11 October 2013

Ms Nicole Chew
Lawyer, Financial Advisors
Australian Securities and Investments Commission
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SYDNEY NSW 2000

Email: policy.submissions@asic.gov.au

Dear Ms Chew

CONSULTATION PAPER 212 LICENSING: TRAINING OF FINANCIAL PRODUCT ADVISERS – UPDATE TO RG 146 (CP 212)

The Insurance Council of Australia[1] (Insurance Council) welcomes the opportunity to provide comments on CP 212. We appreciated ASIC's willingness to directly engage on its proposals with the Insurance Council at two workshops held on 10 and 19 September 2013 and in allowing additional time to respond following those discussions. **Attachment A** sets out the specific issues we would like to address in relation to CP 212.

As you are aware, the Insurance Council has a particular interest in the proposals set out in Part F to reclassify consumer credit insurance (CCI) and personal sickness and accident insurance (PSA).

We submit it is appropriate for all general insurance products to be classified as Tier 2 products.

This classification will facilitate general and personal advice on general insurance products which are not complex in nature, limited in indemnity period, as well as reduce industry's training and compliance costs. This is particularly important where some products, such as PSA, are commonly sold in bundled packages and where a no advice operating model might otherwise be adopted across all of the general insurance products included in the package.

The Insurance Council strongly opposes reclassification of CCI to Tier 1. We submit the increased training standards proposed for Tier 1 products would not specifically address the issues ASIC has raised in relation to CCI. In **Attachment A,** we further outline our various concerns with this proposal. Noting ASIC is interested in exploring alternative proposals, we confirm that together with other industry associations, we are engaged in ongoing discussions with you about initiatives which we believe would more effectively address CCI point of sale disclosure issues and the provision of ongoing information.

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[1] 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 2013 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of $39.9 billion per annum and has total assets of $118.1 billion. The industry employs approximately 60,000 people and on average pays out about $106 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 Insurance Council is concerned that if CCI is reclassified and PSA remains as Tier 1, an even greater proportion of these products may be sold on a no-advice model, reducing the information to consumers in the marketplace. There is a further risk that the costs of the proposed Tier 1 educational standards could lead to the products becoming commercially unsustainable for some of our members. This is because the additional training requirements impact on some insurer's ability to utilise their existing registered training organisations.

Contrary to CP 212's objective that training requirements should provide a smooth learning pathway and career progression, the Insurance Council understands that the majority of Tier 2 qualified advisers progress their careers within general insurance and do not seek a later Tier 1 qualification. Increasing training requirements to maintain a learning pathway would therefore only benefit a small proportion of advisers, while acting as a significant entry barrier for new Tier 2 only advisers.

In summary, the Insurance Council submits:

- CP 212 entrenches an existing problem with RG 146 that a 'one size fits all' training model does not work effectively for general insurance;
- PSA should be reclassified from a 'Tier 1' product to 'Tier 2' and CCI should remain as a 'Tier 2' product;
- The timeframe for implementation of Regime B's training standards is inadequate and must be pushed back to a date not before 2018. Sufficient time is required to consider the impacts on registered training organisations (RTOs) and enable consultation with relevant sectors, including the general insurance industry, on training proposals which will benefit both consumers and staff within particular sectors;
- The new proposals may adversely impact on career entry and pathways in general insurance;
- The costs of increased education levels may adversely impact on the provision of any advice for PSA or CCI by some members, and commercial viability of such products;
- It is appropriate for the increased education proposals to apply to personal advice on Tier 1 products only, not general advice or advice on Tier 2 products. For simple products, or where personal circumstances are not taken into consideration it is reasonable to consider that a lower training standard is warranted.

If you have any questions or comments in relation to our submission, please contact John Anning, the Insurance Council's General Manager Policy, Regulation Directorate, on tel: (02) 9253 5121 or email: janning@insurancecouncil.com.au.

