



# General Insurance Code of Practice Consultation

**KPMG Response**

**May 2024**



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To whom it may concern

## **KPMG Response to General Insurance Code of Practice (GICOP) Consultation.**

As a leading professional services firm, KPMG Australia (KPMG) is committed to meeting the requirements of all our stakeholders – not only the organisations we audit and advise, but also employees, governments, regulators, and the wider community.

We strive to contribute to the debate that is shaping the Australian economy and welcome the opportunity to provide a submission in response to the proposed changes to the General Insurance Code of Practice ('**Code**').

Our KPMG risk advisory practice has supported several general insurance organisations in responding and complying to the existing Code and are committed to supporting the changes which are proposed to drive positive customer outcomes for the sector and insurance industry more broadly.

We enclose for your consideration KPMG's feedback on the key areas requested as part of the consultation process.

We would like to draw particular focus to our recommendation for the Code Review Panel to consider how greater change control can be enforced to ensure that customer outcomes are appropriately considered and delivered. We raise this point with a particular focus on innovation, which is testing traditional regulatory boundaries as new processes and models emerge, such as the use of AI and technology solutions to enhance product and service offerings. We feel the inclusion of minimum requirements in relation to change will assist with the Codes purpose of meeting customer and community expectations.

We welcome a discussion on any of the perspectives we have shared and look forward to seeing how the consultation and changes evolve to drive positive customer outcomes in the Insurance sector.

Yours sincerely,

**Kathleen Conner**

Partner

	Key Areas	Questions	KPMG Response
2.	<b>Key areas to be considered</b>		
2.1	<p><b>Financial Hardship</b> – support for customers and third-party beneficiaries in urgent financial need or experiencing financial hardship, especially having regard to a catastrophe context. identifying those facing financial hardship, timeframes for determining who qualifies for assistance and how insurers handle debt collection procedures.</p>	<p>Q2.1 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?</p> <p>For example:</p> <p>(a) Should the Code adopt the expectations identified by ASIC relating to financial hardship? If not, why not?</p> <p>(b) 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?</p>	<p>KPMG believes there is a balance to be struck between the onus of the insurer, in the execution of assistance, and the process of connecting customers to the right for assistance to be provided.</p> <p>For example, an insurer is able to expedite a claim or offer an ex-gratia payment in lieu of an end-to-end claims assessment, however we wouldn't expect insurers to be establishing detailed and robust financial advice mechanisms – with consideration to what is reasonably within the control and executable for Insurers, we feel that the current Code allows for adequate protections.</p> <p>a) Yes, we believe there is a correlation between emphasizing the requirements which results in stronger customer outcomes, as typically the Code is concentrated on by operational resources.</p> <p>b) Yes, we believe there is benefit in insurers identifying short term hardship needs, opposed to ongoing vulnerabilities which need more intense and bespoke management/oversight. For example, we would expect that an insurer would have a different approach for claims settlements for a financial hardship disclosure which is</p>

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		<p>Q2.2 How can the Code and/or its administration encourage greater compliance with financial hardship obligations, particularly where third-party debt collectors are involved?</p>	<p>driven by a claim opposed someone who is unable to make periodic premium payments.</p> <p>We would encourage the Code to consider under the current requirements contained within paragraph 174 (c) greater robustness in the allocation of financial consequences. At present, the approach does not consider the spectrum of the customer impact, meaning in some cases this may be perceived as a cost to comply opposed to a deterrent.</p> <p>We would encourage the CGC to consider a greater spectrum of metrics when awarding a penalty to achieve the intended customer outcomes of the Code, these may involve:</p> <ul style="list-style-type: none"> <li>a) Organisational size</li> <li>b) Impact of the breach</li> <li>c) History of breaches</li> <li>d) Customer detriment</li> <li>e) Response and timeliness to remedy customer detriment</li> </ul>
		<p>Q2.3 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?</p>	<p>We see it as the reinforcing effect of ASIC, the ACCC and the Code.</p>
<p><b>2.2.5</b></p>	<p><b>Customer Personal Insolvency –</b> Consumer advocates have also raised concerns about insurance denials for non-disclosure of a past insolvency event (such as bankruptcy or debt agreement).<sup>39</sup> Concerns include that insolvency is unrelated to the risk being insured (i.e., home, contents</p>	<p>Q2.4 Is the Code in line with community expectations regarding customer vulnerability? If not, how can it be improved?</p> <p>For example:</p>	<p>We believe the Code is broadly in line with community expectations, however we would encourage greater focus to be placed on the identification of vulnerabilities which are outside of the claims process. For example, we have seen little proactive management of serial Pay by the Month defaults, to offer Product based</p>

