountable for the conduct of their Service Suppliers?</i>	
3.6 <i>The provision of Claims handling and settling services for insurance products is now included in the definition of a 'financial service' in the Corporations Act 2001. What impact has this had, if any, on the operation of Part 5? Does Part 5 need to be amended given the changes to the law and if so, how?</i>	
<b>3.4 Buying and cancelling an insurance policy</b>	
3.7 <i>Do you have any feedback on the practical operation of Part 6 or 7 of the Code? Do these Parts deal effectively with consumer issues or concerns around purchase, renewal and cancellation processes?</i>	
3.8 <i>What has been the interaction between the Code commitments and recent law reforms, such as the Design and Distribution Obligation and the deferred sales model for add-on insurance? What changes or clarifications to the Code would be helpful, including to deal with the phasing out of cheques?</i>	
<b>3.5 Claims Handling</b>	
3.9 <i>Do you have any feedback about the practical operation of Part 8 of the Code and its effectiveness in protecting consumers during the claims process? What improvements, if any, to Part 8 of the Code would be desirable, particularly in</i>	

Other parts of the Code	Response
<p><i>light of recent law reforms such as the inclusion of claims handling as a financial service?</i></p>	
<p><b>3.10</b> <i>How could the Code be enhanced to improve understanding and better protect customers where cash settlements are used? For example:</i></p> <p>(a) <i>Should the Code be more prescriptive in outlining better practice in administering the legal requirements for cash settlement payments?</i></p> <p>(b) <i>Should paragraph 79 be extended to all cash settlement payments?</i></p> <p>(c) <i>Should the Code mandate consideration of a contingency uplift factor for cash payments over a certain dollar value to better manage the risk of higher repair costs?</i></p> <p>(d) <i>How could the Code assist in consumer understanding of cash settlement payments, the risks associated with the same, and the need to obtain independent advice before accepting the cash settlement?</i></p>	
<p><b>3.11</b> <i>Should the Code prescribe minimum content requirements for external experts' reports (including Scope of Works) or are their other mechanisms that would better address concerns about the quality, consistency and accessibility of experts reports?</i></p>	
<p><b>3.12</b> <i>In what circumstances if any, should the Code allow insurers to vary the prescribed Code timeframes in paragraphs 68-71 and 76-77?</i></p>	
<p><b>3.6 Complaints</b></p>	
<p><b>3.13</b> <i>Do you have feedback about the practical operation of Part 11 of the Code relating to complaints, or have any suggestions for how it could be enhanced for the benefit of consumers?</i></p>	

Other parts of the Code	Response
3.14 <i>Do the Code commitments relating to complaints need to be amended or clarified in light of ASIC's new guidance on internal dispute resolution, including its imposition of enforceable standards?</i>	
3.7 Other Feedback	
3.15 <i>Do you have feedback on the practical operation of the Code that is not covered elsewhere?</i>	

Emerging issues	Response
4.1 Affordability	
4.1 <i>Is it appropriate for the Code to address affordability issues, such as those outlined above? If so, how might this be done without raising competition law concerns or creating an expectation that insurers will provide regulated personal financial advice?</i>	
4.2 Helping reduce risks	
4.2 <i>Should the Code include provisions that encourage or require insurers to respond to consumers risk-mitigation efforts where appropriate and reasonable? If so, how might the Code do this?</i>	

Code structure, enforceability and governance	Response
5.1 Structure of the Code	
5.1 <i>Should the primary audience for the Code be insurers? Or is it consumers and other stakeholders? Considering these questions, would it be appropriate to revise the structure and content of the Code to more appropriately reflect its intended audience or audiences? If so, how?</i>	

<p>5.2 <i>For which sections of the Code, if any, would more detail (similar to Part 15) be helpful and why? For example, would there be merit in providing more detail in relation to the conduct of employees, distributors and services suppliers?</i></p>	
<p><b>5.2 Code governance and compliance</b></p>	
<p>5.3 <i>What measures would improve governance of the Code and promote enhanced compliance with Code commitments? In particular:</i></p> <p>(a) <i>Are the sanctions in Part 13 a sufficient deterrent to misconduct. Should they be strengthened? If so, how?</i></p> <p>(b) <i>A number of the sanctions available to the Code Governance Committee are restricted to a significant breach of the Code (defined in Part 16). Should the additional sanctions in paragraph 174 apply to any breach of the Code?</i></p> <p>(c) <i>Should the Code definition of 'significant breach' be aligned to the ASIC reportable situations regime, in RG 78 and if so, how?</i></p> <p>(d) <i>The CGC is only able to require a Code subscriber to publish the fact that the subscriber has committed a significant breach of the Code. Should the CGC be able to name subscribers that commit a substantial breach? Should this additional sanction apply to all Code breaches? What other transparency mechanisms may better promote Code compliance?</i></p>	
<p>5.4 <i>Does the requirement to report significant breaches of the Code to the CGC duplicate or create inefficiencies related to the obligation on AFS Licensees to report reportable situations to ASIC? If so, how should this be managed given the role of the CGC in monitoring and enforcing the Code?</i></p>	
<p><b>5.3 Enforceable Code Provisions</b></p>	



<p>5.5 Which provisions of the Code could be considered for designation as Enforceable Code Provisions and what changes to the Code would be needed to support that?</p>	
--	--