Australian Securities & Investments Commission

REPORT 424

Review of no-claims discount schemes

February 2015

About this report

This report examines the operation of no-claims discount (NCD) schemes for motor vehicle insurance policies, and finds that they do not operate in the way consumers might reasonably expect.

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Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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Executive summary

1 This report examines the operation of no-claims discount (NCD) schemes, and finds that they do not operate in the way consumers might reasonably expect. NCD schemes—described variously by insurers as 'no-claims bonus', 'no-claims discount' and/or 'ratings' schemes—typically offer discounts to policyholders that increase for each consecutive claim-free insurance period up to a maximum discount off the premium, typically between 44% and 70%.

2 The schemes are a prominent feature of many comprehensive motor vehicle insurance policies, and are generally presented by insurers as a means of rewarding careful driving and preventing subsidisation by careful drivers of drivers who claim.

3 The schemes create an impression that claims history has been separated from other factors that determine the price of an insurance policy (such as the sum insured and type of vehicle). We found that this is not the case.

4 We also found that:

(a) purchased ratings protection—a feature offered by most brands that allows a policyholder to pay an amount of money to retain their NCD rating, even when making a claim that would otherwise affect their rating—can be a poor value proposition for consumers;

(b) the majority of insurers apply minimum premiums, which have the potential to undermine and limit their full NCD entitlement; and

(c) despite insurers generally positioning their NCD schemes as a reward for careful driving, for most brands the majority of policyholders (between 90% and 99%) are on the highest NCD rating.

Background

5 In 2011 we undertook work in relation to claims handling and internal dispute resolution in motor vehicle insurance, in which we identified some issues concerning the accuracy and clarity of disclosure in relation to NCD schemes: see paragraphs 237–244 of Report 245 *Review of general insurance claims handling and internal dispute resolution procedures* (REP 245).

6 After we published REP 245, a number of consumer concerns in relation to the operation of NCD schemes were raised directly with ASIC and/or lodged for determination with the Financial Ombudsman Service (FOS). In light of this, we considered it appropriate to undertake a review specifically in relation to these schemes.

7 We undertook a focused review of NCD schemes to:

(a) enhance our understanding of how NCD schemes operate;

(b) identify any concerns regarding the operation, disclosure and consumer understanding of NCD schemes, and to take action to address those concerns; and

(c) encourage and, where relevant and/or necessary, require insurers to address any inadequacies identified.

8 We selected motor vehicle insurance as a focus for our review because it is a type of insurance that commonly features NCD schemes. We consider it likely that consumers generally place moderate to high value on their NCD entitlements and, for that reason, we think NCD ratings may influence consumer behaviour when deciding to purchase or renew a policy or whether to lodge a claim. We consider there is scope for greater understanding by consumers about how NCD schemes operate. Motor vehicle insurance is also a commonly purchased retail general insurance product in Australia and is likely to be a familiar product to many Australian consumers.

What we did

9 In late 2014 we undertook a targeted review of participating insurers' NCD disclosure documentation, comparing that disclosure against a range of information previously obtained from insurers, as well as recent complaints and breach reports received by ASIC.

10 We acknowledge the participation and cooperation of the 10 general insurers (representing 32 motor vehicle insurance brands) who participated in our review. Our selection of participating insurers and brands for this review was based on:

(a) market prominence and market share;

(b) inclusion of wholly online brands;

(c) inclusion of new entrants to the market; and

(d) representation not only of brands that offer NCD schemes but also those that do not offer NCD schemes.

11 As was the case for our previous work for REP 245, we did not exercise ASIC's compulsory information-gathering powers in obtaining information from the insurers about their NCD schemes.

What we found

12 Table 1 sets out the key findings and recommendations of our review.

Table 1: Key findings

Finding	Recommendation
NCD schemes do not work in the way consumers might reasonably expect NCD schemes create an impression that claims history has been separated from other factors that determine the price of an insurance policy. We have found that this is not the case. We found that: • making a not-at-fault claim can have an effect on the underlying premium even where there is no effect on the NCD rating; and • making an at-fault claim can have an effect on the underlying premium in addition to the NCD rating.	**Recommendation 1** Where insurers retain the traditional NCD pricing model, insurers should clearly disclose the effect of a claim on a policyholder's NCD rating and underlying premium. Where relevant, insurers should clearly disclose whether claims can affect the underlying premium independently of any effect on the NCD rating.
Purchased ratings protection can be a poor value proposition Purchased 'ratings protection' is a feature offered by most brands that allows a policyholder to pay an amount of money to retain their NCD rating, even when making a claim that would otherwise affect their rating. We found that in some instances the cost of purchasing ratings protection is higher than the benefit obtained by maintaining the NCD rating. We also found that once a policyholder has opted to purchase ratings protection, it is automatically renewed on an annual basis (i.e. it operates on an opt-out basis).	**Recommendation 2** Where insurers retain the traditional NCD pricing model, policyholders should be made aware of the cost and value of purchasing ratings protection. Disclosure of the automatic inclusion of optional extras, such as ratings protection, on policies at renewal should be prominent.
Disclosure is generally inadequate We found that policyholders are reminded of the value of attaining and maintaining an NCD rating at various stages of the insurer–policyholder relationship (e.g. at point of sale, claim lodgement and renewal). We found that while the degree of disclosure of key elements of NCD scheme operations varied considerably between brands, it is generally inadequate, preventing consumers from being in a position to make fully informed decisions about purchasing or renewing a particular insurance policy or about making a claim.	**Recommendation 3** Insurers should review and, where appropriate, improve disclosure and/or make available additional information on the operation of NCD schemes, where such schemes are retained. Disclosure should be appropriately balanced so that consumers are not discouraged from making valid claims under their policies.
Some consumers may be unable to realise full discounts We found that the majority of insurers apply minimum premiums, which have the potential to undermine and limit the full NCD entitlement. We found that the existence and application of minimum premiums is, in general, poorly disclosed.	**Recommendation 4** Insurers should disclose to consumers the existence of minimum premiums. Where the minimum premium is sufficiently high to have the potential to affect a policyholder's ability to realise their full discount and other promotional entitlements, that risk should be disclosed.

Finding	Recommendation
NCD schemes may involve inconsistent messaging We found that insurers generally position their NCD schemes as a reward for careful driving. However, we found that for most brands the majority of policyholders (between 90% and 99%) are on the highest NCD rating. We found that the concept of rewarding careful drivers is further challenged by brands that offer ratings protection, which has the capacity to reward drivers who claim and result in subsidisation of these policyholders by other policyholders who do not make claims.	**Recommendation 5** Insurers should ensure that promotional messages on the benefits of NCD schemes, where such schemes are retained, are carefully balanced against the actual features, risks and practical operation of the NCD scheme.

13 Insurers are prudentially required to (and do) price for risk. A policyholder's claims history is a key indicator of risk, which is taken into consideration by insurers in the pricing of their motor vehicle insurance policies.

