

# Submission

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Consumer Reforms  
Regulatory Reform & Implementation  
Australian Securities and Investments Commission  
Sydney NSW 2000  
Via email: [rri.consultation@asic.gov.au](mailto:rri.consultation@asic.gov.au)

## **ASIC CS26 Proposed Update to RG183: Approval of financial services sector codes of conduct**

The National Insurance Brokers Association of Australia (NIBA) welcomes the opportunity to provide feedback on ASIC's draft updated Regulatory Guide 183 on the approval of financial services sector codes of conduct.

NIBA members play a vital role in helping households, businesses, and communities understand and manage risk. Insurance brokers are trusted intermediaries who provide tailored advice and advocacy for their clients, ensuring access to appropriate cover and support throughout the claims process. As such, brokers operate in a very different capacity to large product manufacturers or financial institutions, and their obligations and resources reflect this distinction.

NIBA supports ASIC's objective of strengthening the effectiveness and credibility of industry codes. Properly designed, codes can complement existing law, raise professional standards, and deliver meaningful benefits to consumers. Clear guidance on approval criteria and processes is essential to achieving these outcomes in a way that is both practical and proportionate. Guidance should also acknowledge the diversity of the financial services sector, ensuring that expectations for approved codes are applied flexibly across businesses of different size, scale, and function.

NIBA looks forward to continuing to engage with ASIC to ensure that the final guidance provides a clear, workable, and balanced framework for the approval of industry codes

### **About NIBA**

NIBA is the peak representative body for the general intermediated insurance profession. NIBA serves as the collective voice of approximately 450 member firms and 15,000 individual brokers. Our membership encompasses a diverse range of entities, including large multinational insurance brokers, Australian broker networks, as well as small and medium-sized businesses located in cities and regional areas around Australia. NIBA advocates for the interests of general insurance brokers and their clients, ensuring that the general industry operates with integrity and professionalism.

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NIBA's work is guided by our core pillars: community, representation, and professionalism. NIBA's mission is to enhance the professional standing of insurance brokers through robust advocacy, education, and ethical standards. By fostering a collaborative and innovative environment, NIBA aims to elevate the quality of service provided to consumers, strengthening trust and confidence in the insurance broking profession.

### **Scope of the Financial Services Sector**

The Australian financial services sector is highly diverse, encompassing large multinational and nationally based institutions transacting billions of dollars annually, as well as medium-sized enterprises and sole practitioners providing services to local communities. This diversity reflects not only the size and scale of different participants but also the very different functions they perform within the financial system. The sector includes product manufacturers, wholesale and retail distributors, and intermediaries such as insurance brokers, each operating under distinct business models, regulatory obligations, client relationships, and levels of resourcing.

It is important that ASIC's guidance explicitly acknowledges this breadth. A one-size-fits-all approach risks overlooking the unique role of intermediaries, particularly those whose primary duty is to act on behalf of clients. Equally, smaller firms do not have the same resourcing capacity as large institutions and may face disproportionate challenges in meeting obligations that are framed without regard to scale or business model.

Recognition of this diversity is essential to ensuring that Codes developed under the framework are meaningful, proportionate and capable of being implemented in practice. Guidance that assumes a uniform model of financial service provision risks creating obligations that are either impractical for some providers or misaligned with the professional responsibilities of others. To achieve the policy objectives, Codes applying to distribution and intermediary sectors should be developed with these distinctions in mind, ensuring that obligations are targeted, practical and capable of consistent application across firms of all sizes.

Such an approach would not only enhance consumer protection by ensuring obligations are realistic and enforceable but also strengthen confidence in the regulatory framework by promoting fairness and proportionality across the full spectrum of financial services providers.

### **Flexibility and proportionality**

The approval framework should explicitly confirm that the criteria for assessing industry codes will be applied in a proportionate manner, recognising the diversity of business models, capacities, and regulatory contexts across the financial services sector. Large product manufacturers with extensive compliance teams and infrastructure operate at a fundamentally different scale to smaller intermediaries such as insurance brokers, many of whom are small businesses servicing local communities.

A uniform approach to code obligations risks imposing requirements that may be appropriate for large institutions but are unduly onerous or impractical for smaller firms. This could have the unintended consequence of diverting resources away from client service and risk advice, or discouraging smaller participants from subscribing to approved codes, thereby undermining their effectiveness.