Yours sincerely

Robert Whelan
CEO & Executive Director

INSURANCE COUNCIL OF AUSTRALIA

ATTACHMENT A

PART B: ADDITIONAL KNOWLEDGE REQUIREMENTS

B1: additional generic knowledge requirements

The Insurance Council supports relevant and up to date education for the general insurance sector. However, we submit the proposed mandatory generic knowledge requirements, while perhaps appropriate for advisers operating in investment, loan and wealth management environments are not relevant for general insurance.

The problematic nature of the 'one size fits all' approach is highlighted by proposal B1. B1 suggests a number of additional, mandatory generic knowledge requirements for Tier 1 products. Many of the topics have little, if any, relevance to general insurance products such as CCI and PSA, should these products be classified as Tier 1 (which we strongly oppose).

The proposed additional areas of knowledge for example, budgeting, financial structures and taxation implications, life stages and their characteristics, concepts in behavioural economics do not have specific or sufficient relevance to support the associated costs that would be necessary to business training structures to meet the increased standards.

This supports our view that all general insurance products should be classified as Tier 2.

D1: educational level increases for Tier 1 products

Educational levels for advisers providing general and personal advice on Tier 1 products are proposed to increase from the proposed AQF 6 level (in 2015) to the Bachelor degree equivalent AQF level (Regime C). The Insurance Council does not support general insurance products requiring this educational level.

ASIC is seeking to improve the quality of advice through educational increases, following reports developed in the context of the 2009 Global Financial Crisis. Those reviews focussed on investment products and financial planners, not general insurance.

Under Regime C, Tier 1 products will require a bachelor level subject qualification. Presently, only PSA is a Tier 1 product.

There are however a number of problems flowing from this proposal[2]:

(1) The level of qualification is more appropriate for financial planning;

(2) RTOs offer qualifications to diploma level and insurers' existing RTOs could no longer train staff;

(3) The increased educational level will largely prevent a smooth learning pathway as vocational/on-the-job training will no longer be a viable approach to meeting Tier 1 training requirements. Industry has embraced vocational educational programs from entry level to graduate diplomas and it is considered that education development should continue to be invested into these programs.

[2] We note members may separately provide ASIC with examples of the impacts of these proposals on individual businesses.

There are also cost concerns related to engaging external training providers such as universities. It is unclear whether universities would be likely to offer a relevant subject to advisers seeking to meet the increased educational level.

General insurers may therefore be placed in a position of hiring graduate level advisers/ authorised representatives for Tier 1 products - with associated salary expectations. This cost, together with potential re-training costs for already experienced general insurance advisers, could be significant. Such additional cost would need to be weighed against the situation that PSA is commonly offered in a bundled pack (for example, a farm insurance pack) and not sold as an individual product. Some members have advised that in these circumstances, it may potentially be uneconomical to provide PSA and so may opt instead to operate on a no advice model or reconsider offering Tier 1 general insurance products altogether, particularly in the case of smaller insurers/distributers.

B5: other specialist knowledge requirements

We welcome the proposal to maintain the current specialist knowledge requirements for general insurance products.

D2: educational level increases for Tier 2 products

Educational levels for advisers providing general and personal advice on Tier 2 products will be raised from Certificate III (AQF equivalent 3) to Certificate IV level on 1 January 2015. This increases to Certificate V level under Regime C from 2019. The Insurance Council supports relevant and up to date training. We submit further work is necessary to determine what educational requirements would enhance general insurance.

There is no evidence to suggest an issue with Tier 2 advice. CP 212.117-118 sets out that the proposed increase to training standards will prevent an increased gap between Tier 1 and Tier 2 advisers and smooth transition of employees through learning pathways.

As noted at CP212.116, an AQF Level 3 qualification is targeted to entry level employees who respond to customer enquiries in a sales and service environment.

The Insurance Council considers the current AQF Certificate III level is appropriate in light of the advice offered. The increased educational requirements would offer little practical advantage in comparison to existing education requirements given the typical areas of advice for general insurance products:

- scope of cover, sum insured, premium, excesses, exclusions and any endorsements to cover.

An example of 'personal advice' provided on general insurance products is a sales and service consultant recommending the selection of insurance excess based on the customer's personal circumstances, such as or claims history (see RG 244 - Example 12).

