Insurance Council of Australia

26 February 2024

Nerida Cole
Director
Financial Adviser Regulation Unit
Advice and Investments Branch
Retirement, Advice and Investments Divisions
Treasury
Langton Cres
Parkes ACT 2600

By email: financialadvice@treasury.gov.au

Dear Ms Cole

Treasury consultation on Delivering Better Financial Outcomes – Initial Consultation

The Insurance Council of Australia (the **Insurance Council**) appreciates the opportunity to engage with Treasury on the *Delivering Better Financial Outcomes* reforms to implement the Government's policy decisions in relation to the *Quality of Advice* review. The Insurance Council is supportive of the objectives of the reforms as articulated by Treasury at the consultation roundtable on 19 February, particularly to address unmet demand for financial advice from individuals with less complex financial circumstances and to support innovative delivery of financial advice.

The purpose of this initial submission is to clarify our understanding of the proposed reforms as presented at the roundtable and the implications for the general insurance industry. We also seek to flag some areas where we are keen to engage with Treasury as thinking on the reforms solidify.

1. General Observations

Following the Roundtable on 19 February and a further discussion with Treasury on 22 February, the ICA and its members' understanding of the proposed approach as it applies to general insurance is that:

- A concessional approach to meeting the best interests duty (**BID**) will continue to apply for general insurance, with elements that match the current concessional approach to be retained (as set out in [s961B(4)].
- Treasury is working through the legislative drafting options to replicate the current concessional approach, but the policy intent is for the status quo for general insurance to be largely retained.
- Other concessions for general insurance – eg the exemption from providing a Statement of Advice – will also be retained in reforms to those areas.
- Advisers for 'Tier-2 products' can be employees (with employing AFSLs holding responsibility for their conduct) and are not required to be relevant providers – ie the 'new class of advisor'. However, Treasury will need to consider whether the proposed AQF-5 level diploma should apply regarding 'Tier-2' products.

We understand that Treasury's thinking to date has focused on retaining the policy principles behind the existing modified BID. While we welcome the recognition of the need for a concessional approach to continue to apply to general insurance, we would encourage Treasury to consider potential enhancements to the modified BID to provide more legislative certainty for the provision of limited or scaled personal advice about general insurance.

2. Modified Best Interests Duty

1. Currently, the BID is modified for personal advice provided for general insurance products so that the BID is satisfied if section 961B(2)(a) – (c) are met. This concessional approach recognises that, where personal advice is provided in relation to a general insurance product, the advice is responding to less complex consumer needs compared to other financial products. Any advice provided in the context of a general insurance product will generally be limited to topics such as the most appropriate level of sum insured for the customer, appropriate levels of excess, or mitigation measures specific to a customer's property.

Insurers have previously identified concerns regarding their capacity to meet the requirements of the current modified BID. In summary, these concerns relate to a disconnect between:

a) the scope of advice sought in a general insurance contact centre context (which could be viewed as scaled or limited advice) and the information practically available to contact centre staff; and

b) the extent of the information required to be obtained to meet the standards required by the BID safe harbour steps (or the uncertainty as to the extent of information required or whether it can be limited).

While we understand Treasury has largely focused on retaining the legislative effect of the modified BID, the reforms present an opportunity to address these concerns and ensure that the modified BID approach provides a suitable framework that would make it easier for insurers to provide personal advice to customers (a key objective of these reforms).

<u>Suggested approach</u>

We suggest that the current concessional approach should be strengthened to provide greater certainty regarding situations where the customer seeks advice on a limited subject matter (i.e. scaled or limited advice situation), and should recognise that the information required to identify a customers' objectives, financial situation and needs and to provide appropriate advice is often more limited than a full investigation of all of the customer's objectives, financial situation and needs.

1. New Class of Advisers

Our understanding from the Roundtable is that the New Class of Advisers (including qualification requirements) is intended to apply to all providers of personal advice that are not 'relevant providers'.

An AQF-5 diploma, as proposed, would be a significant increase on the current training requirements that apply for general insurance staff providing personal advice (ie training on RG244). As outlined during the roundtable discussions on 19 February, and during the subsequent discussion on 22 February, it is likely that an AQS-5 level diploma is too high a standard to be implemented in a mass-market contact centre environment. Such a requirement would be prohibitive and likely result in insurers that offer personal advice direct to market ceasing to offer personal advice. That outcome would be contrary to the objectives of the Quality of Advice Review generally, and to the Government's intention of ensuring more advice is available to consumers.

<u>Suggested approach</u>

Qualification aspects for the new class of advisers should not apply to sectors that currently have access to the modified BID.

Instead, as is the current approach, the obligation should be on AFSLs to ensure that staff who provide advice should be appropriately trained, or that digital advice systems are appropriately programmed (so as to deliver advice in a manner consistent with training requirements).

3. Record of Advice

We welcome the clarification that the existing exemption for general insurance will be retained.

We trust that our initial observations are of assistance and look further to further engagement with Treasury on this topic. If you have any questions or comments in relation to our submission, please contact Ms Alexandra Hordern, General Manager, Regulatory & Consumer Policy, at ahordern@insurancecouncil.com.au or 0411 281 790.

Kind regards

Andrew Hall
Executive Director and CEO