14 NCD schemes are typically structured to provide a discount on motor vehicle insurance policies based on the policyholder's claims history, specifically the absence of at-fault or unrecoverable claims. Policyholders are ordinarily able to obtain a further discount to their policy for each consecutive period that is free of at-fault or unrecoverable claims, up to a maximum level of discount. Most brands also offer policyholders the option of purchasing ratings protection. This option allows a policyholder to retain and protect their current NCD rating despite making a claim that would otherwise reduce their rating.

15 The concepts that appear to underpin NCD schemes suggest a separation between claims history and other factors as relevant variables for the purpose of risk assessment (underwriting) and pricing. In fact, our review found that making a claim may well affect the cost of the underlying premium on renewal, even before any NCD discount (whether or not that policyholder's rating is protected) is applied. In other words, a claim can affect a policyholder's NCD rating (or have no affect if the rating is protected) and *also* affect the underlying premium on renewal.

16 That a policyholder will likely pay more if their claims record suggests they are a higher risk makes sense from an underwriting perspective. It is also consistent with the fact that for most brands, the majority of policyholders (between 90% and 99%) are on the maximum NCD rating—it is difficult to see how that can be commercially possible if the risk posed by those policyholders cannot properly be taken into account.

17 From a regulatory perspective, however, the fact that consumers are encouraged to believe that claims will have a specific and isolated effect on pricing, when that is not necessarily the case, is a concern. We consider that the effects of claims can and should be better explained to consumers through disclosure, promotional messages and other means.

A shift away from traditional NCD schemes

18 Four brands from the participating insurers do not offer an NCD scheme. The predominant theme in commentary provided to ASIC was a belief held by these brands that claims history is a more accurate predictor of risk than a model that includes protected ratings. These brands wish to avoid subsidisation of ‘risky’ drivers and price premiums according to the actual risk posed by policyholders.

19 One brand stated that, in its view, pricing based on claims history is more transparent than using an NCD scheme. Another brand explained that the claims history of a policyholder over a number of years is just one factor taken into account in calculating the price of the premium, and that this is a more accurate method of premium calculation. This brand allows consumers to ‘transfer’ their NCD rating from their previous insurer, but the NCD rating is converted to an equivalent claims history and used as a factor in the premium calculation, as opposed to an ongoing discount off the total premium.

20 In practical terms, brands that do not offer NCD schemes are in effect largely operating in the same fashion as those who do offer NCD schemes (i.e. pricing based on claims history), but without the inclusion of a ratings protection feature.

21 We have identified a recent trend within the motor vehicle insurance industry that suggests that a number of brands are beginning to move away from a traditional NCD pricing model.

22 Generally, the brands that have shifted or are in the process of shifting away from the traditional NCD pricing model incorporate an assessment of claims history as a factor in the calculation of the premium; however, any applicable discounts are tied to other matters, such as length of time insured and number of excess-payable claims. The new models generally do not incorporate a ratings protection feature.

23 One insurer has explained to us that their new pricing model is designed to allow policyholders with a low-claim and/or claim-free history to be priced accordingly. Their new model will not allow for the subsidisation of drivers with a higher claims history who hold ratings protection. It was noted that many policyholders wanted recognition for their careful driving history and wished to cease subsidising the premiums of those drivers who frequently claim.

A Regulatory landscape

Key points

General insurance is subject to the statutory and self-regulatory standards and requirements of:

- the *Corporations Act 2001* (Corporations Act);
- the *Insurance Contracts Act 1984* (Insurance Contracts Act);
- the *Insurance Act 1973* (Insurance Act);
- the *Australian Securities and Investments Commission Act 2001* (ASIC Act); and
- the General Insurance Code of Practice (GI Code).

Corporations Act

24 General insurance products are financial products for the purposes of the Corporations Act. General insurers must be licensed by ASIC in accordance with Ch 7 of the Corporations Act in order to provide financial services.

25 The Corporations Act sets out the general obligations of an Australian financial services (AFS) licensee, including that they:

(a) provide the financial services covered by the licence efficiently, honestly and fairly; and

(b) comply with financial services laws.

26 General insurance products are subject to disclosure requirements under the Corporations Act and the Insurance Contracts Act. Chapter 7 of the Corporations Act and associated regulations of the Corporations Regulations 2001 provide the framework for disclosure about financial products, services and advice. A tailored Product Disclosure Statement (PDS) regime for general insurance products takes into account all of the information an insurer is required to provide under the Insurance Contracts Act and the information an insurer would provide through their policy terms and conditions. The tailored regime:

(a) removes certain PDS content requirements for general insurance products;

(b) removes certain PDS content requirements where the information is disclosed by the insurer in another document (e.g. policy terms and conditions);

(c) specifies how an insurer is to disclose significant characteristics or features of a general insurance product and the rights, terms, conditions and obligations attached to the product; and

(d) requires the PDS to be clear, concise and effective.

27 Most insurers state in their PDS words to the effect that the terms and conditions of the PDS and the policy schedule constitute the insurer's contract with the policyholder.

Insurance Contracts Act

28 The Insurance Contracts Act regulates the content and operation of insurance contracts. Section 13 contains a statutory 'duty of utmost good faith' between an insured and an insurer:

> A contract of insurance is a contract based on the utmost good faith and there is implied in such a contract a provision requiring each party to it to act towards the other party, in respect of any matter arising under or in relation to it, with the utmost good faith.

29 The Insurance Contracts Act also sets out what consumers must do when applying for an insurance policy, including their duty to disclose to the insurer all relevant information about the risks the insurer is accepting.

30 Recent reforms in the *Insurance Contracts Amendment Act 2013* gave ASIC powers to:

(a) take licensing action for a breach of the duty of utmost good faith;

(b) take representative action on behalf of third-party beneficiaries (as well as policyholders); and

(c) intervene in any proceedings under the Insurance Contracts Act (based on s1330 of the Corporations Act)

Insurance Act

31 The Australian Prudential Regulation Authority (APRA) regulates prudential standards for deposit-taking institutions, general and life insurers, reinsurers and most members of the superannuation industry.

32 APRA supervises general insurers under the Insurance Act. APRA's responsibilities under the Insurance Act include:

(a) authorising companies to carry on a general insurance business; and

(b) monitoring authorised general insurers to ensure their continuing compliance with the Insurance Act—in particular, with the Insurance Act's minimum solvency requirements.

ASIC Act

33 The ASIC Act contains ASIC's consumer protection powers in relation to financial products and services, including general insurance.

34 The ASIC Act includes prohibitions against misleading or deceptive conduct, unconscionable conduct and false or misleading representations.

GI Code

35 The GI Code is a voluntary self-regulatory industry code developed by the Insurance Council of Australia. The GI Code covers most types of general insurance, including motor vehicle insurance.

