ASIC
Australian Securities & Investments Commission

Insurance in super: The regulators – What do they think?

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CHECK AGAINST DELIVERY

Thank you for the opportunity to speak to you today about ASIC's perspective on insurance in super.

Life insurance is a fundamentally important product for consumers, helping them to manage risk and deal with major financial stress. However, there is scope to improve the way that this product is provided to consumers, and there are clearly areas in the broader life insurance market where consumer expectations have not been met. As a result, the life insurance sector is under unprecedented scrutiny across all channels.

There have been major reforms in the area of life insurance advice, with new rules coming into place on 1 January this year, including around remuneration. ASIC has been carrying out a review of direct life insurance, where there have been poor consumer outcomes and higher claims denial rates.

We continue to have a significant focus on claims handling and dispute resolution. We are currently undertaking a 'deep dive' into total and permanent disability (TPD) claims following our broader review of claims handling in 2016, and we will report results later this year. ASIC is also working with the Australian Prudential Regulation Authority (APRA) on a comprehensive life insurance claims data project, which I will discuss later. And we will see new standards for dispute resolution introduced as part for the Government's recent reforms in this area, including the establishment of the Australian Financial Complaints Authority (AFCA).

Insurance in super is part of this broad focus by ASIC, APRA and other agencies. ASIC is undertaking a project looking at insurance in super, where we have sought information from a wide range of trustees. We will report towards the middle of the year.

Overall the message is clear – you need to look at how you can improve the way in which you provide life insurance, to meet evolving consumer needs and community expectations. This applies to both trustees and insurers.

Insurance in super

I want to begin by emphasising that we think insurance in super can and does deliver very important benefits to consumers. For some members, an insurance claim will be their most significant experience of the superannuation system. It can provide support for members and their families at a difficult point in their lives.

It's also a substantial part of the overall insurance sector. Information from Rice Warner in August last year suggests that more than 70% of Australian life insurance policies – more than 13.5 million separate policies – are held through superannuation funds. Further, there are about 17,000 disability benefits paid and about 46,000 death benefits.

However, the consumer experience of insurance in superannuation is not consistently positive or productive.

As a starting point, in a compulsory system many superannuation fund members do not understand that they have cover as part of their super. This can mean some people don't claim when they should, which is a very poor outcome.

Claims handling can be difficult and time consuming. It's not a good outcome if consumers feel they must get lawyers involved in matters that appear to be relatively straightforward. Similarly, long and drawn out complaints handling processes do not help consumers, especially those with lower levels of financial literacy.

Some members find themselves with multiple accounts, paying premiums to different funds, but only being able to claim once on their insurance. Younger members may have cover they don't need, but they don't understand this issue and may not take steps to stop unnecessary cover. In both cases, retirement benefits are being needlessly eroded by insurance premiums.

Now, ASIC appreciates that navigating these issues is complex for everyone involved. But that should not stop industry-driven reform.

Against this backdrop, the development of the Insurance in Superannuation Code of Practice is an important step. In particular:

- this is the first time there has been an attempt to analyse premium caps to prevent benefit erosion – it's a significant development, given the issues with account balance erosion that exist in the current system

- the Code introduces tighter timeframes for dealing with claims and complaints, which should considerably improve the consumer experience of these processes
- the Code also has the potential to introduce clearer and more consumer-focussed disclosure, particularly with a key facts sheet for consumers.

ASIC acknowledges the work that was undertaken in developing the Code, which has helped to advance debate and discussion on some important areas for reform. Adopting the Code should help trustees address key issues that have arisen around areas such as claims, complaints handling and disclosure.

However, the Code has some significant limitations. It's voluntary, not enforceable and has a lengthy transition period out until 2021. The administration of the Code is unclear.

There is a range of areas where trustees can exercise discretion and utilise exceptions so that they do not have to meet Code standards. That is not a desirable feature of any code. We will be interested to observe in practice how widely these exceptions will be utilised.

There are also key issues that didn't make it into this version of the Code, such as standardised definitions for TPD.

In short, ASIC welcomes the work in this area, and we would encourage industry participants to look at how they can use the Code to raise standards. However, there is more to do. At present, the Code certainly falls short of the long-standing code approval standards that ASIC sets out in Regulatory Guide 183 *Approval of financial services sector codes of conduct* (RG 183).

If the Code is to be a significant mechanism for meaningful positive change, then it needs to be understood that further work needs to commence as soon as possible.

So I'd like to now turn to a few areas where an effective code could help improve outcomes for consumers.

Disclosure

Quality of disclosure is a core area of ASIC's regulatory responsibility. In our Report 529 *Member experience of superannuation* (REP 529), released last year, we flagged areas where disclosure in insurance in super concerned us because poor disclosure might make it harder for people to engage with their super.

As an example, we were concerned with the lack of adequate upfront and ongoing disclosure to members about insurance cover. This includes concerns with:

- the lack of notifications to members shortly before insurance cover ceases or changes
- the inconsistency between policy documents, Product Disclosure Statements (PDSs), and other disclosure material from the trustee.