The guidance should therefore make clear that ASIC does not expect codes to impose identical obligations across all types of firms. Instead, obligations should be designed and assessed in a way

that is practical, proportionate, and capable of consistent implementation across businesses of varying size and complexity. Proportionality also ensures that Codes remain accessible, maintain industry support, and deliver meaningful improvements in standards without creating unnecessary compliance burdens.

Flexibility in how obligations are framed and applied will allow Codes to reflect the realities of different parts of the sector while still raising standards and enhancing consumer protection. This approach would encourage broad industry participation in ASIC-approved codes and support the overarching objective of building consumer confidence in financial services.

### **Review Cycle of Approved Codes**

NIBA strongly supports extending the review cycle for approved codes from three to five years. The current three-year cycle places significant demands on Subscribers who must commit substantial resources to consultation and implementation, including updating internal policies, training staff, amending compliance systems and communicating changes to clients. For many firms, particularly smaller businesses, this cycle consumes considerable time and expense, diverting resources away from client service and business development.

While it is essential that codes remain responsive to changes in law, market practice, and consumer expectations, overly frequent reviews risk undermining stability. They disrupt business operations, increase costs, and place a disproportionate strain on smaller firms that lack the scale or capacity of larger product manufacturers.

A five-year review cycle would strike a more appropriate balance by providing stability and predictability, allowing firms to fully embed their Code obligations within their operations and ensuring that the outcomes of a review are properly evaluated over time before further changes are introduced.

Importantly, many Codes, including the Insurance Brokers Code of Practice, contain mechanisms for targeted amendments between formal reviews. This flexibility means that emerging issues can still be addressed in a timely way without requiring the disruption and cost of a full-scale review process.

### **Use of Plain Language**

NIBA supports ASIC's emphasis on the use of plain language to ensure industry codes are clear, accessible and easily understood by consumers. Codes that are written in straightforward terms can enhance consumer confidence and help subscribers embed the Code into their day-to-day practices.

At the same time, it is necessary to recognise the nature of financial services. The sector involves a range of technical terms and defined concepts that are critical for legal, contractual, and operational accuracy. Defined terms are not only unavoidable but also play a constructive role in ensuring that Codes operate effectively in tandem with existing legislation. They provide the clarity needed to align Code provisions with statutory obligations, reduce ambiguity in interpretation, and facilitate consistent application across diverse market participants.

NIBA therefore encourages ASIC to reflect this balance in the guidance by making clear that Codes should adopt plain language where possible, while recognising that the use of defined terms is both necessary and appropriate to ensure accuracy and compliance. This approach would promote

readability and accessibility for consumers, without undermining the precision, enforceability, and legal coherence of Codes.

### **Approval Criteria and Consumer Benefits**

NIBA is concerned that the draft guidance could be read too narrowly, suggesting that the removal of any Code provision must necessarily diminish consumer benefits. In practice, there are situations where a provision may provide some consumer benefit but impose such a heavy compliance burden that it is no longer proportionate or sustainable to retain.

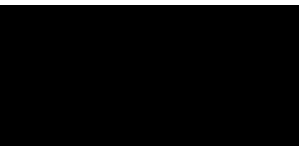
For example, a provision may offer only a marginal benefit to consumers while imposing disproportionately high costs on subscribers, particularly smaller firms with more limited compliance capacity. In these circumstances, the overall effectiveness of the Code is improved by simplifying or repealing the obligation.

It is important that ASIC's guidance recognise that Codes must strike a balance between consumer protection and practical implementation. A Code that is overly complex or resource-intensive risks reducing its accessibility to consumers and undermining compliance by subscribers. Streamlining obligations can therefore strengthen a Code by ensuring it is both effective and sustainable, while still delivering strong consumer protections.

The appropriate test should not be whether each individual provision delivers a net benefit in isolation, but whether the Code as a whole delivers improved outcomes for consumers. This holistic approach ensures that Codes remain robust, enforceable, and proportionate, while avoiding the unintended consequence of locking in obligations that impose undue burden relative to their consumer benefit.

NIBA appreciates the opportunity to contribute to this consultation and would be pleased to engage further with ASIC. Should you have any queries in relation to this submission or wish to discuss any of the matters raised, please do not hesitate to contact [REDACTED], Head of Policy and Advocacy, at [REDACTED].

Yours sincerely,



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