



# News release

Insurance Council  
of Australia

Thursday, 30 September 2021

## Insurers ready for regulatory changes

The Insurance Council of Australia says insurers have made sweeping changes to their systems and processes in readiness for the implementation in coming days of wide-ranging reforms intended to improve consumer outcomes.

The raft of regulatory changes being implemented from Friday 1 October 2021 are part of the Federal Government's response to the Financial Services Royal Commission.

Since the Royal Commission report and its recommendations were released the ICA and its members have worked closely with the Government and stakeholders to ensure the intentions of the reforms are realised.

In facilitating collaboration between industry, consumer groups and regulators the ICA has advocated for a regulatory regime that allows insurers to deliver services that meet customers' expectations with no unintended consequences.

The ICA will be working closely with its members monitoring the implementation of the regulations as they are rolled out, and stands ready to engage with ASIC, APRA and Treasury should any implementation issues arise.

Additionally, the General Insurance Code of Practice will be updated from 5 October 2021 to align with ASIC's Regulatory Guide on internal dispute resolution.

Updates include a reduction from 45 to 30 days to resolve a complaint, as well as an updated definition of a complaint. Changes also include a new commitment to improved customer awareness through information on Code subscriber websites about the availability of financial hardship support.

The Code changes have been developed by ICA members following consultation with key stakeholders, including representatives of the ICA's Consumer Advisory Committee, ASIC, and AFCA.

Comment attributable to Andrew Hall, CEO Insurance Council of Australia:

The Insurance Council supports the intention of these once-in-a-generation regulatory reforms to improve consumer outcomes.

Insurers have worked hard to ensure the necessary changes to processes have been made and staff are appropriately trained.

Pleasingly, the Government and its agencies have taken on board much of our feedback and have been open to changes that avoid unintended consequences from aspects of the new regulatory regime.

We look forward to continuing that dialogue as the new arrangements are bedded down and better understood in practice.

At the same time we welcome updates to the Code of Practice to further strengthen provisions and information for consumers.

## Summary of reforms and insurer response

### Deferred Sales Model

The deferred sales model for add-on insurance introduces a four-day pause between the sale of a primary product and the sale of an add-on insurance product, to help individual customers make informed decisions when purchasing insurance.

- Supported by advocacy from insurers and recognising practicalities of applying these new rules to certain purchases, the Government has exempted from the deferred sales model the following classes of insurance products: compulsory third party (CTP) insurance for motor vehicles; travel; third party property damage, fire and theft insurance for motor vehicles; comprehensive insurance for boats, motorcycles, motorhomes, caravans, and trucks; insurance sold within superannuation (including group life insurance); postage and delivery of consumer goods insurance; home building insurance; home and contents insurance; and landlord insurance.
- Relief from the DSM provisions will also be provided for wholesale style insurances available to businesses.

### Anti-Hawking

Working in conjunction with the deferred sales model, the anti-hawking restrictions put certain prohibitions on insurers offering products to consumers while selling other products.

- Insurers support the policy intent of the legislative ban on hawking, and the ICA supported ASIC's product intervention in relation to unsolicited telephone sales of consumer credit insurance.
- The ICA supports monitoring the reforms to ensure there are no detrimental consequences for consumers who may wish to take advantage of discounts and other efficiencies offered by insurance companies when products such as home and motor cover are bundled together. ASIC's regulatory guidance on anti-hawking provides further guidance on consumer consent in consumer-initiated calls to insurers.

### Product Design and Distribution Obligations

Under these obligations insurers must design financial products that are likely to be consistent with the likely objectives, financial situation, and needs of the consumers for whom they are intended.

- Insurers support the obligation for products to be appropriately designed and distributed so that consumers receive the insurance which is suitable to their needs.

### Duty not to make a misrepresentation

A duty to take reasonable care not to make a misrepresentation to an insurer places the burden on an insurer to elicit the information that it needs in order to assess whether it will insure a risk and at what price.

Insurers are supportive of the new duty which will mean a simpler application process for customers as it replaces a lengthy prescribed notice under the existing duty of disclosure.

### Breach Reporting Obligations

Financial services firms including insurers are required to report to ASIC any significant breaches of their obligations as Australian Financial Services Licensees. The new regime aims to address concerns of uncertainty about when breaches are significant enough to report, and to improve the consistency of information provided by licensees in their breach reports.

- Insurers support the Government's breach reporting reforms, however consider there is a further opportunity to reduce uncertainty for the industry and will be working through these issues with regulators and Treasury.

- Most specifically, insurers are concerned that very minor technical breaches will need to be reported, for example call centre staff accidentally providing inaccurate information which does not have any real consequences but could be interpreted as “misleading or deceptive”.

### **Unfair Contract Terms**

These enforceable provisions have applied to insurance contracts since April 2021 and mean contracts with consumers or small business may be void if the term is unfair, the term is a standard contract, or the contract is a financial product.

- Insurers note ASIC’s statement that insurers have proactively made important changes to insurance policies in light of the new changes. Insurers have either removed, reworded or qualified any identified terms to make it fairer for consumers.

### **Claims Handling as a Financial Service**

Claims handling as a financial service will not come into effect until 1 January 2022, given the 12 months transitional period that began from 1 January 2021. A claims handling and settling service includes assisting someone make a claim and range of other prescribed engagements between insurers and the insured or their representative.

- Claims handling is an integral part of the insurance process that enables policyholders to get on with rebuilding their lives and businesses after the shock of an unforeseen event, and the ICA supports claims handling being treated as a financial service.
- The industry is focused on meeting the policy intent of the cash settlement fact sheets – to help customers make an informed decision when choosing between cash payouts and other options like repairs.
- At the same time, insurers do not want the new requirement to issue these statements to slow down insurers’ ability to make quick (often instant) payments to customers when they urgently need the cash, particularly during natural disaster scenarios.