NATIONAL INSURANCE BROKERS ASSOCIATION OF AUSTRALIA (NIBA)

SUBMISSION TO THE NEW SOUTH WALES GOVERNMENT

NSW FAIR TRADING DISCUSSION PAPER:

REFORM OF THE HOME BUILDING COMPENSATION FUND

February 2016

The National Insurance Brokers Association of Australia (NIBA) appreciates the opportunity to make this submission in response to the NSW Fair Trading Discussion Paper: Reform of the Home Building Compensation Fund.

Executive Summary

Insurance brokers have extensive knowledge and experience in the operation of home warranty insurance in New South Wales and more broadly across Australia.

The underwriting and financial requirements for access to the HBCF scheme coverage are extensive, detailed and complicated. Insurance brokers play a vital role in advising and assisting their client builders meet the underwriting requirements of the scheme, and by gathering and providing the detailed financial and other information required by the HBCF as insurer and by the scheme agents.

The recent financial performance of the HBCF scheme has seen the growth in claims costs, scheme losses, and unfunded liabilities. The scheme is now in a very unfavourable financial position.

The Discussion Paper does not identify or analyse the key drivers of claims costs, or the causes for the deterioration in the financial performance of the scheme in recent years.

The reform options – in particular the 5 models presented in section E of the Discussion Paper – are highly unlikely to result in a financially viable home warranty insurance scheme.

NIBA identifies a number of steps that must be taken to achieve genuine reform of the HBCF scheme. They are:

1. Why are we where we are today? What has let the scheme develop the level of financial liabilities that have accrued in recent years?
2. What are the key claims costs drivers?
3. What are the Government's objectives for the home warranty insurance scheme in NSW?

4. Once these questions have been answered, options for genuine reform can be developed which will address the issues and concerns with the current scheme, mitigate the causes of insurance claims being made against the scheme, and restore a level of stability and certainty for all stakeholders, while maintaining proper protections for home owners in this State.

NIBA and our Member insurance brokers are keen to provide their knowledge and expertise to the Government to ensure reform options are developed that will genuinely improve the operation of the scheme, and achieve the outcomes the Government wishes to achieve in this important area of economic activity in the State.

About NIBA

NIBA is the voice of the insurance broking industry in Australia. NIBA represents over 300 member firms and nearly 3,000 individual Qualified Practising Insurance Brokers (QPIB's) throughout Australia. NIBA member firms include large multinational corporations, large Australian broking companies and a large number of medium and smaller brokerages operating in the cities, towns and regions right across Australia.

Brokers handle almost 90% of the commercial insurance transacted in Australia, and play a major role in risk advice and insurance distribution, handling over $18 billion in premiums annually and placing around half of Australia's total insurance business. Insurance brokers also place substantial insurance business into overseas markets for large and special risks.

Over a number of years NIBA has been a driving force for change in the Australian insurance broking industry. It has supported financial services reforms, encouraged higher educational standards for insurance brokers and introduced a strong independently administered and monitored Code of Practice for members. NIBA member firms all hold an Australian financial services (AFS) licence under the Corporations Act that enables them to deal in or advise on risk insurance products.

NIBA's principal concern regarding home warranty insurance reforms

NIBA believes it is important, in developing any legislation and reform proposals, to consider up front the objectives of the legislation under review, the issues and concerns that have arisen, and the options that are likely to remedy those concerns while still achieving the overall objectives of the legislation. Presenting options for reform, without clearly understanding the objectives the Government wishes to achieve, and the fundamental drivers of the issues and concerns that have been identified, is unlikely to achieve an outcome which benefits the community and all stakeholders involved in the process.

NIBA notes that the OECD, the Council of Australian Governments, the Productivity Commission and many others have identified, confirmed and agreed on the core principles that must be applied whenever consideration is being given to regulatory intervention in markets and the economy. They include:

- a clear statement of what actually is the issue being addressed
- is there a sound legal and empirical basis for this issue
- have all potential options for dealing with the issue been identified and assessed, including the option of no further action
- a clear statement of the proposed regulatory intervention, including the governing principles that will be used to guide the development of the regulatory intervention
- a sound legal and empirical basis for the proposed intervention, including a clear assessment of the nature and value of benefits to be derived, and the nature and level of costs (including compliance costs) that will be incurred as a result of the intervention
- a careful analysis and assessment that the proposed intervention will produce benefits that justify the costs, considering the distribution of effects across society, and taking into account economic, environmental and social impacts of the intervention
- assurance that the proposed intervention will minimise costs and market distortions
- strategies to ensure the regulation will promote innovation through market incentives and promote global approaches to strong and effective community outcomes
- be clear, simple and capable of practical adoption
- be consistent with other regulations and policies
- be compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels.

The New South Wales Government recently reaffirmed its commitment to a culture of innovation and competition, while maintaining appropriate levels of consumer protection and public safety. The Government's position paper – ***The Collaborative Economy in NSW*** – states:

> "The following principles have been developed to guide NSW government agencies on how to approach regulatory and other challenges as well as the opportunities that the collaborative economy creates. The Government will collaborate with industry and experts in its work to –
>
> 1. support a culture of innovation
> 2. ensure regulation is fit for purpose in the digital age
> 3. maintain consumer protection and safety
> 4. promote competition
> 5. adopt an agile approach to government procurement."

NIBA strongly supports these goals and guiding principles, and firmly believes the development and assessment of options for reform of the Home Building Compensation Fund should be assessed against these guiding principles.

NIBA sets out in this submission its comments on the options for reform and the likely impact of those options in improving the operation of the HBCF scheme. Where appropriate, we seek to identify the potential impact the reform options may have on builders, their clients and customers, the scheme underwriter, insurance brokers and others.

However, in a number of cases it is difficult to make a constructive comment on particular proposals without knowing the ultimate outcome the Government is seeking to achieve from this review.

