

# Attachment 2 to Media Release (20-300MR): Draft C12 proof on insurance claims handling and settling

Please note: This draft C12 proof is an attachment to Media Release (20-300MR) issued on 27 November 2020. It accompanies draft Information Sheet 000 *Claims handling and settling: How to comply with your AFS licence obligations (INFO 000)* which is also attached to the media release.

The draft C12 proof and information sheet are based on the [Financial Sector Reform \(Hayne Royal Commission Response\) Bill 2020](#) currently before the Parliament of Australia and the [draft regulations](#).

The C12 proof and information sheet will be updated to reflect the final form of the law as passed. The C12 proof will then be published in Section C of [Regulatory Guide 3 AFS Licensing Kit: Part 3—Preparing your additional proofs \(RG 3\)](#).

## C12 proof: Insurance Claims Handling and Settling Service Statement

Note: In answering these questions, please provide summaries. Do not give us copies of your documented procedures or policies. All references to legislative provisions in this proof are to provisions of the *Corporations Act 2001*.

### Efficiently, honestly and fairly (s912A(1)(a))

#### Timeliness

- RG 000.1 This proof includes a description of your arrangements, systems, and written policies and procedures relating to:
- (a) the key steps and milestones, and the associated timeframes, that you and your representatives will reasonably take, or expect to take (excluding time that is within the control of the claimant or its representatives), from initial inquiry about a claim or potential claim to finalisation of the claim, or your involvement in relation to the claim;
  - (b) how you will monitor your compliance with these timeframes, and what you will do to review and address any delays within your control;
  - (c) if you rely on outsourced third parties—how you will monitor their compliance with these timeframes, and what you will do to review and address any delays by them; and
  - (d) unless you are applying to act on behalf of a claimant (i.e. you are seeking an authorisation under s766G(1)(c) as a ‘claimant intermediary’)—any industry code timeframes you intend to follow (even if you do not subscribe to that industry code).

### **Transparency and fairness**

- RG 000.2 This proof also includes a description of your arrangements, systems, and written policies and procedures relating to:
- (a) what you will do to ensure that claimants understand the claims process, including knowing:
    - (i) what to expect from you in the claims handling and settling process;
    - (ii) what you will expect of them;
    - (iii) how long it generally takes for a decision on a claim to be made;
    - (iv) why you need certain information from them;
    - (v) how often they will be told about the progress of their claim and how they can seek more information about its progress;
    - (vi) if their claim has been rejected (in full or in part), why this is the case, including clearly explaining to the claimant any adverse findings and giving them an opportunity to respond and provide additional information (i.e. affording them procedural fairness); and
    - (vii) they have a right to make a complaint and how to access internal dispute resolution arrangements and external dispute resolution through the Australian Financial Complaints Authority;
  - (b) the types of activities, and the extent of inquiries or substantiation (i.e. with examples) you expect to request of a claimant or potential claimant, including details of the factors you will have regard to in treating a claimant or their situation as exceptional (i.e. warranting more onerous substantiation or possible surveillance); and
  - (c) ensuring you and your representatives act reasonably (i.e. by limiting to a reasonable extent the burden and intrusiveness of inquiries) in handling and settling a claim.

### **Claimants experiencing vulnerability or financial hardship**

RG 000.3 Vulnerability may arise from a range of factors such as age, disability, mental health, physical health, family violence, language barriers, literacy, cultural background, Aboriginal or Torres Strait Islander status, remote location or financial distress.

- RG 000.4 This proof also includes a description of your arrangements, systems, and written policies and procedures relating to:
- (a) identifying and dealing with claimants and potential claimants who are experiencing vulnerability or financial hardship differently to other claimants; and
  - (b) training and supervising your representatives on how to deal with vulnerable claimants and potential claimants.

### **Code membership**

- RG 000.5 Unless you are applying to be a claimant intermediary, this proof also includes an explanation of:
- (a) if you subscribe to an industry code (see Information Sheet 000 *Claims handling and settling: How to comply with your AFS licence obligations* (INFO 000))—which one;
  - (b) if you do not subscribe to an industry code—what your service standards and timeframes are and whether they are consistent with any relevant industry code; and
  - (c) if you are in an industry that does not have an industry code covering claims handling and settling—whether you will set your service standards in a way that is informed by the relevant codes, and consistent with them where feasible.

### **Managing conflicts of interest (s912A(1)(aa))**

- RG 000.6 This proof also includes a description of your arrangements, systems, and written policies and procedures relating to:
- (a) what you regard are your key conflicts of interest and key potential conflicts of interest;
  - (b) how you will select representatives to provide any of your claims handling and settling services in light of the type of claims handling and settling services you will engage them to provide for you;
  - (c) the management of any conflicts between your interests, the interests of your representatives, and the interests of the claimant in relation to:
    - (i) incentives and performance measurements for your representatives and the obligation to assess each claim on its merits;
    - (ii) any remuneration agreements with your representatives and the obligation to handle claims efficiently, honestly and fairly; and
    - (iii) any third-party commercial arrangements and the obligation to assess each claim on its merits; and
  - (d) the frequency and scope of reviewing the adequacy of your processes for identifying and managing conflicts of interest.

### **Representatives (s912A(1)(ca) and 912A(1)(f))**

- RG 000.7 This proof also includes a description of your arrangements, systems, and written policies and procedures relating to:
- (a) taking reasonable steps to ensure your representatives are adequately trained to provide claims handling and settling services;

- (b) taking reasonable steps to ensure your representatives are competent to provide claims handling and settling services;
- (c) the financial, human and technological resources you will engage to monitor and supervise your representatives to ensure that you are meeting your licence obligations in the provision of claims handling and settling services (including the frequency of testing and reviewing of their competence and appropriateness to continue to act as your representatives); and
- (d) how you will monitor and resolve complaints made against your representatives.

**Cash Settlement Fact Sheet—General insurance claims  
(Div 3A of Pt 7.7)**

- RG 000.8 This part of the C12 proof only applies to general insurance claims handling and settling services (and excludes claimant intermediaries).
- RG 000.9 This part of the proof includes a description of your arrangements, systems, and written policies and procedures relating to:
  - (a) how you will ensure the content of your Cash Settlement Fact Sheet meets the requirements in Div 3A of Pt 7.7;
  - (b) how you will identify whether the fact sheet is required to be provided to a claimant; and
  - (c) if your arrangements include that your representatives provide the fact sheet to the claimant—how you will ensure that your representatives comply.