



Insurance Council
of Australia

12 June 2025

Ward Sutcliffe
Senior Specialist
Credit, Banking and General Insurance
Australian Securities and Investments Commission

By email: rri.consultation@asic.gov.au

Dear Mr Sutcliffe

ASIC proposal to remake the incidental retail cover legislative instrument

The Insurance Council of Australia (Insurance Council) welcomes the opportunity to respond to Australian Securities and Investments Commission's (ASIC) proposal to remake the incidental retail cover legislative instrument, [ASIC Corporations \(Incidental Retail Cover\) Instrument 2022/716](#) ('the instrument'), for a period of five years.¹

The Insurance Council is the representative body of the general insurance industry in Australia and represents approximately 85 per cent of private sector general insurers. As a foundational component of the Australian economy, the general insurance industry employs approximately 60,000 people and on average pays out \$147 million in claims each working day (\$36.5 billion per year).

Overview

The Insurance Council supports the instrument and relief provided such that when an incidental product that is provided to a retail client within a bundled business contract, it will be deemed to be provided to a person as a wholesale client for Parts 7.6 (other than Divisions 4 and 8), 7.7, 7.8, 7.8A and 7.9 of the *Corporations Act 2001 (Cth)* ('the Act').

The relief has served a valuable purpose of removing uncertainty regarding the application of Chapter 7 requirements to general insurance products that are provided to wholesale clients, as to the inclusion of incidental retail cover in a product which does not result in that product becoming one which is provided to a person as a retail client.

We agree with ASIC that the instrument is operating effectively and forms a useful part of the legislative framework. The certainty given to insurers by the relief has allowed them to continue to provide incidental retail insurance cover to customers where appropriate. We note that given the incidental and mandatory nature of the incidental cover, in a business contract, the imposition of retail client protections is likely to be of no benefit to the business purchaser (and, likewise, the absence of those protections should cause it no detriment).

If the relief was not extended as proposed, and a view taken that all incidental retail cover provided in otherwise wholesale products needs to have retail client protections applied, it is likely that the incidental retail cover will be removed from some wholesale products. Alternatively, the pricing and affordability of commercial products could be impacted due to increased operational costs to meet retail client obligations and the availability of incidental retail cover may become a problem in the long-

¹ [ASIC \(16 May 2025\) CS 19 Proposed remake of incidental retail cover legislative instrument.](#)

term, potentially leading to certain risks becoming uninsured to the detriment of the person who would have benefited from it.

As there is a continued need for the instrument, we encourage ASIC to consider with Treasury the incorporation of the relief into legislation, rather than maintain it in an instrument. This would align the proposed reform to Recommendation 24 from the Australian Law Reform Commission's Final Report *Confronting Complexity: Reforming Corporations and Financial Services Legislation*.

Conclusion

We appreciate the opportunity to respond to the consultation. If you have any questions, please contact myself or [REDACTED]

Yours sincerely,

[REDACTED]
[REDACTED]
General Manager, Regulatory and Consumer Policy