The role of insurance brokers

The traditional role of insurance brokers is to:

- assist customers to assess and manage their risks, and provide advice on risk financing and risk transfer, what insurance is appropriate for the customer's needs;
- assist customers to arrange and acquire insurance; and
- assist the customer in relation to any claim that may be made by them under the insurance.

In doing the above the insurance broker acts for and on behalf of the customer as their agent. In essence, insurance brokers do not SELL insurance to their clients, they PURCHASE insurance on behalf of their clients. They act in the client's best interest when doing so.

Insurance brokers offer many benefits to customers and consumers:

- assistance with selecting and arranging appropriate, tailored insurance policies and packages
- detailed technical expertise including knowledge of prices, terms and conditions, benefits and pitfalls of the wide range of insurance policies on the market;
- assistance in interpreting, arranging and completing insurance documentation;
- experience in predicting, managing and reducing risks; and
- assistance with claims and a higher success rate with settlements (about 10 per cent higher than claims made without a broker).

In order to provide this advice and support to clients, especially clients who manage micro, small and medium size businesses, insurance brokers work very closely with and become intimately involved in the operation of the client's business. The insurance broker is an integral part of the client's business, in view of their ongoing role in helping the business owner understand and manage ALL the day to day risks that they face in their business operations.

In limited cases insurance brokers may act as agent of the insurer not the insured but where such a relationship exists the customer is clearly advised up front. This is a key requirement of the Insurance Brokers Code of Practice.

In the area of insurance brokers acting for builders, and in relation to home warranty insurance in particular, insurance brokers provide the following advice, support and services:

- Liaison with the client in relation to the most appropriate legal entity for access to the HBCF scheme – often involving contact with the client's accountant and solicitor;
- Advice and guidance to the client in relation to the nature of the process, expectations of the various parties involved and the resulting timeframes, taking account of the individual circumstances of the client;
- Gathering sufficient information from the client in order to be able to make a complete and cohesive submission to the scheme agent on behalf of the client – this comes from the broker's knowledge and understanding of the client's business, but even then often involves a number of contacts with the client over a period of time;
- Presentation of the submission to the scheme agent, and liaison with the agent in relation to the application of HBCF underwriting criteria relevant to the client;
- Finalisation of the submission with the scheme agent including any necessary further contact with the client, following by the issuance of eligibility;
- Arrangement of certificates of insurance within the terms of the eligibility and the HBCF underwriting criteria;
- Assistance with any Periodic Eligibility Review of the client's operations and financial performance – again often involving a number of contacts with the client to gather the correct information required by the scheme agent.

Overall, there is a strong and consistent message from NIBA members who are active in this area of insurance that builders have little knowledge or understanding of the process and the nature and reasons for HBCF underwriting criteria. They are builders. They rely on others to help them with their business operations and "paperwork".

In summary,

- Builders have no knowledge of home warranty insurance nor the underwriting and related guidelines and requirements. Throughout the entire process the insurance broker is translating the underwriting guidelines and information requirements to the builder so that they can meet HBCF expectations and continue to stay in business. Considerable time and effort is put into this process by insurance brokers for all of their clients each and every day.

- Fact Sheets published by HBCF in relation to Eligibility and Underwriting, and in relation to Periodic Eligibility Reviews (attached to this submission) indicate the very detailed nature of financial and other information that has to be supplied to scheme agents. The very largest building companies would have accounts departments with some capacity to understand and supply information of this nature. Virtually all other builders would have no idea what those Fact Sheets are talking about. The insurance broker is the vital link between the HBCF scheme and the building industry in New South Wales.

- There is almost continuous contact between the insurance broker and the client builder for HBCF scheme purposes. This occurs in relation to the initial application for eligibility, issuing Certificates, undertaking eligibility reviews, responding to requests from the builder to increase their limits so they can grow their business, further information exchanges when a project is finalised, varied or cancelled.

- In cases of strata work, multi units or larger projects over $750,000, additional effort is required by the insurance broker to gather the relevant information at the level of detail required by the scheme agent and the insurer.

- When a claim arises, the insurance broker becomes an important link and point of contact for the scheme agent in gathering sufficient information to properly assess and resolve the claim.

In all of these areas, the insurance broker must act in a timely and efficient manner, in order to prevent delays in the building process, and to keep NSW builders building rather than being trapped in an administrative process that they do not understand and do not know how to manage.

Insurance brokers therefore play a critical role in translating the HBCF underwriting requirements and criteria into messages that their clients can understand, and helping clients structure and operate their businesses in a manner that minimises the risks to the HBCF scheme and to their own business operations.

After all, home warranty insurance involves a complex assessment of the financial security and solvency of the builder – the HBCF Fact Sheets attached to this submission clearly demonstrate that this is the case.

As the discussion paper itself notes, **"Builder solvency analysis is an extremely specialised commercial function."**[1] (our emphasis). Insurance brokers who are active in this area of insurance perform this role every day. In order to do so, they have developed knowledge and skills similar to

[1] HBCF Discussion Paper, page 35.

forensic accounting analysis – a function not performed in any other area associated with the building industry.

In providing this advice and assistance, insurance brokers are in competition with each other for the nature and level of service they provide to their clients. The competition between insurance brokers forces them to maintain efficient and effective business models, and encourages them to develop new and innovative processes and procedures to meet HBCF requirements. Many insurance brokers have invested substantial amounts in the development of IT and other business systems to support the operation of this business. Competitive pressure requires brokers to constantly provide better, more cost effective, service, support and advice for their clients.

This competition between insurance brokers also extends to the other areas of insurance cover arranged for and on behalf of their clients. Builders might not understand the details and processes of insurance, but they can normally establish fairly quickly if they are not receiving true value and service from their insurance broker.

A word about insurance

The financing of risk can be extremely complicated and difficult, with actuarial and other assessments and projections, a wide range of technical and prudential requirements, and in one sense the need to predict the future – what losses are going to occur in the next 12 months, what claims will those events generate, and what will be the cost of those claims.