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	<p>or motor vehicle insurance), or that customers were not aware that debt agreements are a form of personal insolvency at the time the disclosure was sought by the insurer. The Review Panel is interested in views about whether and how the Code might respond to these concerns, and whether there are other questions insurers ask at the point of sale or renewal which may create or exacerbate vulnerabilities. The Review Panel also seeks feedback on whether this issue is best dealt with outside the Code.</p>	<p>(a) Should the Code promote inclusive product and service design to better address customer vulnerability? If so, how?</p> <p>(b) Are there other types of vulnerability or disadvantage that need to be more explicitly addressed by the Code?</p> <p>(c) 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.</p> <p>(d) How should the Code promote enhanced responses to customers experiencing heightened levels of vulnerability, particularly during a catastrophe?</p>	<p>solutions for customers who may not understand the product or have the appropriate level of financial literacy to comprehend the reoccurring nature of the payment frequency.</p> <p>In relation to the specific questions raised:</p> <p>a) We believe the Design and Distribution Obligations provide the guidance required over Product design, however we would encourage 'Service Design' to be an area that the Code considers. For example, the introduction of formalized call back metrics if enquiries are not able to be resolved at first point.</p> <p>b) No, we believe the nature of vulnerabilities will continue to evolve and that the nature of the Code is designed to address the response of insurers rather than defining the various vulnerabilities.</p> <p>c) We believe that the Code should consider introducing the requirement for the detective and preventative controls throughout the insurance value chain which also addresses policy servicing, distribution, renewal maintenance and claims. We note that many organisations could enhance their business practices to provide avenues for customers</p>

	Key Areas	Questions	KPMG Response
			<p>experiencing vulnerability to have greater accessibility, but in many cases Policy design restricts this. For example, the process of reducing excesses mid-term on policies to reduce premiums is something product design often doesn't allow for – which we agree with for the majority of policyholders, however, would like to see greater flexibility as a response to managing vulnerable customers on an 'as needed' basis.</p> <p>d) In the instance of catastrophes, there are a number of agencies involved, and this is typically when the industry experiences the greatest degree of challenges in meeting Code obligations. Therefore, we wouldn't recommend adding additional clauses at the time of a catastrophe and would encourage the ICA to continue to play an active role in communicating the expectations at the time of an event.</p>
		Q2.5 How can the Code and/or its administration encourage greater compliance with vulnerability obligations?	See response to question 2.2
		Q2.6 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?	See response to question 2.3

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2.3	<p><b>The Code and the Law</b> – The Code is designed to work with laws applying to the general insurance industry. It is expected that the Code goes beyond the minimum legal requirements with a view to promoting better practice. A Code can also help subscribers meet the law by setting out good practice steps that meet or exceed legal obligations. There is further commentary on the interaction of the Code and recent legislative changes in later sections. Consideration of enforceable code provisions is covered in section 5 of this paper.</p>	<p>Q2.7 How effectively does the Code interact with the law and how, and in what areas, could this be improved?</p> <p>(a) 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?</p> <p>(b) Are there any paragraphs of the Code that should be amended or removed due to subsequent regulatory changes? If so, which paragraph and why?</p>	<p>As the Code has been in operation for significantly longer than some of the new regimes (Anti Hawking, Design and Distribution Obligations etc.) we appreciate that the landscape has considerably evolved, with a number of other regulatory reforms now superseding Code requirements.</p> <p>a) As we expect the regulatory landscape will continue to evolve, we would recommend an inclusion that where the Code extends beyond the requirements of the current legal instruments, that there is an expectation for Code subscribers to comply with the requirements of the Code above and beyond the legal requirements prescribed by Regulators.</p> <p>b) We would recommend the removal of the requirement to perform services efficiently, honestly, and fairly. This is engrained in the Corporations Act<sup>1</sup>, 2001 and most significant breaches of the Code would render this to be enacted. This doesn't, in isolation, assist with delivering the requirements or intent of the Code.</p>
		<p>Q2.8 How can the Code go beyond the law? And would it be appropriate to do so?</p>	<p>As the Code is an instrument designed to set standards that general insurers must meet when</p>