36 As at the date of publishing, each of the participating insurers had subscribed to the current GI Code. Unlike other self-regulatory industry codes in the financial services industry (such as the Code of Banking Practice and the Mutual Banking Code of Practice), the provisions of the GI Code are not incorporated into the terms and conditions of the contract with the consumer.

B Operation of an NCD scheme

Key points

The concept of pricing for risk underpins the operation of an NCD scheme.

NCD schemes typically involve a discount on a motor vehicle insurance premium based on the policyholder's claims history, specifically the absence of at-fault or unrecoverable claims.

NCD schemes typically contain six to seven discount levels, with each level allocated a specified percentage discount off the premium. The maximum discount available ranges between 44% and 70% off the annual premium.

For most brands the majority of policyholders (generally between 90% and 99%) are on the maximum NCD rating.

Pricing for risk

37 The concept of pricing for risk underpins and is central to the operation of general insurance. General insurance products, including motor vehicle policies, are priced by reference to underwriting guidelines, which are used to assess the risk a policyholder may bring to the insurer. A motor vehicle insurance PDS typically lists a variety of factors that are considered by the insurer during the risk assessment process.

38 Factors can include:

(a) the type of cover chosen (e.g. comprehensive or third party);

(b) the age, driving experience and claims history of the policyholder;

(c) the value, age, make and model of the vehicle;

(d) the purposes for which the policyholder will use the vehicle; and

(e) where the vehicle is stored overnight.

Operation of a typical NCD scheme

39 NCD schemes typically involve a discount on a motor vehicle insurance premium based on the policyholder's claims history, specifically the absence of at-fault or unrecoverable claims. Policyholders are ordinarily able to obtain a further discount to their premium for each consecutive insurance period, during which the policyholder has made no at-fault or unrecoverable claims, up to a maximum level of discount.

40 Eligibility to participate in an NCD scheme is generally restricted to policyholders who have purchased comprehensive motor vehicle insurance and is generally determined based on a combination of claims history and number of years driving experience.

41 NCD schemes typically contain six to seven discount levels, with each level allocated a specified percentage discount off the premium (e.g. Rating 1, 60% discount; Rating 2, 50% discount). The maximum discount available ranges between approximately 44% and 70% off the annual premium. Within some brands, the level of discount may differ depending on the state or territory in which the insured motor vehicle is located.

42 The majority of brands offer an NCD scheme to their policyholders. The NCD schemes are described in one of two ways:

(a) *discount schemes*—a discount is given off the *total premium* based on the claims history of the policyholder; or

(b) *loading schemes*—a loading is applied to the *base premium* based on the claims history of the policyholder.

We found that the description of the scheme does not affect the overall premium charged, as the discount and/or loading in each case is based on the policyholder's claims history.

Table 2: Example of an NCD scheme structure

Rating level	Claims history	Percentage discount
Rating 1	No claims in past 5 years	60%
Rating 2	No claims in past 4 years	55%
Rating 3	No claims in past 3 years	45%
Rating 4	No claims in past 2 years	35%
Rating 5	No claims in past 1 year	25%
Rating 6	No claims history	0%

43 We found that the percentage of policyholders on each rating level for all brands is skewed in favour of the top NCD rating (purchased or earned). A number of brands reported that over 90% of policyholders are on the top rating.

Transferring between insurers

44 Over half of the brands reviewed allow policyholders to transfer their previous NCD rating obtained in a prior insurance arrangement to their new insurance arrangement. The transfer schemes operate in three different ways:

(a) some brands allow a transfer, but the NCD rating might be adjusted on transfer if it is inconsistent with the new brand's underwriting criteria;

(b) some brands only allow transfer of NCD ratings for policyholders that are on the maximum rating with their current insurer; and

(c) some brands have no eligibility criteria for their transfer scheme, and allow all policyholders to transfer their ratings across to an identical rating with their new insurance arrangement.

45 For brands that do not allow policyholders to transfer NCD ratings at policy inception, the brands will typically conduct their own assessment to determine the applicable NCD rating. Any NCD rating applied is typically based on the number of years the policyholder has been licensed and the policyholder's claims history.

46 In practice, it is unlikely that this method will substantially alter the NCD rating applied as the rating under the new insurance arrangement will be based on the claims history of the policyholder.

C Finding 1: NCD schemes do not work in the way consumers might reasonably expect

Key points

Making a not-at-fault claim can have an effect on the underlying premium even if there is no effect on the NCD rating.

Making an at-fault claim can have an effect on the underlying premium in addition to an effect on the NCD rating.

Disclosure of the effect of any type of claim on the underlying premium is generally inadequate.

Types of claim

47 Making any type of claim may affect the NCD rating available to the policyholder (unless the policyholder has purchased ratings protection) and may also potentially affect the underlying premium on renewal.

48 In general, claims are classified into one of three categories: see Table 3.

Table 3: Types of claim

At-fault claims	When the policyholder is at fault or, in some jurisdictions, at least 50% at fault. Brands typically consider these claims to be non-recoverable, as the brand cannot recover the loss from another party. This type of claim is commonly referred to in brands' disclosure as 'at-fault', 'incidents that are your fault' or 'non-recoverable'.
Not-at-fault claims	When a third party is at fault and the policyholder is not at fault. Brands typically consider these claims to be recoverable, as the brand is likely to be able to recover the costs from another party. Not-at-fault claims are commonly referred to in brands' disclosure as 'not-at-fault', 'incidents that are not your fault' or 'recoverable'.
No-fault claims	When no one is at fault; for example, the incident is caused by nature, such as storm damage or a collision with an animal. These claims may in some cases have an effect on a policyholder's NCD rating and underlying premium but this varies between brands. Brands generally treat these claims as 'non-recoverable'; however, some brands will treat them as though they are recoverable for NCD rating purposes. This type of claim may be referred to by brands as 'at-fault', 'no-fault' or 'incidents that are no-one's fault'.

49 Allowing for some variation between NCD schemes, the following observations outline the general possible effects of making a claim:

(a) An at-fault claim generally results in a reduction of the policyholder's NCD rating. The policyholder will drop back one NCD rating, or in some cases two, for each at-fault claim made within a specified period. An at-fault claim can, for about half of the brands, have an effect on the underlying premium, independently of any effect on the NCD rating.

(b) The effect of a not-at-fault claim on NCD ratings and the underlying premium typically varies according to whether or not the responsible third party can be identified. If the policyholder can provide the third party's details, the claim will generally have no effect on the policyholder's NCD rating. For a number of brands, there may still be an effect on the underlying premium, independent of any effect on the NCD rating. If the policyholder cannot provide the third party's details, the claim will generally be treated by the brand as 'non-recoverable'.

(c) The effect of a no-fault claim on a policyholder's NCD rating varies across brands. Typically a no-fault claim will affect a policyholder's NCD rating if the claim is treated by the brand as 'non-recoverable'. A no-fault claim generally also affects the underlying premium.