Insurance is the transfer of risk from the insured to the insurance pool. Complexity arises in the valuation and pricing of the risk that is transferred into the pool.

At a very high level, though, the process of insurance is simple and straightforward. Policyholders pay sufficient premium to cover the cost of claims, the cost of administering the process, and a return on the capital invested in the business by insurers and other key service providers. Therefore, the level of premiums is simply and largely a reflection of the total cost of claims in the area being insured. If it is felt that the cost of premiums is excessive or unaffordable, the response is to either reduce the amount of cover being provided, or to take steps to reduce the number and cost of claims via effective risk management and mitigation.

The HIH Royal Commission clearly set out and explained what happens when the premiums being charged do not adequately cover the cost of risk being transferred into the insurance company. APRA now has strong prudential powers to oversee insurance company operations in Australia, with a view to ensuring sufficient premiums are being charged, and sufficient reserves are being maintained, so that claims can be paid when they fall due for payment.

It is pleasing to note that over the past 6 years, the general insurance industry in Australia has survived the global financial crisis and major natural disasters costing multi-billions of dollars, while remaining viable and profitable. Insurers honoured their claims liabilities and their obligations to their policyholders.

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NIBA SUBMISSION IN RESPONSE TO THE HBCF DISCUSSION PAPER

Section A: The Home Building Compensation Fund

There are a number of statements in various parts of the Discussion Paper regarding the role and objectives of the HBCF scheme. Unfortunately, there is no succinct statement of the policy objective the Government is seeking to achieve as a result of the reforms being discussed.

Some of the comments in the Discussion Paper include:

> "Insurance under the HBCF provides a safety net for consumers when a builder does not, or cannot, honour their commitments due to insolvency, death, disappearance or licence suspension."[2]
>
> "The HBCF is part of a comprehensive consumer protection regime for homeowners undertaking residential building projects in NSW. Other consumer protection measures include licensing, education and awareness, certification and dispute resolution mechanisms. The HBCF is intended to provide a last-resort safety net for consumers given the significant cost of home building, the importance of the home to individuals and families and the assymmetry in experience between consumers and builders. It is therefore important to ensure the long-term viability of the HBCF."[3]

In addition, the insurance framework and the home building licensing regime appear to operate as separate and distinct government programs, even though they are intrinsically linked in their goals and objectives:

> "The home building licensing regime is designed to protect consumers by ensuring only people with appropriate skills and qualifications carry out residential work in NSW."[4]

The two concepts of an insurance safety net for consumers and an effective builders licensing regime which maintains and promotes quality building work have consistent objectives, but it is inevitable that problems in the licensing regime (reflecting poor quality building work and/or building companies that are financially at risk) are likely to result in financial consequences for the insurance process.

NIBA believes it is critical that the two schemes should be managed in a consistent and complementary manner.

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[2] HBCF Discussion Paper, Minister's message, page 3.
[3] HBCF Discussion Paper, Introduction, page 10.
[4] HBCF Discussion Paper, page 37.

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Section B: Insurance under the HBCF

The diagram showing the HBCF process and the discussion of that process gives little indication of the nature and extent of advice and assistance provided by insurance brokers to their clients seeking to obtain eligibility under the HBCF scheme and to maintain HBCF scheme cover as they operate and grow their business. As noted above and in the Discussion Paper itself, obtaining eligibility from the HBCF scheme involves a detailed analysis of the financial performance and capability of the builder. This process goes well beyond simple profit and loss and balance sheet accounting, and involves a careful analysis of the builder's financial security, capital position, work flow, cash flow, and so on.

As noted above, insurance brokers put extensive time and effort into ensuring that their clients meet HBCF underwriting criteria before the application for eligibility is lodged. Insurance brokers also play a critical ongoing role in relation to ongoing eligibility reviews and the overall operation of the HBCF scheme.

Section C: The case for reform of the HBCF

The Discussion Paper notes "In its current form, the HBCF is not financially sustainable." The scheme reported a $33 million loss in 2014 and a loss of $62 million in 2013.

The recent financial report of the HBCF for the financial year ending 30 June 2015 indicates the Fund has a serious deficiency of assets.

The Liability Adequacy Test shows a Net Deficiency of $111.5 million as at 30 June 2015, increased from $74.8 million as at 30 June 2014.[5]

The provision for outstanding claims increased from $52.956 million as at 30 June 2014 to $92.550 million as at 30 June 2015.[6]

The Claims Development Table shows there are major challenges for the HBCF at the present time and in the foreseeable future. The current estimate of claims costs for each underwriting year, as at 30 June 2015, was[7]:

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[5] NSW HBCF Financial Statements for the year ended 30 June 2015, Note 12, page 17.
[6] NSW HBCF Financial Statements for the year ended 30 June 2015, Note 13, page 18.
[7] NSW HBCF Financial Statements for the year ended 30 June 2015, Note 13, page 20.

Underwriting Year	Current estimate of claims costs $'000
2011	83,341
2012	77,730
2013	72,079
2014	82,365
2015	98,858

Clearly, claims costs are large, and are increasing at a dramatic rate.

Against these liabilities, gross written premium for the financial year ended 30 June 2015 was $75.161 million. The scheme reported an underwriting loss of $83.848 million for that financial year, an increase from a loss of $29.591 million the previous financial year.[8]

The HBCF had a deficiency of funds of $293.8 million as at 30 June 2015, an increase of 43% from a deficiency of $204.864 million as at 30 June 2014.[9]

By any measure, the HBCF scheme is in a very serious financial position. If this fund was operating in the private sector, it would have been subject to very significant intervention from the prudential regulator of general insurance.

There is very little information in the Discussion Paper regarding the number, nature and cost of claims that are generating these financial results. Brief mention is made of the fact that 94% of claims are a result of builder insolvency. Very little further information is provided. In other parts of the Discussion Paper there are suggestions that claims arising out of multi-unit buildings are a major factor. Once again, there is very little detail or analysis about this experience.

