

Ms Helen Carroll  
Senior Manager  
Consumers, Advisers, Retail Investors  
Australian Securities and Investments Commission  
GPO Box 9827  
Sydney NSW 2001

email: [helen.carroll@asic.gov.au](mailto:helen.carroll@asic.gov.au)

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Dear Ms Carroll

**RG 146: PROPOSED THREE STAGE ASSESSMENT AND PROFESSIONAL DEVELOPMENT FRAMEWORK FOR TIER 1 FINANCIAL ADVISERS**

The Insurance Council of Australia<sup>1</sup> (Insurance Council) welcomes the opportunity to provide comment on *CP 153: Licensing: assessment and professional development framework for financial advisers* (the Paper). We appreciate the additional time given to prepare this submission.

As there is only one general insurance product that is classed as Tier 1, the Insurance Council will confine its comments to the impact of the proposed framework on personal accident and sickness insurance.

**Training objectives**

Insurance Council notes the training proposal is part of the package of Future of Financial Advice (FOFA) reforms, a response to the 2009 Parliamentary Joint Committee on Corporations and Financial Services (PJC) *inquiry into financial services and products in Australia*. The inquiry considered the regulatory framework for financial advisors following significant losses for retail investors, including Opes Prime and Storm Financial.

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<sup>1</sup> 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. December 2010 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$33.4 billion per annum and has total assets of \$101.7 billion. The industry employs approx 60,000 people and on average pays out about \$87 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).

The new three stage training proposal aims to enhance and maintain the competence of financial advisers, lead to improvements in the quality of advice and increase consumer confidence. Insurance Council strongly supports these objectives. However, given the significantly more stringent assessment and professional development framework proposed for Tier 1 financial advisers, the Insurance Council submits that it is an appropriate time to reconsider the Tier 1 classification for personal accident and sickness insurance, having regard to the characteristics and claims experience of the product. The concerns that have led to the reconsideration of the current assessment and professional development framework arose from advice being given on investment products, not personal sickness and accident insurance.

### **Personal Accident and Sickness as a Tier 1 product**

The Tier 1 classification of personal sickness and accident insurance has been an ongoing concern for our members. ASIC's rationale for the Tier 2 level of training for general insurance products is set out in Regulatory Guide 146 (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 personal sickness and accident 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 would submit that personal sickness and accident insurance is not more complex than other general insurance 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 also 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.

The Insurance Council also submits that personal sickness and accident insurance has no more potential to impact significantly on the client's financial situation than many other classes of insurance, for example travel.

Personal accident and sickness insurance also shares the characteristics of other general insurance products referred to by ASIC in its reasoning that these products should be Tier 2:

Personal accident and sickness policies have a set period of cover (legally they can not 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). The legislative cooling off period also applies which gives insureds the ability to reconsider whether the product is right for them.

The Insurance Council therefore submits that, as for other general insurance products, the Tier 2 training requirements, which include specialist knowledge about personal accident and sickness, will be sufficient to satisfy the s912A(1)(f) requirement.

Financial Services Ombudsman (FOS) data for the period 1 July 2008 to 30 June 2009 shows that 64,824 of the 65,994 claims made for personal sickness and accident in that period were successful. Therefore, there is a high success rate of claims of 98.2% for this category of insurance and a low level of denials of 1.8%.<sup>2</sup>

The Insurance Council submits for these reasons it is inappropriate to require advisors of personal accident and sickness products to undertake the same level of training as advisors of more complex products in the areas of financial planning, securities, derivatives, managed investments, superannuation, life and broking insurance.

Furthermore, current Tier 1 requirements, let alone the higher standards proposed, impose an unnecessarily high training burden given that general insurance staff would spend generally at most 5% of their time on personal accident insurance products with the rest taken up with Tier 2 products. Consequently, imposing the proposed new Tier 1 requirements could lead to some advisers ceasing to advise on personal sickness and accident insurance. If this were to happen, the availability of such cover in the market could be reduced.

FOS data for 2008-09 shows that personal accident and sickness insurance is one of the three smallest classes of new business and renewals, with only pleasure craft and caravan/trailer insurance having fewer policies in force.

The Insurance Council is concerned therefore that the regulatory requirements as proposed:

- a national certification examination (for new and existing advisors);
- twelve months monitoring and supervision by an advisor with 5 years experience (for new advisors); and
- a knowledge update and review following exam (for new and existing)

are unnecessarily onerous for advisers where personal sickness and accident insurance is the only Tier 1 product with which they deal.

The increased training requirements proposed by the Paper will also have a significant administrative and compliance cost impact on Insurance Council members offering personal sickness and accident cover. For example, the competency certification will add additional

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<sup>2</sup> More recent FOS figures are unavailable at time of writing.

time/effort and cost to accreditation.<sup>3</sup> Similarly, ASIC's proposal to implement a centralised record of each adviser of Tier 1 products, will add additional time/effort and cost to maintain, particularly when coupled with the certification and knowledge updates. Such costs must be assessed against the minimal likely benefit to purchasers of personal sickness and accident insurance and the costs of compliance which would be passed on to them by way of higher premium.

In addition to ASIC training requirements, Insurance Council members already meet the competency and training standards set out in the General Insurance Code of Practice (Code) which includes training on specific product knowledge, monitoring of performance and remedial training where required (clauses 7 and 9 of the Code).

### **Reconsideration of the treatment of personal accident and sickness insurance**

Insurance Council requests that ASIC consider the reclassification of personal accident and sickness insurance to Tier 2. If ASIC reaches the conclusion that this is not appropriate, we would request ASIC consider whether personal accident and sickness products could be provided with an exemption from the proposed three stage training and assessment framework. Insurance Council notes from the Consultation Paper that ASIC is open to variation of the professional development framework where achievement of ASIC's regulatory goals is not affected.

ASIC has consulted with a range of industry bodies in the development of its proposals in this Paper and has established an Expert Advisory Panel to provide views on the training requirements for people providing financial product advice. Noting that ASIC has not to date consulted Insurance Council members on the question of training standards for personal sickness and accident insurance, we would welcome a discussion with ASIC and members of the Expert Advisory Panel to discuss any questions ASIC may have in relation to this submission.

If you have questions about any of the matters discussed in this submission, please contact Mr John Anning, Insurance Council's General Manager Policy – Regulation at [janning@insurancecouncil.com.au](mailto:janning@insurancecouncil.com.au).

Yours sincerely



Robert Whelan  
Executive Director & CEO

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<sup>3</sup> We have been informed of an estimate that it will take 40 hours to become accredited to offer Tier 1 products under general advice. Also we understand that the cost for Tier 1 accreditation is currently more than \$600, compared to \$120 for Tier 2. This differential may well increase with the lifting of Tier 1 standards.