50 Making a claim can affect the future premium (either by reduction of NCD rating and/or loading applied to the underlying premium) for a period of up to five years, with the NCD rating gradually increasing (or the loading gradually reducing, as the case may be) over that period.

Table 4: Effect of a claim on the NCD rating and underlying premium

Claim type	Will it typically affect the underlying premium?	Will it typically affect the NCD rating?
At-fault claim	Yes	Yes
Not-at-fault claim	Varies	Varies
No-fault claim	Yes	Varies

Effect of claims on NCD ratings

At-fault claims

51 We found that at-fault claims that are not subject to earned or purchased ratings protection result in a reduction in the NCD rating—some by one level and others by two levels. The reduction of the actual discount off the price of the premium varies between brands, in accordance with the discount allocated to each level. Where ratings protection has been purchased (if the

brand offered such benefits), the effects of an at-fault claim vary. For some brands that offered purchased ratings protection, the protection will only exist for the first claim in a single insurance period. A number of other brands offer the option to purchase protection against an unlimited number of claims per insurance period. Where ratings protection has been earned, an at-fault claim generally has no effect on the NCD rating. In a few instances, this is limited to one at-fault claim per year.

Not-at-fault claims

52 We found that with the exception of one brand, all brands that offer an NCD scheme stated that not-at-fault claims (whether the policyholder held protected or unprotected ratings) have no effect on a policyholder's NCD rating. The brand that is the exception stated that a not-at-fault claim can have an effect on NCD rating if the third party cannot be identified. This is consistent with industry practice to reduce the NCD rating where the cost of a claim cannot be recovered from a third party. The same brand stated a not-at-fault claim, where the policyholder has purchased ratings protection, will not affect the NCD rating, but subsequent claims in the same policy period will have an effect.

No-fault claims

53 We found that for all brands that offer an NCD scheme, the treatment of no-fault claims (whether the policyholder's rating is protected or unprotected) varies, largely based on whether a responsible third party can be identified. Typically a no-fault claim will affect a policyholder's NCD rating if the claim is treated by the brand as 'non-recoverable'.

Our concerns

54 We identified that the terminology used by brands to classify and treat claims—most commonly 'at-fault' and 'not-at-fault'—has the potential to confuse policyholders. In some cases such terms assume special meaning within the brand's PDS that do not reflect what we consider to be the ordinary, everyday meaning of 'fault'. We consider the ordinary definition of 'fault' to imply an element of blame or responsibility.

55 Further, what amounts to an at-fault or not-at-fault claim in certain scenarios may vary from one brand to the next. Unless brands clearly disclose those terms' special meanings to consumers, we consider there is a risk of consumer confusion, and policyholders may not be making informed decisions about the potential consequences for their NCD rating and underlying premium.

56 For example, one brand uses the terms ‘not-at-fault’ and ‘not your fault’ in its PDS interchangeably. Neither term is clearly defined. The only way for a consumer to obtain definitions for these terms is to contact the brand.

57 Confusion may be heightened if brands use the term ‘not-at-fault’ to refer to both instances where a responsible third party can be identified and instances where they cannot; these two instances usually have different effects on a policyholder’s NCD rating and underlying premium. Internally, brands will generally treat these two instances as two distinct types of claims (i.e. recoverable and non-recoverable claims respectively), but this is not always clearly disclosed to consumers in the brands’ disclosure documentation.

58 In most cases a policyholder lodging a claim must be able to identify the third party responsible for the accident or incident that lead to the claim in order for the claim to be classified as ‘recoverable’ and for there to be no effect on the policyholder’s NCD rating and/or underlying premium. If the policyholder cannot identify the third party, the claim will be classed as ‘not-at-fault’ but will be considered by the brand to be unrecoverable and will potentially affect the NCD rating and underlying premium of the policyholder.

59 Further, we found that some brands will also treat ‘no-fault’ claims as non-recoverable claims, which can have an effect on both the NCD rating and underlying premium. Other brands, however, treat no-fault claims as a recoverable claim, which has less effect on NCD ratings and underlying premiums.

60 Despite the fact that ‘at-fault’ and ‘not-at-fault’ definitions are in most cases disclosed (to varying extents) in the brands’ policy documentation, the divergence of brands’ definitions from the ordinary, everyday definitions of ‘fault’ can mean that disclosure of special definitions will not address this confusion and that more descriptive explanations are necessary.

61 Further, divergent treatment of the same scenarios across brands can cause confusion for policyholders and may conflict with ordinary consumer understandings of the term ‘not-at-fault’. The use of such terminology also presents a risk that promotional material describing NCD schemes as a means of rewarding careful driving can be misleading.

Examples of better practice

62 We observed that some brands do not provide a definition of ‘at-fault’ or ‘not-at-fault’ in the PDS. Rather, to distinguish treatment of various claims from consumers’ ordinary understanding of the concept of fault, these brands tend to provide a table that listed scenarios in one column and, in another column, an explanation of whether or not the NCD rating will be affected. For example, an accident that is not the policyholder’s fault is listed as affecting the policyholder’s NCD rating, unless they can identify the party

who is at fault. While the PDSs do not include strict definitions of ‘at-fault’ and ‘not-at-fault’, we consider this plain-language approach—in addition to providing clear and concise definition of ‘at-fault’, ‘not-at-fault’ and other terms—would help clarify for policyholders the exact effect a claim will have on their NCD rating.

63 We also observed that other brands take a unique approach to classification, which we consider may address some of these issues relating to terminology. The brands use the terms ‘recoverable’ and ‘non-recoverable’ in their customer-facing documents to clearly distinguish the kinds of claims that will or will not affect the policyholder’s NCD rating and underlying premium. Essentially, a recoverable claim is where the brand is able to recover the costs of the claim from a third party—all other claims are classified as non-recoverable.

64 Last, we note that some insurers have taken steps to amend their customer-facing documentation to provide greater clarity to policyholders about the potential effects of a claim on the premium. However, these amendments have predominantly been made by insurers who have, or are in the process of, transitioning away from the traditional NCD pricing model.

Effect of claims on underlying premiums

65 We found that a claim can, for some brands, have an effect on the underlying premium, independently of any effect on the NCD rating. For example:

(a) an at-fault claim can result in a policyholder’s NCD rating reducing to a lower level (thereby increasing the overall premium on renewal of the policy) as well as a loading being applied to the policyholder’s underlying premium. Further, an at-fault claim made by a policyholder who holds a maximum protected NCD rating (e.g. Rating 1), although not affecting the NCD rating, can result in an increased premium on renewal; and

(b) a no-fault claim (e.g. due to adverse weather), or an at-fault claim where the policyholder has ratings protection, can have no effect on the policyholder’s NCD rating (i.e. the rating would remain unchanged) but a loading can be applied to the policyholder’s underlying premium.