It is also critically important to understand the decisions that have or have not been taken over time that have led to the scheme being in the financial position it faces today. Bearing in mind the Government assumed responsibility for home warranty insurance in NSW on 1 July 2010,

- Why have premiums been kept artificially low when they have clearly failed to meet increasing claims costs over time?
- What has been done to analyse trends in the number and nature of claims?

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[8] NSW HBCF Financial Statements for the year ended 30 June 2015, Note 3, page 13.
[9] NSW HBCF Financial Statements for the year ended 30 June 2015, Statement of Financial Position, page 5.

- What are the key factors that are driving claims and claims costs?
- What has been done to manage and mitigate the activity across the building industry in NSW that is leading to the increasing cost of claims against the scheme?
- Is it now a case of fixing something because “the horse has bolted and someone forgot to close the gate”?

As noted above, in an insurance scheme, premiums can be kept at affordable levels if the factors that drive claims costs are managed and mitigated. If this does not occur, the only alternative is to reduce scheme coverage, which is contrary to the Government’s consumer protection goals outlined in the Collaborative Economy position paper.

From the financial information above, the need for reform is serious and acute. However, in order to properly consider reform options, and to assess the extent to which various reform options will genuinely will genuinely lead to a more financially viable and sustainable HBCF scheme, more information and much greater analysis of claims and claims costs drivers is required. Without this information, any changes could well be of little or no effect, and are unlikely to result in genuine improvements for the HBCF scheme.

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Section D: Options for reform

1. **Premium pricing**

At the present time, claims costs are substantially in excess of gross premium income – see above. The result is that the scheme is now carrying a very significant deficiency of funds – a liability which is being underwritten and carried by the State.

In virtually all areas of insurance, the insurance premium spreads the expected cost of claims for a given period, across the number of policyholders expected to take out policies during that period, while also covering the costs of administering the insurance cover and a return on the equity invested in the business.

While this insurance is underwritten by the State, Competition Policy principles would normally require private sector regulatory requirements to be observed, including an allowance for notional capital to support the business and an appropriate and adequate return to the State on that notional capital. These principles are not being observed by the HBCF in its pricing and capital management.

NIBA assumes the Government wishes to retain the consumer protection benefits that the HBCF scheme provides to home owners in New South Wales. If this is the case, the Government essentially has two options:

- Increase the level of premiums to ensure the income matches expected claims costs, costs of administration and an appropriate return on equity;

- Introduce risk management and risk mitigation strategies in order to reduce the number and cost of claims likely to arise under the scheme;

- Or a combination of both these options.

The Discussion Paper gives no indication of the Government's appetite for higher premiums for HBCF scheme cover. There is also only limited discussion of potential risk management and risk mitigation strategies that would be needed to reduce the number and cost of claims, in order to keep the level of premiums at reasonable and affordable rates.

There are two further points that need to be made in relation to premiums.

At the present time HBCF premiums are a flat rate, regardless of the risk profile of the builder. In most areas of insurance, including insurance underwritten by the State, insurance premiums are risk rated, so that low risk policyholders are not required to cross-subsidise high risk policyholders. Risk rating could also send economic signals to the builders in relation to the need to improve their risk position and their potential to cause claims on the scheme.

Secondly, the recent financial statements indicate a seriously deteriorating trend in the performance of the HBCF scheme. It would appear important and crucial that risk management and risk mitigation strategies are introduced into the scheme to manage and eliminate these negative trends, and to assist with the restoration of a more financially viable scheme. If this does not occur, premiums will have to continue to increase to fund increasing claims costs.

2. Reduce the coverage period for major defects

NIBA firmly believes any reduction in the coverage period for major defects would be contrary to the consumer protection principles and goals of the HBCF scheme.

If this suggestion is to be given serious consideration, further data is needed in order to be able to assess the extent to which any reduction in the coverage period would actually lead to a more financially viable scheme. This data is not set out in the Discussion Paper.

3. Replace combined cove with separate cover for non-completion and defects

Currently, the cover provided by the HBCF scheme is both product liability type cover (for defects in the standard and quality of building) and financial insolvency cover (insuring against the financial failure and insolvency of the builder). It may be appropriate to separate the two types of cover, so that each can be underwritten and priced according to relevant for the nature of the cover being underwritten.

In the absence of relevant data, it is difficult to comment on the extent which a reform of this nature would lead to a more viable and sustainable scheme.

In order to further consider this option, NIBA suggests action be taken to define the terms and conditions of the two potential forms of cover, and undertake an investigation in the general insurance market to establish the likelihood of private underwriting being available to provide that cover. Investigations would also have to be undertaken into the likely pricing of separate forms of cover.

NIBA also suggests that consideration be given to other forms of financial protection, particularly in the area of ensuring the builder takes full responsibility for meeting their obligations in relation to building defects. Bonds are increasingly being used in other areas of commerce where a party to a transaction wishes to maintain some form of security to ensure the other party meets their contractual obligations for a period of time after the contract has been essentially completed.

4. Adopt a voluntary model of insurance

NIBA believes that a voluntary model of insurance would be contrary to the consumer protection goals of the scheme.

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5. **Split cover into mandatory for non-completion and voluntary for defective work**

NIBA submits that any form of voluntary cover for defective work should only be considered if there is a sufficiently strong builders licensing regime that places a very heavy onus on builders to complete their work to a satisfactory standard, and to honour their warranties in the years following completion. As noted above, this regime could be supplemented with a form of performance bond which could be required to provide added security to the home owner.

The impact of these reforms on the financial viability of the HBCF scheme is not clear from the data provided in the Discussion Paper. Further information and analysis of this nature is desirable before further consideration is given to this reform option.