This type of scaled personal advice is quite simple to provide, is routine in nature and is usually provided over the phone by sales and service staff members. Our members believe an AQF Level 3 qualification is sufficient to ensure this type of advice is appropriate.

If staff advising in relation to Tier 2 products were required to increase mandatory education to AQF level 5 Diploma, we understand that some members' RTOs could eventually deliver such training but this would require significant further investment into training material and staff given that current training is largely computer-based modules.

An AQF Level 5 diploma would require, however, an increase to face-to-face trainer/adviser time (due primarily to increased case study assessment) and would make redundant any online programmes that some members have significantly invested in.

One member has estimated the increased cost of the higher level of training to be between $70,000-$100,000. Another estimated that Regime B would increase training costs by approximately $500-$1,000 per adviser.

Furthermore, it should be noted that a typical career progression within general insurance doesn't necessarily involve advisers simply moving to Tier 1 (noting that PSA is the only Tier1 product) and that there are a multitude of different career pathways within general insurance. Therefore, it is considered the intention to close the gap between Tier 1 and Tier 2 would only benefit a small proportion of advisors.

In order to allow organisations to develop an appropriate staff training program and to work with RTOs to deliver the changes, the Insurance Council submits the timeframe for implementation of Regime B's training standards must be pushed back to a date not before 2018.

Moving to Regime C would also lead to substantial changes to member's training programs with significant additional cost. One insurer has estimated that an AQF Level 5 requirement would increase training costs by approximately $3,000-$4,000 per adviser. This could be an unsustainable cost in the call centre operating environment and we understand may lead to some insurers adopting a no advice operating model throughout their general insurance operations.

This results in an onerous regulatory environment for Tier 2 products which restricts the provision of advice to retail consumers, rather than improving the accessibility of personal and general advice for these products. This sits uncomfortably with the recent FOFA reforms, which acknowledges that general advice is distinct from personal advice. The Insurance Council questions therefore whether the additional educational requirements should apply to Tier 2 products or general advice at all.

If however, ASIC were to proceed with this proposal, the Insurance Council would prefer Regime B be adopted with no later progression to Regime C having regard to the significant cost implications.

The above issues are further explored below in the context of PSA and CCI.

PART F: RECLASSIFICATION PROPOSALS

Personal sickness and accident insurance from Tier 1 to Tier 2

The Insurance Council strongly supports the reclassification of PSA insurance to a Tier 2 product. This would align PSA with all other general insurance products, encouraging advice, while streamlining and reducing compliance costs.

We refer to our submission on CP 153 in support of reclassification of PSA insurance from Tier 1 to Tier 2 (**Attachment B**).

We are unaware of any recent concerns ASIC has in relation to the selling of PSA.

We believe PSA's current classification as a Tier 1 product is based on a mistaken impression that PSA is similar to life insurance. The Insurance Council submits that there is currently not an appropriate distinction being made between the nature of the PSA product sold by general insurers and those by life insurers.

Key differences relate to:

- Duration: PSA is limited to annual contracts;
- Assessment Process: PSA does not require medical assessment however life insurers will;
- Premium: reflects that the benefits are limited in duration.

Insurance Council members advise they typically offer PSA as part of a broader general insurance package for farms, small businesses and tradespersons. Members have highlighted that the current classification results in a complex situation where advice can be provided on some aspects of an insurance package (Tier 2 components) but not the PSA component.

This means the Tier 1 classification, which was intended to improve the quality of advice, has the perverse outcome of preventing advice and consumers make cover choices without the benefit of an opinion or recommendation from a knowledgeable insurance adviser. It is important that consumers are provided with appropriate and timely financial advice to ensure they make the best possible decision when choosing insurance cover.

CP212.130-131 lists some aspects of PSA insurance that may be relevant when considering the appropriate classification. The Insurance Council believes these aspects are not dissimilar to other general insurance products. For example, a travel insurance contract usually includes exclusions for pre-existing medical conditions and home insurance has the potential to impact on a customer's financial situation.

These similarities further point to the appropriateness of all general insurance products being subject to the same training regime under Tier 2.

