



ASIC

Australian Securities & Investments Commission

ASIC Update: General update and current status of projects

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Insurance Council of Australia

Regulatory Update

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Introductory comments

- Good morning.

- I would like to thank the Insurance Council of Australia for giving me the opportunity to speak with you today.

- This morning, I want to give you an update on a number of issues that are occupying the regulator's attention in relation to the general insurance industry.

- I will highlight for you some of the improvements we have seen in these areas, and will also take this opportunity to highlight for you some of the areas where ASIC sees more opportunity for improvement.

- In particular, I will address:
 - the ongoing issue of the quality of disclosure in the insurance sector and some of the developments we have seen – both good and not so good;
 - issues around the advertising of general insurance products – again, both the positive and negative developments; and
 - finally, underinsurance and the positive steps we have seen from the general insurance industry in tackling problems associated with this issue.

- I will finish with a few remarks on some of the challenges ahead for both ASIC and the general insurance industry.

- But, before I get to these issues, I want to take a moment to talk about how we see the sector at present.

The general insurance market

- Currently, the general insurance market is 'soft'; that is to say, extremely competitive.

- Indicators suggest that the sector is generally strong.

- The most recent *Financial Stability Report*, released last week by the Reserve Bank of Australia, showed a number of positive trends, including:
 - an increase in aggregate pre-tax profits of 6.5%;
 - a good claims environment;
 - stable premiums;
 - capital well above the minimum regulatory requirements; and
 - strong share performance.

- The Reserve Bank also indicated that ratings agencies continue to hold a positive view of the general insurance market.
 - Five of the largest general insurers are rated A+ or higher by Standard And Poor's.

- APRA's latest stocktake on the industry, as well as a survey conducted by JP Morgan and Deloitte found similar positive results and again emphasised the softness of the general insurance market.
 - For example, the JP Morgan and Deloitte survey suggests discounting of premium rates for commercial lines (as opposed to personal lines) in 2006.

- With this in mind, I think it is appropriate to reflect on some of ASIC's areas of focus.

ASIC's areas of focus

- One of our continuing areas of focus is the quality and reliability of product disclosure, including advertising.

- Australia's disclosure-based approach is intended to provide protection to consumers and investors.
 - Accordingly, it is legitimate for us to not only be satisfied that minimum levels of compliance with the law are achieved.
 - Indeed, product disclosure is an area where we actively encourage levels of compliance that go beyond the bare minimum.
 - ASIC is committed to working with industry associations, such as the Insurance Council, to raise the bar in this area.

- Another priority will be the implementation of the Government's compensation regime for financial services licensees.
 - As many of you are aware, the Government released draft regulations on compensation arrangements for consultation in November 2006.
 - The consultation process is now complete and the Government is currently considering the feedback it received.

- Underinsurance also continues to be a priority for ASIC given its significant impact on consumers and the financial structure of your industry more generally.
 - Our recent report *Making home insurance better* followed our September 2005 report on *Getting home insurance right – A report on home building underinsurance*.
 - This latest report highlights some worthy developments.

- So, let me discuss some of the key developments in each of these areas of focus.

Quality of disclosure

- First, to the issue of quality of disclosure.

- ASIC continues its work in raising the standard of product disclosure.

- On an ongoing basis, ASIC reviews a percentage of prospectuses and Product Disclosure Statements (***PDSs***).
 - When we review them, it is to ensure that disclosure meets the minimum standards set out in the *Corporations Act* and ASIC policy.
 - The responsibilities for preparing these documents (including taking into account relevant commercial considerations, as appropriate) clearly lies with the general insurers, as licensees, and their responsible officers (who may include directors and key managers).

- In recent reviews of these PDSs, ASIC looked at some 60 general and life insurance PDSs.
 - Our overall impression is that, in your industry, these disclosure documents are generally useful, consumer-focused documents.
 - Most are presented in a clear, concise and effective manner, reflecting the nature of these risk products in a way that is helpful to consumers.
 - Some PDSs, however, are not adequately updated with information about some of the significant benefits, characteristics or features of the product when products are enhanced with new features, which does not meet the disclosure requirements in the *Corporations Act*.
 - While this may have arisen as a result of the length of time some PDSs appear to have been in use by product issuers (that is, a number of years) as the law does not set a time limit on the life of a PDS, it nonetheless requires that issuers keep their PDSs up-to-date.
 - ASIC expects product issuers to carry out regular reviews of their PDSs to ensure that information is kept up-to-date and to take necessary steps to refresh disclosure – for example, by issuing a supplementary PDS – where this is not the case.

- Other issues to remind you of in product disclosure are:
 - the need to include adequate information about dispute resolution schemes that policy holders can access when necessary;
 - complying with the requirements of ASIC's relief where joint product issuers exist; and
 - complying with the requirements for a combined PDS and Financial Services Guide, where applicable.

Advertising

- ❑ Turning now to advertising, there were a range of issues regarding 'cheapest' or 'lowest' prices for compulsory third party motor vehicle insurance last year – we had concerns about insurers advertising that they had the 'cheapest' or 'lowest' price in these cases when the comparisons were based on different assumptions to those made by competitors.
- ❑ We also encountered issues regarding advertising 'maximum no claim discounts' or 'rating 1 for life', which represented that an actual accident would not affect the premium when in fact it may.
- ❑ ASIC continues to monitor advertising by insurers to ensure that consumers are not potentially misled.