<sup>1</sup> Corporations Act 2001, General Obligations, page 261

	Key Areas	Questions	KPMG Response
		<p>For example:</p> <p>(a) Paragraph 21 of the Code and the general obligation of AFS Licensees to provide financial services efficiently, honestly and fairly.</p> <p>(b) 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. 43</p> <p>(c) Paragraph 43 of the Code and design and distribution requirements relating to financial products for retail clients. 44</p> <p>(d) Paragraph 79 of the Code and the Cash Settlement Fact Sheet. 45</p> <p>(e) Part 11 (Complaints) of the Code and enforceable paragraphs of RG 271. 46</p>	<p>providing services to their customers, we believe it is appropriate for the Code to go beyond the standards set out in the law.</p> <p>For example, the Code could codify the time period when it is appropriate for s57<sup>2</sup> Interest to be enacted for claims processing delays.</p>
		<p>Q2.9 In which areas could the Code help Code subscribers meet legal obligations by setting out good practice.</p>	<p>See above example of interest application to claims payments delays.</p>
<p><b>2.4</b></p>	<p><b>Retail insurance and Wholesale insurance</b> – The Code generally adopts the Corporations Act definition of retail insurance, and this may result in certain types of commercial policies for small business being defined as wholesale insurance.</p>	<p>Q2.10 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?</p>	<p>KPMG believes that the application of the Code should be reviewed to enhance the focus on customer outcomes. The code should be expanded to emphasize the importance of proactive customer engagement, transparency and clarity in customer communication (formally</p>

<sup>2</sup> Insurance Contracts Act 1984, Interest on claims, page 52



	Key Areas	Questions	KPMG Response
			and informally) and promote processes which build confidence and trust from retail and wholesale clients.
		Q2.11 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?	Yes. Adopting a consistent definition of key regulatory terms is important to avoid incorrect interpretations of the policy across the industry.
		Q2.12 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?	Yes. KPMG believes that although the insurer's commitments to consumers remains consistent, the relationship is fundamentally different. The presence of an intermediary adds an additional layer of complexity for the Manufacturer; therefore, the activities required to support and oversee the actions of the intermediary should be distinguished. This is not dissimilar to the approach adopted in the Design and Distribution Obligations.
3.	<b>Other parts of the code</b> - The previous section highlighted some of the key areas of focus for this review of the Code, as set out in the Terms of Reference. Given the significant changes made to the Code following the previous review, this Review provides an opportunity to consider the practical operation of the 2020 Code and any areas where refinement may be desirable. This section therefore briefly outlines other sections of the Code on which stakeholders may wish to provide feedback. It also highlights some issues noted by stakeholders as part of informal discussions with the Review Panel in the development of this paper.		
3.1	<b>Key obligation</b> - honest, efficient, fair, timely and transparent the primary obligation of the Code is set out in paragraph 21 and commits subscribers (including distributors and service suppliers) to be honest, efficient, fair, transparent and timely. Paragraph 22 sets out how insurers will meet this obligation to consumers and largely reflects (but does not use exactly the same language) as the	Q3.1 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?	KPMG believes it would be difficult and potentially inaccurate to provide practical examples, without leveraging case law precedent. The practical operations are heavily dependent on the size, nature, and context of each unique insurer. KPMG sees greater benefit in enhancing the focus on timely and transparent communications and processes, as the obligations under 91 A of the Corporations Act

