



Mr Dale Boucher  
Chair  
Tax Practitioners Board  
GPO Box 9977  
BRISBANE QLD 4000

Attention: Ms Larissa Evans  
[larissa.evans@ato.gov.au](mailto:larissa.evans@ato.gov.au)

16 November 2010

Dear Mr Boucher

## **PROFESSIONAL INDEMNITY INSURANCE (PII) REQUIREMENTS FOR REGISTERED TAX AGENTS AND BAS AGENTS**

The Insurance Council of Australia<sup>1</sup> (Insurance Council) appreciates the opportunity provided to comment on the Tax Practitioners Board's Exposure Draft of the requirements for PII for registered tax agents and BAS agents (the Exposure Draft). The Insurance Council welcomes the open and consultative approach that the Board has taken in developing the requirements.

The Insurance Council has discussed the Exposure Draft with its Professional Indemnity Insurance (PII) Committee. Members acknowledge that the Exposure Draft addresses almost all the points raised in the Insurance Council submission of 24 September. Consequently, the Insurance Council would only like to raise the following issues.

### **Retroactive cover**

As explained in our previous submission, tax and BAS agents who are currently uninsured may find it difficult to obtain retroactive cover when they first purchase PII. The Insurance Council therefore suggests that it may be worthwhile explicitly stating that previously uninsured agents may hold PII that does not provide cover for acts/errors/omissions committed prior to the first date on which they effected a PII policy.

### **Automatic reinstatement**

The Insurance Council recognises that the wording in the section in Table 5 in the Exposure Draft on automatic reinstatements and the related section under "Key Terms" explains that an automatic reinstatement is not needed where the limit of cover is at least twice the

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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. June 2010 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross premium revenue of \$33.2 billion per annum and has total assets of \$99.2 billion. The industry employs approx 60,000 people and on average pays out about \$95 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).

minimum level of cover specified. However, as explained in our submission of 24 September, it would be helpful and avoid potential confusion if the relevant sections clarified that the maximum aggregate limit for all claims must be at least twice the per claim limit.

### **Implementation Issues**

In relation to practical implementation of the PII requirements of the regulatory regime, you wrote on 29 October 2010 to the President of the Insurance Council asking for our thoughts on:

- How registered tax or BAS agents may be able to identify insurance providers who will offer insurance cover that will comply with Board requirements;
- How agents (or insurers on their behalfs) will be able to keep the Board informed annually of renewals of insurance or of any material changes to policies; and
- The extent to which insurer may be able to inform the Board of issues or claims arising in relation to or under a PII policy.

The Insurance Council would be pleased to arrange discussion with our members on these matters. However, after consultation with our PII Committee, our suggestions are:

- **Information on where to obtain cover:** As most PII policies are arranged via brokers rather than directly with an insurer, it seems more practical to have links on the TPB website to interested brokers or the National Insurance Brokers Association (NIBA). Use of a broker would enable BAS and tax agents to obtain advice on their level of cover.
- **Information on renewals:** A broker or insurer certificate of currency could be provided to the BAS or tax agent who would then forward it to the TPB. However, this would be a major administrative responsibility for the TPB given the number of agents involved. We understand that in relation to Australian Financial Services Licensees, ASIC checks the currency of PII through an ongoing process of random audits and when there is an investigation into a complaint.
- **Keeping the TPB informed of developments:** The Insurance Council's PII Committee is willing to meet regularly (at least annually) with TPB officers to discuss issues encountered with the cover for tax and BAS agents.

If you require further information, please contact Mr John Anning, Insurance Council's General Manager Policy – Regulation Directorate at [janning@insurancecouncil.com.au](mailto:janning@insurancecouncil.com.au)

Yours sincerely



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Chief Executive Officer & Executive Director