66 Further, for some brands, a not-at-fault claim can affect the underlying premium. This is the case despite the not-at-fault claim having no effect on the policyholder’s NCD rating.

67 We found that the effect on the underlying premium can last for up to five years.

Our concerns

68 The potential effect of a claim on a policyholder’s underlying premium, independent of any effect on the NCD rating, means that the policyholder can be penalised twice (where both the NCD rating and underlying premium are affected by a claim) or penalised with an increased premium on renewal despite the claim having not affected the NCD rating.

69 While we acknowledge that such practice is a business decision for individual brands, we consider consumers may not easily distinguish such practice from the operation of the NCD scheme and may therefore be surprised to learn that their underlying premium could increase independently of any effect of a claim on the NCD rating. We consider that NCD schemes create an impression that claims history has been separated from other primary underwriting factors and is treated separately and exclusively within the NCD scheme, which is not the case in practice.

70 We have concerns that, in most cases where brands undertake the above practices, consumer-facing documentation does not clearly disclose the fact that underlying premiums can be affected by a claim, independent of any effect on the NCD rating. In particular, we have concerns where brands that offer protected ratings do not adequately convey the message (whether in disclosure or promotional materials) that a claim may have an effect on the underlying premium independent of any effect on the NCD rating, as we consider ratings protection (whether earned or purchased) may be a powerful promotional and customer retention tool. We have seen, in a small number of reports of misconduct lodged with ASIC from members of the public and in FOS determinations, evidence of consumers’ potential lack of understanding of this practice.

Effect of withdrawn claims on underlying premiums

71 Each brand in our review stated that a withdrawn claim will not have any direct effect on an underlying premium. However, one insurer stated that, although not a consideration in isolation, a withdrawn claim can combine with other factors to affect the underlying premium.

72 We note that this review did not capture all brands offering motor vehicle insurance and, accordingly, we cannot conclude that other brands treat withdrawn claims similarly.

Our concerns

73 We anticipate that a policyholder may, in realising that a claim might affect the NCD rating, seek to withdraw a claim. As stated in REP 245, where a withdrawn claim has an effect on the renewal premium, we expect this to be

adequately disclosed to customers so that they may make informed decisions and realise genuine value from their NCD scheme. As noted above, we are concerned that existing disclosure does not adequately disclose potential effects of a claim, which affects the ability of consumers to make informed decision in relation to their claim.

Recommendation

Recommendation 1

Where insurers retain the traditional NCD pricing model, insurers should clearly disclose the effect of a claim on a policyholder's NCD rating and underlying premium.

Where relevant, insurers should clearly disclose whether claims can affect the underlying premium independently of any effect on the NCD rating.

D Finding 2: Purchased ratings protection can be a poor value proposition

Key points

Ratings protection offered by most brands allows a policyholder to retain their NCD rating, despite making a claim that would otherwise affect their rating. Ratings protection can either be earned or purchased.

Purchased ratings protection is generally only available to policyholders with a maximum NCD rating, and allows a policyholder retain their maximum rating until they have satisfied the waiting period to qualify for earned ratings protection (i.e. 'Rating 1 for life').

In some instances the cost of purchasing ratings protection, as a multiple of the premium, is higher than the benefit obtained by maintaining the NCD rating.

Types of ratings protection

74 Brands that offer an NCD scheme may offer a feature described as 'ratings protection' as a part of the scheme. This feature allows a policyholder to retain their NCD rating in the event of making a claim that would otherwise reduce their rating. Ratings protection may in practice result in some subsidisation by policyholders with good claims histories of those who more frequently make claims, as one factor in pricing premiums is overall claims activity (and associated costs) experienced by the insurer in preceding years. Ratings protection can either be earned or purchased.

Earned ratings protection

75 Over half of the brands offer earned ratings protection. Earned ratings protection is typically offered to a policyholder subject to two eligibility criteria. The policyholder must:

(a) obtain the maximum NCD rating (i.e. Rating 1); and

(b) hold this level for a specified period of time, typically for between one and three years.

76 Subject to meeting the eligibility criteria, the policyholder will have their NCD rating protected for the life of the policy, despite subsequently making claims that would ordinarily affect the policyholder's NCD rating.

Purchased ratings protection

77 Optional purchased ratings protection is offered by a majority of brands who offer NCD schemes. Typically, purchased ratings protection may be bought once a policyholder reaches the maximum NCD rating (i.e. Rating 1). A majority of brands offered purchased ratings protection for policyholders who had achieved the maximum NCD rating only. A small number of brands allow policyholders to purchase ratings protection for NCD ratings below the maximum NCD rating.

78 The level of take-up of purchased ratings protection by policyholders varies significantly between brands, ranging from less than 1% through to 69%.

79 Purchased ratings protection generally allows the policyholder to make at least one at-fault claim during a policy period without a reduction in their NCD rating. For some brands, a policyholder may make an unlimited number of at-fault claims within the specified policy period, while other brands permit only one at-fault claim per policy period. Some brands give policyholders the option of purchasing ratings protection for one claim in a policy period or for an unlimited number of claims in a policy period.

80 Some brands offer a ratings protection ‘for life’ option. This option allows a policyholder to maintain their NCD rating for the life of the particular insurance policy, despite making at-fault claims. Offering policyholders the option to maintain their rating for life may result in subsidisation of these policyholders by other policyholders who do not make claims, as annual premiums on renewal are generally determined in part by the total number of claims paid out by the brand during preceding years.

Cost of purchased ratings protection

81 The cost of purchased ratings protection is generally calculated as a percentage of the policyholder’s premium, and is charged on an annual basis on renewal. The cost can range between 5% and 20% of the policyholder’s premium to protect against one at-fault claim. For brands that offer purchased ratings protection against multiple at-fault claims, the price ranges between 12% and 20% of the premium. A small number of insurers charge a flat dollar figure.

82 For some brands, the cost of purchased ratings protection can depend on factors such as the state or territory in which the insured vehicle is located, distribution channel, the NCD rating being protected, the intended use of the insured vehicle, and whether the policyholder has chosen to protect the NCD rating for only one claim or for multiple claims.

83 Only a small number of brands specify the cost of ratings protection in dollar terms on the certificate of insurance, and not all brands indicate the exact cost (in percentage or dollar terms) during the sales process (over the phone, face-to-face or online). None of the brands disclose the cost of ratings protection (e.g. as a percentage) in the PDS.

84 After the initial purchase of ratings protection, the cost is generally automatically included in a policyholder's renewal premium unless the policyholder expressly states that they no longer wish to purchase the option. Where brands automatically include purchased ratings protection in policyholders' renewal premiums each year, the fact that the policyholder has chosen to purchase the option is generally disclosed on the renewal notice. However, the disclosure is not in all cases prominent. None of the brands' other written disclosure documents alert customers to the automatic inclusion of purchased ratings protection on renewal.