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	<p>general obligation in financial services law to provide services 'efficiently, honestly and fairly'. There may be benefit in the Code further articulating what this standard means in the context of general insurance. The Review Panel considers the primary obligation is a vital over-arching commitment of the Code and its subscribers and is interested in feedback on how the provisions are working in practice and whether any change is needed.</p>		manage the remainder (honest, efficient and fair).
		<p>Q3.2 Do you consider that paragraph 21 is restricted in its operation by paragraph 22, and if so, why? How could this be addressed?</p>	<p>KPMG does not consider paragraph 21 to be restricted.</p>
<b>3.2</b>	<b>Standards for Employees and Distributors</b>		
<b>3.2.1</b>	<p><b>Training</b> - Financial services laws require that representatives are adequately trained and are competent to provide the relevant financial services. Other than when providing financial product advice, the Code and laws are non-prescriptive on the nature, amount and type of training required.</p>	<p>Q3.3 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?</p>	<p>KPMG believes that the code establishes the mechanisms aimed at ensuring accountability for the conduct of employees and distributors. However, the effectiveness of these mechanisms relies on an understanding of what constitutes 'appropriate' standards in practice, and how insurers can implement controls to maintain these standards. The Code should look to define minimum standards including expectations around independent oversight of processes, consequence management, and monitoring and reporting.</p>
		<p>Q3.4 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?</p>	<p>KPMG believes that the implementation of CPS 230 will deliver the intended outcomes across the industry.</p>
<b>3.3</b>	<p><b>Standards for services suppliers</b> - applies to retail insurance products only and focuses</p>	<p>Q3.5 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</p>	<p>KPMG believes that the implementation of CPS 230 will deliver the intended outcomes across the industry.</p>

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	<p>upon the conduct, monitoring and supervision of Code subscriber service suppliers. Service suppliers are defined in Part 16 of the Code and the definition is restricted to:</p> <ul style="list-style-type: none"> <li>• an Investigator;</li> <li>• Loss Assessor or Loss Adjuster;</li> <li>• Collection Agent; or</li> <li>• a person, company or entity who is contracted by the Code subscriber to manage a claim on their behalf, including insurance brokers with delegated claims authority. There may be an opportunity for the Code to be more explicit about the standards expected for service suppliers, or some classes thereof. For example, clearer standards about the content and understandability of expert reports may be helpful. In terms of oversight of service suppliers, the Code could articulate the role of insurers in coordinating certain parties, such as assessors and repairers.</li> </ul>	<p>deal effectively with ensuring that Code subscribers are accountable for the conduct of their Service Suppliers?</p> <p>Q3.6 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. 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?</p>	<p>Upon assessment of the Corporations Act and Part 5, KPMG believes there is no impact.</p>
3.4	<p><b>Buying and cancelling an insurance policy</b> - applies to retail insurance products and makes a range of commitments relating to buying insurance, including use of plain language communication, avoiding pressure selling and the application and renewal processes.</p> <p>Part 7 of the Code applies to retail insurance products and makes commitments relating to cancelling an insurance policy. First, where</p>	<p>Q3.7 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?</p> <p>Q3.8 What has been the interaction between the Code commitments and recent law reforms, such as the Design and Distribution Obligation and the</p>	<p>KPMG suggests that times clauses could be integrated into Part 6 and 7, in alignment with claims for policy servicing enquiries.</p> <p>At present there are no requirements for follow up enquiries to be resolved in a prescribed time period which we think creates an opportunity to deliver enhanced customer transparency.</p> <p>There is an inextricable connection between the Code and some of the recent reforms, however</p>