6. **Change the value or types of building work covered by the HBCF**

NIBA submits that before any decision is made on changing the value or type of building work covered by the HBCF, a detailed analysis of claims data is required, and cost/benefit modelling and analysis needs to be performed to identify whether reforms of this nature would be likely to make the scheme more financially viable.

The information relating to the number and cost of claims arising in relation to low rise multi-unit buildings is extremely concerning. NIBA suggests that rather than reducing or removing consumer protection processes for owners of these units, careful attention needs to be given to the quality of building and to the certification processes during building and at completion. This is clearly an area where the claims experience of the HBCF scheme needs to inform the builders licensing regime, to ensure both schemes operate in a fully complementary manner for the benefit of unit owners.

7. **Reduce administration costs**

As noted in the Discussion Paper, insurance brokers are remunerated via a commission of approximately 15% of the HBCF premium.

It is clear from the financial information discussed earlier in this submission, the removal of insurance broker commissions would not result in a more financially viable and sustainable HBCF scheme. The level of claims costs, and the seriously negative trend in claims liabilities, greatly outweighs the cost of insurance broking commissions.

As noted in earlier comments in this submission, insurance brokers play a critical role in the operation of the HBCF scheme. Their role includes the following advice, support and services to the client:

- Liaison with the client in relation to the most appropriate legal entity for access to the HBCF scheme – often involving contact with the client's accountant and solicitor;

- Advice and guidance to the client in relation to the nature of the process, expectations of the various parties involved and the resulting timeframes, taking account of the individual circumstances of the client;
- Gathering sufficient information from the client in order to be able to make a complete and cohesive submission to the scheme agent on behalf of the client – this often involves 5 – 6 contacts with the client over a period of time;
- Presentation of the submission to the scheme agent, and liaison with the agent in relation to the application of HBCF underwriting criteria relevant to the client;
- Finalisation of the submission with the scheme agent including any necessary further contact with the client, following by the issuance of eligibility;
- Arrangement of certificates of insurance within the terms of the eligibility and the HBCF underwriting criteria;
- Assistance with any ongoing review of the client's operations and financial performance.

In order to perform these services, the insurance broker must develop and maintain a detailed knowledge and understanding of the cover being provided by the scheme, and the underwriting criteria that is applied by HBCF directly and via the scheme agents. Further, the broker must obtain a detailed understanding of the client's business operations, plans for the future, and the relative risk the client presents to the HBCF scheme. The financial analysis that is required to meet underwriting criteria is in the nature of forensic accounting, involving knowledge and skill far beyond the services offered by most local accountants.

Residential building continues to operate in NSW because of the role played by insurance brokers in helping their clients access and meet the requirements of the HBCF scheme. Insurance brokers are therefore a vital component of the building industry in the State.

NIBA notes that other areas of insurance, including the government run workers compensation scheme in NSW, do not require the level of knowledge, understanding and intervention required in relation to the HBCF scheme.

In performing their role in the HBCF scheme, insurance brokers –

- Advise and assist the client (builder) to access the scheme and obtain the cover that is necessary to perform residential building work; and

- Provide a distribution process for the HBCF whereby product is delivered to the builders of NSW on behalf of HBCF and in accordance with HBCF terms and conditions.

This dual role is performed for the benefit of both parties, not merely the client builder. The client benefits because they are given the necessary advice and assistance to meet their obligations in relation to obtaining the necessary cover for their work, and HBCF benefits because it does not have to operate and maintain a distribution framework for the operation of its business.

The Discussion Paper asserts that in a fee for service model, market competition would make it unlikely that the cost to builders would be as high as the current costs. There is no basis for this statement.

The Discussion Paper also notes that if the HBCF moved to a direct distribution model, there would be additional costs to Government resulting from the need to resource that process.

The Discussion Paper states that this cost is likely to be much lower than the commissions paid to brokers under the distribution model currently in place. There is no information in the Discussion Paper in support of this statement, and in view of the nature and extent of the activities undertaken by insurance brokers on behalf of their client builders outlined above, NIBA submits it is highly unlikely the Government would be able to distribute the product in a more cost effective manner than at present.

Finally, NIBA rejects the suggestion that financial information relating to builders' operations would be available from other sources either internally or externally. The need to obtain sufficiently detailed financial information in order to meet HBCF underwriting criteria is the most critical role played by insurance brokers at the present time. That information is rarely easily available, and the role of the insurance broker reflects the deep relationship between the broker and their client.

In Question 18, the Discussion Paper suggests the insurance could be purchased by the homeowner directly from the Government. It is not clear how this would work, as the owner would have no information regarding the risks associated with the builder's performance. The Discussion Paper contains no information regarding underwriting criteria, or any assessment of the extent to which this option would lead to a viable scheme providing proper consumer protection for home owners.

8. Reforms to the licensing system

NIBA is not in a position to comment on a number of the suggestions and comments in the Discussion Paper relating to the licensing regime.

However, it is important to note the objective of the licensing regime:

> "The home building licensing regime is designed to protect consumers by ensuring only people with the appropriate skills and qualifications can carry out residential building work in NSW. It is important to regularly assess whether existing licences continue to provide a public benefit which justifies the cost and impact on business."[10]

The financial information referenced earlier in this submission, and the recent trends in claims costs, would tend to indicate that these objectives are not being met, and that the HBCF scheme is being forced to carry very significant liabilities as a result of the failure to meet those objectives.

[10] HBCF Discussion Paper, page 37.

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It is inevitable that there will be a correlation between the quality of building work (which is intended to be regulated by the licensing regime) and the liabilities carried by the HBCF scheme. HBCF scheme claims experience should inform the nature and extent of licensing activity, so that the builders licensing regime can operate an effective risk management approach to identify and remove the causes of poor building quality in the State. This should then provide an effective regulatory framework would contribute to a cost effective insurance scheme which truly operates as a last resort consumer protection measure. This does not appear to be the case at the present time.