85 We found that a number of brands use gross written premium as a performance measurement tool, or provide commissions based on gross written premium for sales staff. Adding extras such as ratings protection to a policyholder's premium increases gross written premium and may increase a staff member's commission.

Our concerns

86 We consider that policyholders should carefully weigh the cost of ratings protection against the benefit it offers. When a policyholder purchases ratings protection, we anticipate that they might do so to guard against premium increases in the event of claims, and that this indicates the value that a policyholder places on their NCD rating. However, we consider it important that policyholders are aware of the cost of optional extras such as ratings protection, and the inclusion of such extras on their policies, so that they may make fully informed decisions about the value they are achieving from the purchase of such extras.

87 We identified instances where the cost of purchasing ratings protection, as a multiple of the premium, is higher than the benefit obtained by maintaining the NCD rating. For example, in circumstances where a policyholder pays an additional 10% on top of their premium to retain a maximum NCD discount of 55%, and a claim will ordinarily reduce the policyholder's NCD discount to 48%, it is arguable that the cost of ratings protection (10%) outweighs the benefit (preventing a 7% reduction to the policyholder's premium discount on renewal).

88 We found that the disclosure of the cost of purchased ratings protection is very limited. Only a small number of brands specifically break down the cost of the premium to highlight the cost of ratings protection in dollar terms on the certificate of insurance. Some brands do not indicate the exact cost of the

purchased protection (in percentage terms or dollar value) during the sales process (over the phone, face-to-face or online).

89 Further, as noted above, disclosure is generally inadequate in relation to the effects of a claim on the NCD rating and underlying premium. Some brands noted that policyholders who purchase ratings protection, and subsequently make an at-fault claim, will still be subject to an increase of the underlying premium at renewal even though they will maintain their NCD rating. We consider that such effects should be clearly disclosed at the time the ratings protection is purchased, and at renewal, to assist policyholders to make informed decisions about the value of purchased ratings protection and whether they wish to continue purchasing this optional feature.

Recommendation

Recommendation 2

Where insurers retain the traditional NCD pricing model, policyholders should be clearly made aware of the cost and value of purchasing ratings protection.

Disclosure of the automatic inclusion of optional extras, such as ratings protection, on policies at renewal should be prominent.

E Finding 3: Disclosure is generally inadequate

Key points

While the degree of disclosure about key elements of NCD scheme operations varies considerably between brands, it is generally inadequate.

We consider that policyholders' understanding of how NCD schemes operate is likely to influence their decision to purchase or renew an insurance policy.

We consider that consumers may benefit from additional information after point of sale, such as at claims lodgement, but that this information should be appropriately balanced so that consumers are not discouraged from making valid claims under their policies.

Types of disclosure and promotion

90 We identified that disclosure about the operation of NCD schemes occurs primarily in writing. Verbal communication about the operation of NCD schemes is generally limited to discussions about the policyholder's entitlement to a particular rating. Operation of the NCD scheme is generally not discussed verbally unless specifically requested by policyholders, and any discussions tend to be limited to what is contained in written disclosure.

Written disclosure

91 Documents typically containing disclosure of information about the NCD schemes include the PDS, certificates of insurance and renewal notices, supplementary consumer guides and the brands' websites (e.g. in the form of 'frequently asked questions'). The primary source of written disclosure is the PDS, with a number of other documents being incorporated into the PDS by reference.

92 Some brands include references in their PDS to a supplementary consumer guide (referred to by some brands as a 'premiums, excesses and discounts guide' (PED guide)), which generally includes additional details about the particular insurance policy such as applicable excesses, how premiums are calculated, various types of discounts and the claims process.

93 A number of brands in our review use their PED guide as a means of disclosing particular features of the brand's NCD scheme, which complements or re-emphasises information contained in the PDS and other policy documentation about the NCD scheme. The PED guide serves generally as a means to simplify and reduce the volume of disclosure in the

PDS itself and as a source of more detailed information about particular features of the insurance policies.

94 Information about NCD schemes in certificates of insurance and renewal notices is generally limited to the particular policyholder's NCD entitlement and whether the policyholder has a protected NCD rating (either purchased or earned).

95 Written disclosure is generally easy to access, with the PDS and PED guide (where one exists) available on the brands' websites and also generally available in hard copy (where the brand is not promoted as wholly online). Certificates of insurance and renewal notices are typically sent in hard copy to policyholders. The level of detail in written disclosure varies across brands, with some brands providing relatively comprehensive disclosure on key aspects of their NCD schemes and other brands providing comparatively less information.

Verbal disclosure

96 In addition to written disclosure, most brands (with the exception of wholly online brands) provide limited disclosure of their NCD schemes verbally during the sales and/or claims processes.

At the point of sale

97 Sales staff typically discuss prospective policyholders' driving and claims history, and the NCD rating that the person held with their previous insurer, in order to determine:

(a) the person's applicable NCD rating; and

(b) whether they are eligible to purchase a protected NCD rating.

98 In a limited number of cases the staff member provides a basic summary of how the NCD scheme operates. Sales discussions are generally restricted to the contents of the PDS and are guided by scripts, checklists, guidelines and/or system-automated screen prompts.

At the point of claim

99 At the claims stage, discussions about NCD schemes and premiums are relatively limited. Policyholders generally receive information limited to an indication as to whether the claim might affect their NCD rating, unless the policyholder specifically asks for more information. Some brands require their claims staff to refer the policyholder to their sales or underwriting departments if the policyholder seeks further information about the NCD scheme, increasing the difficulty for policyholders to obtain relevant information. Discussions do not appear to extend beyond what is covered at the sales stage and what is contained in the PDS.

Disclosure about the operation of NCD schemes

100 Insurers are obliged under the Corporations Act to make certain disclosures about an insurance policy, in the form of a PDS, to their customers at the point of sale. In some circumstances the law allows for the PDS to be given to the person at a later time.

101 The documentation that we received from participating insurers in this review explained the operation of the respective NCD schemes with a level of detail ranging from relatively comprehensive to comparatively minimal. While the level of detail provided to ASIC was in some cases fairly comprehensive, such detail was sometimes not reflected in disclosure made to consumers in customer-facing documentation. A basic level of consumer knowledge regarding the operation of NCD schemes appears to be presumed by insurers.

102 We consider that a policyholder's understanding of how NCD schemes operate may be influential in their decision to choose a particular motor vehicle insurance policy over another and whether to renew that policy. We consider the effect on the NCD rating may also be influential in policyholders' decisions about whether to make claims. Disclosure of key product features and risks, such as the NCD scheme, is important in assisting a person to make a confident and informed decision about whether to purchase or renew a particular policy or to make a claim.

Our concerns

103 Policyholders are frequently reminded of the value of attaining and maintaining an NCD rating at various stages of the insurer–policyholder relationship (e.g. at point of sale, claim lodgement and renewal). Where relevant aspects of the operation of NCD schemes are inadequately disclosed, we are concerned that consumers may not be in a position to make fully informed decisions about purchasing or renewing a particular insurance policy or about making a claim.