Recent developments

- ❑ I would now like to briefly discuss some of the recent developments at the Federal Government level, which are affecting the general insurance industry.
- ❑ No doubt that most of you will be aware of the tailored product disclosure framework for general insurance products that was introduced in the FSR Refinements regulations of December 2005.

- A key objective of these refinements was to create PDSs for general insurance products that would be easily understood by consumers and that would be more closely aligned with the existing insurance policy documents required under the *Insurance Contracts Act*.
 - The changes made by the FSR Refinements regulations included the need to:
 - remove certain PDS content requirements that are irrelevant or unnecessary for general insurance products – again, recognising the risk-based nature of these products; and
 - specify how a product issuer should disclose significant characteristics or features of a general insurance product, as well as the rights, terms, conditions and obligations attaching to the product.
 - These new product disclosure requirements will commence on 21 June 2007.
- From ASIC's perspective, two developments are worthy of noting:
- First, ASIC recently extended its transitional relief for issuers of general insurance products from the dollar disclosure requirements in PDSs from 1 April 2007 to 30 June 2008.
 - Second, ASIC has revised some of our frequently asked questions, available on our website, to clarify our relief for general insurance distributors.
 - We understand that there has been some uncertainty about how our class order relief is intended to apply and, as a result, we have included some additional information in our frequently asked questions on:
 - how the FSR licensing regime applies to persons acting on behalf of an Australian Financial Services licensee or persons who do not hold an Australian Financial Services licence because of an exemption;
 - how the *Corporations Act* applies to providers of general insurance products; and
 - our approach to 'arranging'.

- These changes are intended to clarify some of the most common issues drawn to our attention.

Underinsurance

- Moving now to one of the issues that ASIC has been particularly interested in for quite some time, namely, the problem of underinsurance.
 - In 2005, ASIC released a detailed report examining the causes of home building underinsurance in light of the devastating Canberra bushfires in 2003, which destroyed over 400 homes.
 - In that report, ASIC challenged the insurance industry to change some of its practices in order to reduce the risk of underinsurance.
 - In providing this challenge, we recognised that there are instances where it is the client who makes a deliberate, or calculated, decision to underinsure.
 - However, in other instances, issues stemmed from the nature of the policies, underestimates by calculators offered by insurers and a failure to remind consumers of the importance of reviewing adequacy of cover annually.
 - In January, this year, ASIC released a follow up report on underinsurance, and I am pleased to report to you that the general insurance industry has embraced this challenge and developed a range of initiatives over the last 12 months addressing underinsurance.
 - Some of the significant changes we have seen implemented include:
 - two insurers have introduced 'total replacement insurance';
 - two insurers have introduced 'extended replacement policies';
 - many insurers have given their customers access to more accurate calculators to help them estimate rebuilding costs; and

- more insurers are providing consumers with education about underinsurance, particularly when consumers are renewing their insurance.
- These steps are important in helping to reduce the risk of consumers being underinsured.
- I commend the industry for what it has achieved since 2005.
- However, the next challenge for industry will be to maintain these important changes, while continuing to address issues that arise, such as non-insurance.
- ASIC will continue to remind consumers of the need to be properly insured and to regularly review their level of cover in its educational materials.

Concluding remarks

- Let me conclude by making a few remarks about some of the other challenges that lay ahead, both from an industry and regulatory perspective.
- There remains much to do in raising the bar for product disclosure and tackling some of the disclosure issues I have discussed here today.
 - I note some of the preliminary discussions already had with the Insurance Council on improving disclosure documents.
 - ASIC is willing to continue working with the industry in improving the quality and reliability of disclosure through initiatives such as this.
- Industry should also continue its important work on addressing underinsurance.
 - As I said before, the challenge will be for us to maintain the momentum in this area and keep abreast of emerging issues such as non-insurance.

- One of the biggest challenges will be working with the range of legislative changes currently proposed.
 - The Government is currently working on a number of legislative reforms, some of which will have considerable impact on the general insurance industry.
 - These include:
 - the proposed compensation requirements for financial services licensees, possibly involving a form of professional indemnity insurance;
 - the implementation of some of the proposals from the Corporate and Financial Services Regulatory Review (or FSR Refinements II, as it is known), being led by the Parliamentary Secretary to the Treasurer, the Honourable Chris Pearce MP.
 - The Government has just released draft regulations for comment and I encourage you to engage in this consultation process to make FSR in the general insurance industry more effective;
 - the Government's implementation of the review of Discretionary Mutual Funds and Direct Offshore Foreign Insurers; and
 - the Government's implementation of the review of the *Insurance Contracts Act*.
 - Even this short list clearly shows that the pace of legislative change is not slowing.
 - With our heightened focus on reducing regulatory burden and better understanding the impact of regulatory decisions we make, ASIC looks forward to working with the Insurance Council and other industry associations to ensure these legislative reforms are implemented smoothly, pragmatically and, most importantly, effectively.

- ASIC and the ICA continue to have a constructive and productive working relationship.
 - ASIC looks forward to meeting these future challenges together.

- Thank you.