Indeed, the projected claims liabilities of the HBCF would suggest that a combined effort is needed – through builders licensing regulation and HBCF scheme underwriting - to identify and manage the risk of poor quality residential building practices in NSW, and to mitigate those risks as far as is reasonably possible in order to reduce HBCF premiums to a level that is acceptable and affordable for home owners.

Section E: Conclusion

NIBA has serious reservations in relation to the five reform options set out in section E of the Discussion Paper.

Model 1 – retain current scheme, reduce administration costs and raise premiums – fails to identify and address the cost drivers and the key areas of risk that are producing the claims costs trends currently being experienced by the scheme. Unless premiums are raised by a very substantial margin, it is highly unlikely this model would produce a financially viable home warranty insurance scheme.

Model 2 – reduce scheme coverage – would be likely to reduce the liabilities incurred by the scheme, but would expose consumers to higher levels of risk. The model does nothing to improve the quality of building in NSW, nor does it seek to address the <u>causes</u> of claims costs and the negative trends currently being experienced.

Model 3 – combination of reduced scheme coverage and raised premiums – again fails to address the key drivers of claims costs trends in the current scheme. The model would also expose consumers to higher levels of risk, which would appear to be contrary to the Government's core guiding principles.

Model 4 – a voluntary insurance scheme – would appear to offer no consumer protection at all, and also does nothing to address the causes of large claims costs in the scheme. Those costs would simply be transferred back to home owners via the effective removal of the insurance process. The Discussion Paper notes that home owners are in no position to understand or manage the risks associated with poor building work.

Model 5 – combination of voluntary and mandatory scheme – again appears to reduce consumer protection while failing to address the drivers of high claims costs.

Clearly there are serious issues that need to be addressed in this scheme. The need for reform is obvious and acute.

In order to reform the scheme, NIBA believes it is important to undertake the following:

Firstly, why are we where we are today? What has let the scheme develop the level of financial liabilities that have accrued in recent years?

Secondly, what are the key claims costs drivers? What is causing the number and cost of claims being presented to the scheme at the present time?

Thirdly, what are the Government's objectives for the home warranty insurance scheme in NSW? What type of consumer protections does the Government believe are needed? What level of premium would the Government regard as reasonable and acceptable? What is the most appropriate form of insurance model that is likely to contribute to the successful achievement of those objectives?

Once these issues have been assessed and analysed, options can then be developed which can be tested to ensure they are likely to address the core issues and concerns within the current scheme, and which would be genuinely likely to achieve the Government's objectives for the scheme.

NIBA firmly believes those options can and should include –

- Raising premiums to a level more commensurate with the risks being assumed by the scheme, subject to the Government's views regarding what might be regarded as reasonable and acceptable levels of premiums;

- Implementing comprehensive risk management and risk mitigation strategies, to address and reduce the key causes of claims being presented to the scheme;

- Improving builders licencing requirements and procedures to ensure the goals of the licensing regime are actually being achieved, with a strong emphasis on skills and qualifications;

- Increasing education levels and requirements for licensed builders to ensure they know and understand the critical issues and financial management strategies that are needed for a financially successful business;

- Retaining the current levels of consumer protection offered to home owners in NSW.

NIBA notes the NSW Government's commitment to a competitive, innovative, and resourceful business environment in this State. Centralising an area of activity in a single government agency achieves none of these objectives.

In the course of developing and testing options for the reform of home warranty insurance in NSW, NIBA firmly believes action should be taken to engage with the insurance industry to discuss the development and design of appropriate forms of home warranty insurance cover that can be provided by the private insurance industry while still providing the levels of consumer protection that the Government believes is necessary and important.

Putting home warranty insurance back in the hands of private insurers, in a carefully designed insurance program, would remove the need for a government guarantee, maximises the opportunity for competition and innovation, while retaining the prudential regulatory oversight of the Australian Prudential Regulation Authority.

NIBA submits the private underwriting of home warranty insurance should be one of the key outcomes sought to be achieved from this reform process.

NIBA

National Insurance Brokers Association.

Insurance brokers have extensive knowledge and experience in the operation of home warranty insurance across Australia. NIBA and our Members are keen to make that knowledge and experience available to the Government via ongoing consultations and engagement, to ensure the correct reforms, likely to lead to the correct outcomes, are identified and implemented.

If you would like to discuss any aspect of this matter further do not hesitate to contact us.

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National Insurance Brokers Association of Australia

FACT SHEET 8 - ELIGIBILITY AND UNDERWRITING

Information for Builders and Contractors

This Fact Sheet provides important information for Builders on the requirements for obtaining Eligibility for insurance with the Home Building Compensation Fund (HBCF).

On 1 July 2010 the NSW Self Insurance Corporation(SICorp) became the sole provider of insurance under the HBCF cover in NSW. The SICorp trades as the Home Building Compensation Fund (HBCF) and has contracted Insurance Agents to grant Eligibility, issue insurance policies and manage claims on its behalf.

What is Eligibility?

'Eligibility' is the term used to describe the entitlement that a builder has to apply for a Certificate of Insurance (project certificate) and the conditions under which the certificate may be granted.

Builder Eligibility conditions take account of the following major criteria:

- builder's capabilities;
- builder's history;
- builder's financial backing; and
- the ability to obtain restitution from or on behalf of the builder, or directors or related entities or third party-related indemnifiers should there be a claim.

All builder Eligibilities have an appropriate Eligibility Profile including:

- 'annual turnover limit'; and
- individual job type contract limits.

"Annual turnover limit" is the amount approved and available for purchasing Certificates of Insurance over a rolling 12 month period. The contract price/value of each Certificate of Insurance issued reduces the available turnover limit for a period of 12 months (from the date of issue of the Certificate) and is added back after this period.

It is essential that the annual turnover limit sought by a builder accurately represents the level of activity intended be undertaken.