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	policies allow for cancellation and the obtaining of a refund, subscribers commit to returning the refund within 15 days (this might not apply to insurance arranged through a broker).	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?	KPMG does not identify the need for any changes to this section.
3.5.3	<b>Timeframes</b> - prescribes timeframes for assessing a claim and claim decisions.	<p>Q3.9 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 light of recent law reforms such as the inclusion of claims handling as a financial service?</p> <p>Q3.10 How could the Code be enhanced to improve understanding and better protect customers where cash settlements are used? For example:</p> <p>(a) Should the Code be more prescriptive in outlining better practice in administering the legal requirements for cash settlement payments?</p> <p>(b) Should paragraph 79 be extended to all cash settlement payments?</p> <p>(c) 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?</p> <p>(d) How could the Code assist in developing consumer understanding of cash settlement payments, the risks associated with the same, and</p>	<p>Given the recent law reforms, KPMG believes improvements could be made to clarify and expand on insurer obligations and responsibilities, including transparency requirements, defining unfair practice and providing examples, and highlighting greater accountability and compliance requirements.</p> <p>The Cash Settlement process is a vital part of managing claims in an efficient and effective manner. We firmly believe that for expeditious claims and processing that cash settlements should continue to be a practice which Insurers can leverage, however we would recommend:</p> <ul style="list-style-type: none"> <li>a) Yes, outlining requirements is a positive step to assist with consumer literacy.</li> <li>b) Yes</li> <li>c) We do not believe that contingency should be applied to cash settlements as this could then create a preference to cash settlements opposed to leverage the supply chain model, which is designed to drive the most appropriate customer outcomes.</li> <li>d) This depends on the nature of the cash settlement, perhaps this is best addressed in catastrophe situations for</li> </ul>

	Key Areas	Questions	KPMG Response
		the need to obtain independent advice before accepting the cash settlement?	large loss payments via industry engagement events opposed to within the claims management value chain. Cash settlement for an iPhone is quite different to a cash settlement for rebuilding a home.
		Q3.11 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?	Yes. KPMG believes including additional details on minimum content requirements will assist in the training and efficiency of claims staff.
		Q3.12 In what circumstances if any, should the Code allow insurers to vary the prescribed Code timeframes in paragraphs 68-71 and 76-77?	Variance from the Code timeframes should only be permitted in Catastrophes circumstances. This allowance should be supported by clear parameters around size of impact and only as declared formally as a relief via the ICA
<b>3.6</b>	<b>Complaints</b> - applies to retail insurance products and also extends to uninsured persons making a claim against a customer insured by a subscriber under a retail insurance policy, Subscribers commit to providing readily available information about complaints processes.	Q3.13 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?	KPMG believes that Part 11 could be improved by setting out specific timeframes for acknowledging, investigating, and resolving complaints – despite this being codified in RG 271, for ease we think there is benefit in extending the content here to canvass those additional requirements.
		Q3.14 Do the Code commitments relating to complaints need to be amended or clarified considering ASIC's new guidance on internal dispute resolution, including its imposition of enforceable standards?	Yes, we would recommend that some of these areas could be made more prescriptive (for example setting a time period for the acknowledgment of a complaint within the Code).

	Key Areas	Questions	KPMG Response
3.7	<b>Other feedback</b> – This paper has outlined a number of areas where specific feedback is sought by the Review Panel. The Code Review is intended to cover all aspects of the operation and effectiveness of the Code and the Review Panel welcomes feedback on any other areas that may be relevant. For example, Part 12 commits subscribers to complying with obligations relating to access to and use of information.	Q3.15 Do you have feedback on the practical operation of the Code that is not covered elsewhere?	KPMG would welcome focus from the Code around minimum requirements for change control activities. With a drive towards cost efficiencies and innovation, the use of technology is increasing and evolving at pace. Innovation is testing traditional regulatory boundaries as new processes and models emerge. For example, the use of AI is growing and being piloted in relation to both claims processing and complaints management. Whilst regulators have reflected on security and data requirements, customer impact has not been fully addressed. Reflecting on the Codes purpose of meeting community and customer expectations, we feel the inclusion of minimum requirements for change control related to the consideration of customer impacts would be appropriate.
<b>4.</b>	<b>Emerging Issues</b>		
4.1	<b>Affordability</b> - The cost of insurance has risen dramatically, with the Australian Bureau of Statistics reporting that insurance prices rose 16.2 percent in the 12 months to the end of December 2023. This is the largest annual rise since March 2001.	Q4.1 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?	KPMG does not believe that product affordability falls under the remit of the Code.
4.2	<b>Helping reduce risks</b> - A number of Australian insurers have developed programs that incentivize consumers to improve the structural resilience of their homes in	Q4.2 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?	KPMG does not believe that product affordability falls under the remit of the Code.

