

22 July 2016

Mr Richard McMahon
Acting Senior Manager
Deposit-takers, Credit and Insurers
Australian Securities and Investment Commission
Level 5, 100 Market Street
SYDNEY NSW 2000

Email: innovationHub@asic.gov.au

Dear Mr McMahon

**Consultation Paper 260:
Further measures to facilitate innovation in financial services**

The Insurance Council of Australia¹ (the Insurance Council) appreciates the opportunity to provide a submission in response to Consultation Paper 260, *Further measures to facilitate innovation in financial services* (the Consultation Paper). While the conditional licensing (“regulatory sandbox”) exemption considered in the Consultation Paper provides a good starting point to enable innovative solutions to be harnessed in financial services, these will not be accessible to new market entrants or established licensees in the general insurance sector.

ASIC is proposing to limit access to the regulatory sandbox exemption to new market entrants seeking to give financial advice or arrange for other persons to deal in listed or quoted Australian securities, simple managed investment schemes and deposit products.

The consumer experience with purchasing general insurance products is currently undergoing a transformation; with growing consumer empowerment enabled by widespread use of the internet, interactive digital mobile technology, and social networks. These tools are revolutionising the way consumers are informed of events (about the impact of real time

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. March 2016 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of \$43.8 billion per annum and has total assets of \$118.5 billion. The industry employs approximately 60,000 people and on average pays out about \$124.2 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).

emergencies), wield purchasing power (as buying groups), and influence policy outcomes (with lobbying campaigns).

While these technological advances provide vast potential for the industry to better meet consumer needs, this potential remains largely untapped. Innovation in the general insurance industry could help address some of the longstanding regulatory issues affecting the industry; including the limitations in the disclosure and financial advice regime in supporting effective consumer engagement.

ASIC has proposed not to open the regulatory sandbox approach to existing AFS licensees because, while such businesses may also develop innovative products and services, they do not face the same challenges as new businesses. The Consultation Paper suggests that ASIC will continue to consider requests by existing licensees on a case-by-case basis for relief to facilitate innovation. However, the current case-by-case exemption process for existing licensees is not very agile and likely to delay progress. Insurers seeking to innovate would benefit from a more responsive testing environment in which ASIC views and guidance could be sought more quickly on innovative ideas.

The Financial Conduct Authority's (FCA) regulatory sandbox approach, for example, offers support to innovative new and established businesses that are looking to introduce ground-breaking or significantly different financial products or services to the market. This includes FCA assistance and guidance with variations of permission to existing authorisations. The FCA states that the sandbox may be useful for authorised firms looking for clarity around applicable rules before testing an idea that does not easily fit into the existing regulatory framework.

In light of the above, the Insurance Council submits that ASIC should consider broadening the regulatory sandbox exemption to facilitate innovation from existing licensees, including general insurers. However, if ASIC decides to maintain its current position, even without participation by existing insurers, established businesses would still benefit if what is learnt from all sandbox activities could be shared publicly in order to maximise benefits for consumers.

Under proposal C5, ASIC intends to require compensation arrangements as a condition of a new market entrant accessing the regulatory sandbox exemption. Generally, existing licensees maintain adequate compensation arrangements by obtaining professional indemnity (PI) insurance. ASIC refers in the Consultation Paper to initial feedback that new businesses may find it difficult to obtain PI insurance.

We note that underwriting of PI insurance, and the coverage provided, is dependent on the specific circumstances of each application for insurance. Whether insurance coverage will be available for businesses operating under the regulatory sandbox exemption would depend on aspects specific to that business, as well as the insurer's underwriting criteria. The Insurance Council is discussing with its PI Committee whether there are any particular issues of which ASIC needs to be aware.

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 (02) 9253 5121 or janning@insurancecouncil.com.au.

Yours sincerely



Robert Whelan
Executive Director and CEO