

9 August 2019

**Submission by the National Insurance Brokers Association of Australia
in response to ASIC Consultation Paper 311**

Internal dispute resolution: Update to RG 165

The National Insurance Brokers Association of Australia (NIBA) appreciates the opportunity to provide these comments and submissions in response to the ASIC Consultation Paper 311 Internal Dispute Resolution: Update to RG 165.

About NIBA

NIBA is the industry association for general insurance brokers in Australia. NIBA represents over 300 insurance broking firms, each of which hold an Australian Financial Services Licence.

Many of these firms appoint corporate or individual Authorised Representatives. As a result, NIBA represents in excess of 1,600 small and medium insurance broking businesses in the cities, towns and regions across Australia.

NIBA's main goals and objectives are:

- Representation: representing the interests of member firms to governments, regulators, industry and other stakeholders, the media and the community;
- Professionalism: setting and promoting high standards of professional conduct by insurance brokers, via appropriate industry training and qualifications, and the Insurance Brokers Code of Practice; and
- Community: providing opportunities for insurance brokers, and the broader intermediated general insurance community, to come together to learn, develop, share experiences and discuss industry issues and challenges.

About insurance brokers

Insurance brokers act as the trusted adviser of their clients on risk and insurance matters. Their key roles include –

- Work with their clients to understand, assess and manage their business risks;
- Prepare a proposed insurance program appropriate to the client's needs and circumstances;
- Seek the best and most appropriate cover from the insurance markets on behalf of the client, at the most cost effective price, bearing in mind that the broker is purchasing insurance on behalf of their client; and
- Act as the client's advocate when an insured event occurs, and advise and assist the client with the handling of the claim.

All insurance brokers operate under an AFS licence, and are members of AFCA. They operate under and in accordance with the financial services regulatory framework administered by ASIC.

Key submission

It is not at all clear what the issues and concerns are in relation to complaints and disputes involving general insurance brokers in Australia.

Indeed, of the more than 35,000 complaints and disputes lodged with AFCA in the first six months of operations, we have been advised that less than 160 of those matters relate to insurance brokers.

ASIC Report 603 on the consumer experience with IDR does not appear to raise issues or concerns with insurance brokers.

While there are around 20 insurance broking firms of reasonable size operating nationally, around 1,600 broking firms are genuinely small businesses, and do not have significant internal resources to operate complex and demanding complaint and dispute management systems or meet complex data reporting requirements.

These businesses make some use of social media for marketing purposes, but it would be unreasonable to expect them to be constantly monitoring social media for comments that might fall within the proposed definition of complaint.

NIBA therefore submits that the IDR obligations on an insurance broking firm comprising 15 staff members in Young, NSW, should not be the same as those imposed on major banks, insurance companies and other large financial institutions. We seek a measure of proportionality in the obligations being imposed by the proposed new Regulatory Guide, to ensure that regulatory

obligations are reasonable, required by actual areas of concern in our sector, and not unduly onerous, or expensive to administer.

These comments on the need for proportionality apply to both IDR processes and procedures within the firm, and to proposed data gathering and reporting obligations.

We now offer specific comments on a number of the proposed changes.

Definition of complaint

We have strong concerns about the proposed extension of complaint to include comments “about” a firm. SME broking firms simply do not have the resources or the capability to monitor social media for comments about the firm. We strongly submit that a complaint should be a matter that is drawn to the attention of the firm with an expectation that the matter will be investigated and dealt with appropriately.

Recording of complaints

Again, we have strong concerns about the proposed requirement that all complaints be recorded, including and especially those resolved at the first point of contact. It is not at all clear what is to be gained by an obligation of this nature.

IDR data reporting

NIBA is very concerned about the likely cost and confusion arising out of mandatory data reporting along the lines of that proposed in the draft data dictionary.

One simple matter of concern relates to the classification of insurance brokerages. Insurance brokers are both financial advisers, and insurance distributors, and are recognized as such for the purposes of ASIC funding. The proposed data dictionary does not appear to allow for insurance brokers to be categorized in this manner.

It is of real concern that a matter that is raised by a client and resolved promptly by the broker, could require 20 minutes of effort recording the nature of the complaint, and a further 20 minutes of effort in recording details of the matter for the purposes of IDR data reporting. The cost of this type of administrative impost has to far exceed any possible benefit of these processes being imposed on small and medium insurance broking businesses.

IDR responses – minimum content requirements

NIBA will be very pleased to discuss minimum content requirements of IDR responses if we can be provided with examples of unreasonable or inadequate responses by insurance brokers to complaints and disputes in recent times. We strongly urge the development of requirements that match the issues and concerns that arise in insurance broking, not in other areas of financial services.

Regulatory and Financial Impact

NIBA is not aware of any assessment or analysis of the likely costs, and benefits – if any – that will or might arise from the imposition of these obligations on insurance brokers. We strongly urge a genuine cost/benefit analysis, and a detailed Regulatory Impact Statement, before the matter is taken further.

Please do not hesitate to contact NIBA if further information is required on any of these matters.

Dallas Booth
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