	Key Areas	Questions	KPMG Response
	exchange for premium discounts, premium reductions for cyclone retrofitting and/or elevating homes at risk of flood. The insurance industry more broadly has indicated that consumers' risk mitigation activities can be considered by insurers when setting a premium and that some insurers 'may offer discounts at an individual level		
<b>5.</b>	<b>Code structure, enforceability, and governance</b>		
<b>5.1</b>	<b>Structure of the code</b> - The Code sets out the standards that general insurers commit to meeting when providing services to their customers. It is used by insurers, consumers and other stakeholders and includes a mix of high-level principles or commitments and more detailed sections intended to assist insurers in meeting those commitments	Q5.1 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?	KPMG believes that the Code should be designed and structured in a way which is appropriate for a dual audience. This could potentially be achieved by including various re-direction points for the relevant stakeholders to reference additional detail that is appropriate for their context and expertise.
		Q5.2 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?	KPMG see benefit in providing additional detail surrounding the significant breach threshold. Given the increasing focus on the regulatory environment, insurers would benefit from more detailed requirements descriptions to ensure all reportable breaches are submitted to ASIC.
<b>5.2</b>	<b>Code governance and compliance</b> - important Part of the Code providing mechanisms for breach reporting and the imposition of sanctions, The CGC is an independent body that monitors and enforces insurers' compliance with the Code. The Code requirement to report significant breaches of the Code to the CGC is in addition to the requirement on AFS	Q5.3 What measures would improve governance of the Code and promote enhanced compliance with Code commitments? In particular:  (a) Are the sanctions in Part 13 a sufficient deterrent to misconduct. Should they be strengthened? If so, how?  (b) A number of the sanctions available to the Code Governance Committee are restricted to a	We believe the more prescriptive the Code is, the easier it is for subscribers to monitor compliance to it. We believe in many cases the most well-regulated components of the Code relate to those which have time clauses as it allows Insurers to build controls which support the monitoring and oversight of business practices. Therefore, we encourage the Code Review Panel to reflect on if there is greater

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	Licensees to report 'reportable situations' to ASIC	<p>significant breach of the Code (defined in Part 16). Should the additional sanctions in paragraph 174 apply to any breach of the Code?</p> <p>(c) Should the Code definition of 'significant breach' be aligned to the ASIC reportable situations regime, in RG 78 and if so, how?</p> <p>(d) 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?</p>	<p>clarity required around expectations if those requirements can be made more explicit.</p> <p>a) We believe these sanctions could be strengthened. Please see response to 2.1.</p> <p>b) No, we believe sanctions should be isolated to significant breaches.</p> <p>c) No, we believe there should be a materiality threshold applied. For example, is there a % threshold of open claims when claims decisions haven't been made in the prescribed timeframe where the matter becomes significant and is therefore reportable?</p> <p>d) Yes, we believe this should replicate AFCA's approach of being able to publish organisations.</p>
		Q5.4 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?	<p>No.</p> <p>We feel that the current process is appropriate as some of the obligations in the Code are not enforced under the AFS Licensee (for example cash settlement requirements and time clauses within Claims processes). Therefore, we do not recommend changes to this, however we would recommend clarity be prescribed around what practically defines a significant breach.</p>
5.3	<b>Enforceable code provisions</b> - The ICA has indicated its intention to submit the version of the Code developed through this Review to	Q5.5 Which provisions of the Code could be considered for designation as Enforceable Code	We would recommend that the Code defines a significant breach threshold for Part 8. A matrix



	<b>Key Areas</b>	<b>Questions</b>	<b>KPMG Response</b>
	ASIC, A Code commitment that is an ECP would have elevated status as it would become financial services law and therefore be enforced by ASIC (and not the CGC)	Provisions and what changes to the Code would be needed to support that?	could be designed, similar to that of root cause, to assist with enforcing the defined thresholds.



# Contact us

For assistance in helping your business for any insights or activities relating to the General Insurance Code of Practice, any of the below Consulting team members can assist.



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