104 In addition to point of sale disclosures, we consider a policyholder will benefit from reminders of such information or supplementary information at other stages during the life of the insurance contract, such as when deciding whether to lodge a claim. We consider that having an unprotected NCD rating, coupled with a desire to achieve and maintain a maximum rating, can influence a policyholder's willingness to lodge a claim.

105 While we consider that insurers' encouragement of careful driving is a positive message to give to policyholders, we also consider it important that policyholders are not discouraged from making a legitimate claim and that they are able to realise value from the premiums they have paid.

Disclosure about the effect of claims on NCD ratings

106 Disclosure of the effect of at-fault claims on the NCD rating varies across brands.

107 The effect of at-fault claims for policyholders without ratings protection, including the number of rating levels reduced, is disclosed (to varying degrees) in most cases. However, some brands do not disclose this effect. A small number of brands do not disclose the exact number of rating levels that a policyholder's NCD rating would reduce. Instead, these brands provide minimal information, noting that the NCD rating would move to a lower level or reduce by a portion or percentage.

108 Three brands do not disclose to policyholders whether an at-fault claim will have an effect on an earned protected rating. In most cases where purchased ratings protection is available, these brands disclose the effect of at-fault claims.

109 The effect of not-at-fault claims on the NCD rating is in most cases disclosed in writing.

110 The effect of no-fault claims on the NCD rating is not disclosed in most cases. As noted above, for those brands that offer an NCD scheme, the treatment of no-fault claims (whether the policyholder held protected or unprotected ratings) varies, largely based on whether a responsible third party can be identified. Typically a no-fault claim will affect a policyholder's NCD rating if the claim is treated by the brand as 'non-recoverable'. This effect is not made clear in disclosure documentation.

Our concerns

111 We are concerned that the disclosure of the effect of various types of claims on the NCD rating is generally inadequate. We consider it important for insurers to clearly disclose cases where a claim results in a reduction of the NCD rating, as this is integral to policyholders' ability to understand how the NCD scheme operates and the weight a policyholder should give to an NCD scheme in deciding whether to purchase a particular policy or make a claim.

112 This disclosure may also be required by s1013D of the Corporations Act, which states that a PDS must include 'information about any other significant characteristics or features of the product, or the rights, terms, conditions and obligations attaching to the product': s1013D(1)(f). Similarly, s912A(1)(a) of the Corporations Act requires AFS licensees to do all things necessary to ensure that the financial services covered by their licence are provided 'efficiently, honestly and fairly'.

Disclosure about the effect of claims on underlying premiums

113 While a number of brands disclose that claims history is one among numerous premium pricing factors, few brands clarify that claims history may still effect the underlying premium in addition to (i.e. independent of) any effect on the NCD rating. Where there is such written disclosure, the disclosure is not prominent. We found that any existence of a link between the effect on the NCD rating and the underlying premium is generally unclear. This concept is not explained verbally.

Our concerns

114 We are concerned that the disclosure of the effect of various types of claims on the underlying premium is inadequate. Lack of clear disclosure, coupled with the presentation of NCD schemes as a way of rewarding low-level claims activity, has the potential in our view to lead to assumptions by policyholders that making a claim that does not affect the NCD rating will not result in an increase to the underlying premium. This, in turn, has potential to affect the clarity, conciseness and effectiveness of disclosure.

Recommendation

Recommendation 3

Insurers should review and, where appropriate, improve disclosure and/or make available additional information on excesses and the operation of NCD schemes where such schemes are retained.

Disclosure should be appropriately balanced so that consumers are not discouraged from making valid claims under their policies.

F Further findings: Inability to realise full discounts and inconsistent messaging

Key points

In some cases, it is at least foreseeable that the minimum premium is set at a level high enough that it could affect a policyholder's ability to realise their whole NCD entitlement.

In circumstances where advertising and promotional material conveys the message that careful driving attracts rewards in the form of increased NCD entitlements and other benefits, we consider that there is the potential for such messages to be misleading given the classification and effect of certain claims to the NCD rating and underlying premium.

Disclosure of minimum premiums

115 A minimum premium is the lowest dollar amount that a brand determines it will charge policyholders for their motor vehicle insurance policies. To the extent that a policyholder's NCD entitlement, together with any other discounts and promotions, would result in a premium lower than the brand's minimum premium, the policyholder's premium will not go below the minimum premium. We understand that the existence of minimum premiums is a business model that serves as a means of preventing the calculation of uneconomical premiums in individual cases.

116 Over half of the brands apply minimum premiums to their policies. The range of minimum premiums varies significantly from brand to brand. Some minimum premiums are very low and appear unlikely to have potential to affect a policyholder realising the full entitlement of their discounts and other promotions. However, other brands' minimum premiums are much higher, increasing the likelihood of a policyholder not being able to realise their full NCD entitlements. In most cases there is no disclosure in customer-facing documentation of the existence of a minimum premium.

Our concerns

117 Where a minimum premium is sufficiently high to have the potential to affect a policyholder's ability to realise their full NCD entitlement, we are concerned that the lack of disclosure of minimum premiums, combined with surrounding disclosure about NCD schemes generally, has the potential to mislead consumers about the extent of the NCD entitlements. In such cases, we consider that the existence of a minimum premium and its potential effects on discounts should be disclosed to policyholders.

Promotion of NCD schemes

118 Brands generally undertake very limited direct promotional advertising of their NCD schemes. Where NCD schemes are referred to in advertising, they are generally referred to indirectly as part of promotions focusing on other elements of brands' insurance policies.

119 Some brands promote their NCD scheme on their website and throughout the sales process. We found that NCD schemes are often described or discussed in the frequently asked questions section, or listed as a feature on participating insurer's websites. A number of brands, across a range of insurers, even highlight the fact that policyholders can protect their NCD ratings, indicating that insurers use NCD schemes as a marketing feature.

120 We note that two brands, both of which no longer take new customers, have removed references to their NCD scheme from their promotional materials and websites. A further two brands make no mention of NCD schemes on their websites, though these websites tend to be more limited in scope compared to their competitors.

121 Nonetheless, advertising or promotion of NCD schemes by insurers generally presents NCD schemes as a means of rewarding careful driving.

Our concerns

122 We recognise that advertising plays an important role in the financial services marketplace, and seek to ensure that promotional materials give clear, accurate and balanced messages when promoting financial products and advice services.

123 Thus, we consider that promotional messages on the benefits of NCD schemes should be carefully balanced against the actual features, risks and practical operation of the NCD scheme.

Rewarding careful driving

124 We are concerned that promotional messages representing that NCD schemes reward careful driving, and the existence of ratings protection, can be in conflict with how particular types of claims are classified and how those claims affect a policyholder's NCD rating and/or underlying premium.