In our project work, we did find that trustees provided information to consumers about when cover would cease in the fund PDS. More importantly, and positively, almost all trustees gave additional notification prior to cover ceasing, which is really the key disclosure point. There were only three trustees who didn't make this additional disclosure when cover was about to cease, and we'll be contacting them. We do see the Code changes as lending support to the idea that members should be notified closer to the cease or change event occurring, and this is positive for consumers. Disclosure that is timely has a better chance of success.

Complaints handling

Reforms to internal and external dispute resolution

I want to move now to complaints handling and dispute resolution. While recently announced reforms are not solely about your industry, we see effective internal and external dispute resolution as an important part of the consumer experience of insurance in superannuation. As we flagged in REP 529, we think trustees should:

- explain the complaint process clearly – for example, explaining that a member needs to go through internal dispute resolution (IDR) before they go to external dispute resolution (EDR)
- give good written reasons for decisions that focus on the information needs of the member.

We are pleased to see that the Code focuses on the member needs in the complaint process, as well as in the initial claims handling process in the insurance context. We think these are important initiatives to help give consumers greater confidence that they will be treated fairly by their trustee.

However, in our project work, we are finding some trustees with overly long average times for finalising complaints. We'll be providing a more detailed response in our upcoming report, as this is an area of focus for ASIC.

There is clearly work to be done to address some of these issues around complaints timeframes. There is the risk of breaches of the Code if major changes to systems and processes are not made by trustees. As you can imagine, we are very interested to see how the target of 45 days in the Code is going to be met.

On the reforms to complaints handling, the legislation to establish AFCA has recently passed, and ASIC welcomes these important reforms. AFCA will start accepting complaints no later than 1 November 2018. There will be transitional arrangements in relation to the Superannuation Complaints Tribunal (SCT).

Importantly, in the superannuation context, current legislative IDR requirements for superannuation trustees (including 90-day timeframes and requirements for written reasons) will continue to apply in their current form until ASIC consults on and then

issues our updated IDR policy: see Regulatory Guide 165 *Licensing: Internal and external dispute resolution* (RG 165).

We will be consulting with stakeholders about changes to our IDR policy settings in RG 165 post November 2018. A key focus of our consultation will be maximum IDR timeframes. Given the Code is setting out a 45-day timeframe, one question will certainly be whether the 90-day timeframe that has historically applied to superannuation complaints should remain in place. As broader IDR timeframes may come down in the future, this is a good opportunity to engage with the Code and be ahead of any changes that come with the IDR reforms.

Life insurance claim data project

Before I conclude, I wanted to talk about a data project we are undertaking in collaboration with APRA that will impact right across the life insurance sector including insurance through super. This is the project to collect and publish data on life insurance claims outcomes.

The project is one of the responses to ASIC's life insurance claims review in 2016. In Report 498 *Life insurance claims: An industry review* (REP 498) we found that around 90% of claims are paid in the first instance. But while there was not a significant issue of cross-industry misconduct, there were particular areas of concern that warranted further review. For example, we found high claims decline rates for TPD policies.

Another key finding was that we all need much more transparent, better quality and consistent data on claims outcomes. To that end we have been working with APRA to establish a consistent public reporting regime for claims data, including claims outcomes and data about claims-related disputes.

APRA published the industry-level results of the first round of data collection in November 2017, and we are now finalising our round two collection.

From the first round we can see there is still work to be done to fully embed common claims-related definitions across the industry (e.g. 'reported', 'declined', 'withdrawn').

Ultimately, ASIC and APRA intend for this data to be collected and published on an entity-level basis, at a sufficient level of granularity to allow for meaningful comparisons of insurance outcomes and with sufficient content to effectively inform consumers and other stakeholders.

With better accountability, we can facilitate public discussion about industry performance. Superannuation trustees are a key audience for this project, with an interest in the efficiency and effectiveness of operators in this sphere. We believe that the collected data will allow you to:

- gain important insights into relative portfolio experience and performance
- enhance claims handling practices (affecting claims and disputes outcomes and durations).

Once the data is credible and publishable, this can help achieve:

- improved transparency of the life industry's claims data, at an insurer level
- greater insurer accountability
- improved claims handling practices (affecting claims and disputes outcomes and durations).

Conclusion

To conclude, we support the work that has been done on addressing some of the problems in the provision of insurance through super, but there is clearly more work to be done. Industry needs to demonstrate that it can lead on this issue, but ASIC recognises that we need to play our part. On this point, in our dealings with trustees and insurers as part of our insurance in super project we intend to ask about intentions and approach in relation to the Code requirements.

We anticipate providing public findings from our project in this financial year. Along with the Code, we hope we can provide feedback that will help strengthen the benefits that can come from insurance in super if it is provided effectively and with a clear focus on the needs of consumers.