The Eligibility Profile may also include relevant conditions:

- maintaining capital levels;
- maintaining specified security levels;
- utilising a Building Contract Review Program (BCRP) service provider;
- the frequency of financial reporting; and
- other requirements as may be appropriate from time to time.

How do I apply for Eligibility?

- Builders complete the Eligibility Application form or ask their insurance broker for assistance in completing the form. The Application for Eligibility form is available for download on the HBCF's website at www.hbcf.nsw.gov.au. The form can be completed electronically and save.
- The application form provides a checklist of all the information builders will need to provide with their application.
- The builder's insurance broker will submit the Eligibility application form to the Insurance Agent for assessment, unless the broker has the authority to undertake the assessment itself (Binding Intermediaries).
- The Insurance Agent uses the builder's financial statements to assess the financial viability of the applicant. Insurance Agents may make further enquiries to seek clarification.

How will my Application be assessed?

- In providing insurance cover to Builders, the HBCF takes on a risk that the builder is unable or unwilling to complete the construction of a dwelling or return and rectify defective work. To reduce this risk, an underwriting assessment must be carried out on the builder's application for Eligibility prior to purchase of the insurance.

Detailed information about how an Eligibility application is assessed by the Insurance Agents is available in the Underwriting Guidelines at www.hbcf.nsw.gov.au

- The Eligibility assessment process includes:

1. Assessment of the financial performance of the Builder or Builder group:
    - Requested Turnover and Turnover Growth
    - Assessed Net Tangible Assets (ANTA)
    - Builder's Margins and Profitability
    - Working Capital
    - Overhead Expenses
    - Capital and Retained Earnings
    - Return on Assets
    - Creditor Days
    - Debtor Days

2. Assessment of other factors such as:
    - Trading Structure
    - Continuous years trading in this structure - experience
    - Builder's licence history (including any adverse incidents)
    - Trade credit history
    - Previous insurance claim history with consideration of the builder's size and trading history
    - Directors/principals profile
    - Directors/principals experience

- The Insurance Agent will advise the broker of the outcome of the Eligibility assessment. The broker will then pass on the information, including the Insurance Agent's formal advice, to the builder.
- Where builders are assessed as a higher risk this may result in the Eligibility application being declined or special conditions included.
- Once the application has been assessed, approved builders are provided a Certificate of Eligibility

that summarises the Eligibility conditions placed upon a builder. These conditions are applied when assessing a Project Application. It will include:

- Annual turnover limits;
- Maximum individual construction value;
- Type of construction permitted; and
- Any specific limitations or conditions applied through the underwriting assessment process and conditions such as;
  - maintaining specified capital levels,
  - maintaining specified security levels,
  - utilising a BCRP service provider,
  - restrictions on concurrent projects, and
  - other requirements as may be appropriate from time to time.

Declinature, Cancellations, Suspensions and Modifications of Eligibility

- Some builders may have their Eligibility declined, cancelled, suspended or have restrictive modifications applied by Insurance Agents. The Insurance Agent will provide the builder with reasons for the decision and give 10 business days notice of any decision.

The Underwriting Guidelines include more information about the circumstances when this can occur, go to www.hbcf.nsw.gov.au

- Builders should be aware that Certificates of Insurance cannot be issued against a cancelled or suspended Eligibility.

- Eligibility will also be cancelled where a builder has entered into insolvency and builder's licence has been cancelled or suspended by NSW Fair Trading under the *Home Building Act 1989.*
- Where a licence has been surrendered or has expired for longer than three months (i.e. the licence is unable to be renewed or restored), the Insurance Agent is not required to give 10 days notice in such circumstances.

Eligibility Profile Changes Initiated by the Builder

Builders seeking to change their profile (e.g. from single dwelling to multi-unit development construction, increase the annual turnover limit etc.) need to complete a Builder Profile Change Application (BPC) and refer the application form through their broker to the Insurance Agent for assessment.

Profile changes can have negative financial consequences for a builder. Ramifications can include changes to working capital requirements, building cycles, available resources and management. Consequently, Insurance Agent underwriters will examine all factors that may affect future viability when they make their assessment.

Ongoing Review of Eligibility

Periodic and special reviews

'Eligibility' is generally subject to review. The frequency of the review is determined by the Insurance Agent on completion of the underwriting assessment, and by the HBCF through its periodic review requirements (which are explained in the Underwriting Guidelines). The Insurance Agent may undertake a special review if it appears a builder's circumstances have changed or a change to the Eligibility conditions has been requested.

For further information on the Eligibility review process please refer to Fact Sheet 10 – Periodic Eligibility Reviews and Fact Sheet 11 – Major Builder Reviews. The Underwriting Guidelines also contain a detailed explanation of the Eligibility review process.

Builders not subject to review

The HBCF has decided to not require certain small builders and contractors to comply with the Periodic Eligibility Review (PER) requirements and has created a new classification of Eligibility referred to as **Non-Reviewed Small Builders**.

As such, the HBCF will not conduct a full Periodic Eligibility Review where a builder:

- has a total business turnover (including group activity) of $1.5 million or less [or $500,000 if a specialist contractor]; and
- has Eligibility within the following limits:
  - New single dwelling - $600,000 or less; and
  - Alterations and additions (i.e. structural work) - $350,000 or less; and
  - Renovations (i.e. non-structural work) - $100,000 or less, and
- has been contracting residential building work for over 12 months; and
- does not have an adverse trading history (e.g. previous insolvencies, past claims, outstanding NCAT orders etc.) - including key managers; and
- has not sought Eligibility to undertake the construction of new multi-dwelling projects (including duplexes, town houses etc.) or the construction of swimming pools.

The Insurance Agent will continue to undertake checks on licensing and credit defaults, at least once every three (3) years. If the Insurance Agent does identify emerging risk issues then an immediate Special Eligibility Review (SER) may be triggered.