125 For example, depending on the particular brand, a policyholder who has:

(a) no prior claims history may have their NCD rating reduced and premium increased after a not-at-fault claim if they are unable to identify the at-fault third party;

(b) no prior claims history may have their NCD rating reduced and premium increased after a no-fault claim arising from a weather event; or

(c) a recent history of at-fault claims may be able to remain on the highest NCD rating because they have ratings protection.

126 Further, we found that insurers generally position their NCD schemes as a reward for careful driving. However, we found that for most brands the majority of policyholders (between 90% and 99%) are on the maximum NCD rating.

127 Last, the concept of rewarding careful drivers is challenged by brands that offer a ratings protection 'for life' option. As noted above, this option allows a policyholder to maintain their NCD rating for the life of the particular insurance policy, despite making at-fault claims. Offering policyholders the option to maintain their rating for life may result in subsidisation of these policyholders by other policyholders who do not make claims, as annual premiums on renewal are generally determined in part by the total number of claims paid out by the brand during preceding years.

Recommendations

Recommendation 4

Insurers should disclose to consumers the existence of minimum premiums.

Where the minimum premium is sufficiently high to have the potential to affect a policyholder's ability to realise their full discount and other promotional entitlements, that risk should be disclosed.

Recommendation 5

Insurers should ensure that promotional messages on the benefits of NCD schemes, where such schemes are retained, are carefully balanced against the actual features, risks and practical operation of the NCD scheme.

G Complaints about NCD schemes

Key points

We requested statistics from individual brands on complaints about NCD schemes. We are encouraged generally by the level of record keeping by most brands.

While the data provided little evidence of policyholder concerns with NCD schemes, we do not necessarily consider this shows lack of policyholder concerns and/or issues.

128 We are encouraged by the progress that insurers have made regarding their complaints recording processes since the publication of REP 245. One of the key findings of REP245 was a general inability of insurers to report on specific types of complaints in relation to their motor vehicle insurance products.

129 We recommended that insurers should review their systems and processes for recording and analysing complaints to align them with systems used, so that they are able to extract useful information to address the underlying causes of complaints: REP 245, Recommendation 7.

130 We note that the majority of insurers have taken up and implemented this recommendation. In our current review, we asked brands for details regarding the number of policyholder complaints each brand received and finalised during the review period that related to the brand's NCD scheme. We are encouraged that most brands were able to provide data on NCD scheme related complaints. While a small number of brands were unable to provide complaints data specifically relating to NCD schemes, they did appear to have general complaints recording systems.

131 We generally found little evidence of policyholder concerns about NCD schemes, based on the complaints data that the participating brands provided to us, and we found complaints levels to be very low. However, given our observations about disclosure generally throughout this report, we consider it a possibility that policyholders may not be well placed to know that there either is a problem and/or when to raise concerns with their insurer about their NCD scheme and related issues. We consider that improved disclosure of NCD schemes generally may better position policyholders to know when issues arise.

132 We did not ask for specific details of each complaint and therefore have not drawn any conclusions as to any themes arising from complaints.

133 However, we have received a small number of breach notifications and reports of misconduct in relation to NCD schemes. The breach notifications and reports of misconduct predominantly relate to:

(a) insures incorrectly continuing to charge policyholders for optional ratings protection when the policyholder qualifies for earned protection;

(b) insurers' pricing algorithms; and

(c) policyholders losing NCD ratings due to making a no-fault claim.

134 We found that the breach notifications and reports of misconduct are consistent with and reinforce the observations and concerns we have set out in this report. We are of the view that improved disclosure of NCD schemes generally may better position policyholders to be able to complain if and when issues arise.

135 We encourage insurers to consider the potential remedial measures (e.g. rectification of advertising and disclosure materials, provision of refunds) that may apply in circumstances where elements of the NCD scheme (where such schemes are retained) are not clearly disclosed to policyholders who may subsequently suffer financial loss

136 We note that a small number of FOS determinations have raised the issue of the effect of different types of claims on policyholders' NCD rating and underlying premiums. Due to the small number of determinations, we have not drawn any conclusions as to any themes arising from those determinations.

137 However, we note that in at least one instance FOS has required a financial services provider to provide a refund of the additional premium charged to a consumer in circumstances where the provider failed to clearly disclose that a not-at-fault claim would affect and increase the underlying premium, despite no reduction in the NCD rating.

Key terms

Term	Meaning in this document
AFS licensee	A person who holds an Australian financial services licence under s913B of the Corporations Act Note: This is a definition contained in s761A of the Corporations Act.
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
ASIC Act	*Australian Securities and Investments Commission Act 2001*
at-fault claim	A claim made where the policyholder is at fault or, in some jurisdictions, at least 50% at fault
Ch 7 (for example)	A chapter of the Corporations Act (in this example numbered 7)
Corporations Act	*Corporations Act 2001*, including regulations made for the purposes of that Act
FOS	Financial Ombudsman Service—an ASIC-approved EDR scheme
general insurance product	Has the meaning given in s761A
GI Code	The General Insurance Code of Practice, developed by the Insurance Council of Australia
Insurance Contracts Act	*Insurance Contracts Act 1984*
Insurance Act	*Insurance Act 1973*
NCD rating	The level of discount a policyholder is entitled to through an NCD scheme
NCD scheme	No-claims discount scheme
no-fault claim	A claim made when no one is at fault; for example, the incident was caused by storm damage
not-at-fault claim	A claim made when a third party is at fault and not the policyholder
non-recoverable	A claim is non-recoverable when the insurer cannot recover the cost from another party
PDS	Product Disclosure Statement
PED guide	Premiums, excesses and discounts guide

Term	Meaning in this document
policyholder	A person who holds an insurance policy with an insurer
premium	The amount of money charged by an insurer for coverage
Product Disclosure Statement	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
ratings protection	A feature of an NCD scheme that allows a policyholder to retain their NCD rating in the event of making a claim that would otherwise reduce their rating
recoverable	A claim is recoverable when the insurer can recover the costs from another party
REP 245 (for example)	An ASIC report (in this example numbered 245)
s1330 (for example)	A section of the Corporations Act (in this example numbered 1330), unless otherwise specified

Related information

Headnotes

advertising, at-fault claims, disclosure, earned ratings protection, excess, general insurance, motor vehicle insurance, NCD ratings, NCD schemes, no-claims discount, no-fault claims, not-at-fault claims, premium, purchased ratings protection, recoverable, unrecoverable, withdrawn claims

Legislation

ASIC Act

Corporations Act, Ch 7, s912A(1)(a), 1013D, 1330

Corporations Regulations 2001

Insurance Act

Insurance Contracts Act, s13; *Insurance Contracts Amendment Act 2013*

Regulatory guides

RG 234 *Advertising financial products and services (including credit): Good practice guidance*

Reports

REP 245 *Review of general insurance claims handling and internal dispute resolution procedures*

Other

Insurance Council of Australia, *General Insurance Code of Practice*,