The Insurance Council understands that it is common for advisers to have one or other of a general insurer or life accreditation and that where a customer is interested in a life product, they would be referred directly to a life adviser.

Reclassification of PSA insurance as a Tier 2 product will reduce unnecessary training requirements and increase the accessibility of financial advice, therefore improving consumer outcomes. It is also important to note that if PSA is *not* re-classified to Tier 2, then an AQF Level 7 Bachelor Degree level qualification would be required under Regime C. The Insurance Council submits this level of qualification would be an excessive requirement for the distribution of general insurance products, including PSA.

Consumer credit insurance from Tier 2 to Tier 1

As stated above, the Insurance Council strongly opposes the proposal to reclassify CCI to a Tier 1 product.

ASIC has cited the complexity of CCI, recent reviews and the overseas experience among other things, in support of its reclassification proposal. We understand that ASIC would like consumers to receive advice on how CCI would benefit a consumer's individual situation. However, we submit that reclassification will not encourage this. As stated above, a Tier 1 reclassification is more likely to encourage a no advice model.

It must also be recognised that since ASIC's review of CCI (REP 256), general insurers have made a range of improvements responding to ASIC's recommendations and we note Susan Bell's research focussed on a period prior to the implementation of such improvements.

We submit those individual organisation responses, together with the alternative industry initiatives proposed by the Insurance Council and other associations at the workshop on 18 September, would better serve to inform consumers of the features, limitations and duration of CCI products while avoiding adverse business impacts. The suggested initiatives are tailored to the individual CCI product and would serve as an additional tool in the selling process however distributed (for example, through banks, or motor dealers).

It should also be recognised that CCI differs from life products. Although maintaining some similarities in terms of events for which protection is provided, CCI is still quite different from life insurance (particularly in relation to income protection). CCI has a simple application process. Our members advise there are no blood tests or medical examinations. CCI protects the financial obligations of a customer against acquired debts in the event of sickness, accident, involuntary unemployment, or passing away. The cover clears a debt in the event of death and sickness/disability and with unemployment will either clear or pay out the debt depending on the claim circumstances.

Life insurance, however, provides customers with the opportunity of providing ongoing financial security for an insured's family or an income stream to their beneficiaries. Solutions can also be tailored to a customer's individual circumstances and needs (for example, through individual underwriting, premium structure).

Consistent with RG146's Tier 2 characteristics for simple products, CCI does not carry an investment component and has a limited duration. Having regard to these characteristics, a higher level of training and expertise is warranted for advisers who engage in life insurance discussions with clients, than those that engage in CCI protection discussions.

As noted in CP 212, there are important differences between the sale of Payment Protection Insurance (PPI) in the UK and CCI in Australia. For example, there is a cap on commission earnings of distributors in Australia of 20%, whereas no such restriction existed in the UK. This is a major consideration in any comparison between the UK and Australian experience.

The Insurance Council submits retaining the current classification for CCI will have positive consumer impacts by:

- maintaining ease of access to a level of protection for financial obligations on their loan without the need, for example to setup appointments with financial planners, undergo medicals, blood tests, and pay for advice. This is particularly beneficial in rural areas where access to financial planners may be limited; and

- maintaining a higher quality of general advice as opposed to a likely no advice/factual discussion only.

Finally, retaining the current classification will also reduce the business impacts of re-classification:

- lower costs in regards to training requirements (up to diploma standard by 2019 as opposed to bachelor degree standard);
- the cost of training existing and new staff (considering turnover) will be reduced; and
- businesses will have greater confidence to invest in improved training programs so frontline staff can engage in meaningful conversations with customers at the time of a loan.

ATTACHMENT B

Insurance Council submission of 9 June 2011 on the Proposed Three Stage Assessment and Professional Development Framework for Tier 1 Financial Advisers.

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Australian Securities and Investments Commission
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9 June 2011

Dear Ms Carroll

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

The Insurance Council of Australia[1] (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.

[1] 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).

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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%. [2]

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

[2] More recent FOS figures are unavailable at time of writing.

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time/effort and cost to accreditation.[3] 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.

Yours sincerely

Robert Whelan
Executive Director & CEO

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[3] 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.