Making a Complaint

If a builder is not satisfied with the way their Eligibility application or review has been assessed, they can, in the first instance, through their broker request a review by the Insurance Agent. If the matter is not resolved, the builder can then request that it be escalated to the Insurance Agent's Underwriting Committee and potentially to the HBCF's Underwriting Committee. For further information please refer to Fact Sheet 6 - Complaints and Dispute Resolution.

Further Information

Further information regarding Eligibility and the underwriting requirements for obtaining cover can be obtained from your broker or through the website of the HBCF at www.hbcf.nsw.gov.au.

This HBCF website is a valuable source of information for brokers and builders and is updated regularly. The website also contains the Underwriting Guidelines which have been prepared as a key reference source and guideline for builders, business advisors and insurance brokers in making application for insurance under the HBCF.

References in this fact sheet to builders and building work include and apply to trade contractors and other building contractors (e.g. electrical contractors, plumbers, carpenters, swimming pool builders etc.) and to trade and other residential building work (e.g. electrical wiring, plumbing, carpentry, swimming pool construction/ installation etc.).

FACT SHEET 10 - PERIODIC ELIGIBILITY REVIEWS (PER)

This Fact Sheet provides important information for builders and their Intermediary/brokers regarding the process for undertaking a Periodic Eligibility Review (PER) of a builder's continued 'Eligibility' to obtain insurance under the HBCF.

Refer also to Fact Sheet 11 for information on Major Builder Reviews.

What is Eligibility?

'Eligibility' is the term used to describe the entitlement that a builder has to apply for a Certificate of Insurance (project certificate) and the conditions under which the certificate may be granted.

What are Eligibility Reviews?

The Home Building Compensation Fund (HBCF), as part of its risk management strategy, generally requires its Insurance Agents to review a builder's continued Eligibility for insurance on a regular basis.

Periodic Eligibility Reviews (PERs) assess a builder's current financial position against the HBCF's underwriting criteria and enable the HBCF to measure, identify and monitor its exposure to builder insolvency risk and to adjust to emerging risk.

How often are Periodic Eligibility Reviews (PER) undertaken?

Periodic Eligibility Reviews are programmed on a regular basis according to the apparent exposure the builder creates for the HBCF given the builder's size and situation. The below schedule sets outs the timing of PERs according to builder segment.

However, if risk monitoring identifies emerging risk issues then an immediate Special Eligibility Review may be triggered.

Eligibility Segment	Periodic Eligibility Review Cycle
New Builders	• Initially within 15 months of the date of first issue of Eligibility and thereafter every 12 months (review will also assess possible move to small/medium builder segment) • Also includes builders in the Building Contract Review Program (BCRP) – review (every 12 months) will also assess whether the BCRP remains appropriate

Eligibility Segment	Periodic Eligibility Review Cycle
Small Builders (turnover less than $5m)	• Every 3 years (33% of all builders in this segment will be reviewed each 12 months with focus in year 1 of the initial cycle on category Y & Z builders*; also builders where latest on hand financial information is pre 2007 are to be reviewed in year 1 & 2 of the initial cycle and priority to be given to incorporated builders and those structured as a trust)
Medium Builders (single dwelling, alteration/ additions and swimming pool builders: turnover less than $15M and multi-unit & commercial builders: turnover less than $30M)	• Every 2 years (50% of all builders in this segment will be reviewed each 12 months with focus in year 1 of the initial cycle on category Y & Z builders* and builders where latest on hand financial information is pre 2007) • Annual reviews to be conducted for all category Y & Z builders* and builders with nonstandard profile conditions and builders operating in multi dwelling development market
Major Builders (turnover larger than medium builder)	Every 12 months with additional quarterly reporting – for further details, refer to Fact Sheet 11 – Major Builder Reviews

Note: **Refer to Underwriting Guidelines at www.hbcf.nsw.gov.au for explanation of Eligibility segments and underwriting assessment categories.*

Future reviews will fall due on the anniversary (in accordance with the above schedule) of the date of the initial PER.

If possible, the initial periodic review will be timed to coincide with the availability or expected availability of current complete (and audited, if appropriate) financial information. This will assist in such information being available for future reviews.

Builders not subject to review

The HBCF has decided to not require certain small builders and contractors to comply with the **3 yearly** Eligibility review requirements and has created a new classification of Eligibility referred to as ***Non Reviewed Small Builders***.

As such, the HBCF will not conduct a full Periodic Eligibility Review where a builder:

- has a total business turnover (including group activity) of $1 million or less; and
- has Eligibility within the following limits:
  - New single dwelling - $300,000 or less; and
  - Alterations and additions (i.e. structural work) - $100,000 or less; and
  - Renovations (i.e. non-structural work) - $50,000 or less; and
- has been contracting residential building work for over 12 months; and
- does not have an adverse trading history (e.g. previous insolvencies, past claims, outstanding NSW Civil and Administrative Tribunal (NCAT) - including key managers; and
- has not sought Eligibility to undertake the construction of new multi-dwelling projects (including duplexes, town houses etc.) or the construction of swimming pools.

The Insurance Agent will continue to undertake checks on licensing and credit defaults, at least **once every three (3) years**. If the Insurance Agent does identify emerging risk issues then an immediate Special Eligibility Review may be triggered.

How are Builders notified of a Periodic Eligibility Review?

Where a builder has been selected for a PER, the Insurance Agent will notify the builder's broker of the information and documentation required to be submitted to enable the review to be undertaken. The builder (via their broker) will be provided with at least **40 business days** notice of the intention to undertake the review and to submit the required documentation.

What information is required to be submitted by the builder?

The Insurance Agent will specify the information/documentation it requires in its communication with the builder's broker. Generally, the information requested will be the same as that required for a new Eligibility application and is set out in the below table. For information required to be submitted by Large Builders please refer to the separate Fact Sheet 11 – Major Builder Reviews.

Information Required	Small	Medium
Update of business structure, principals and builders licences where changed from original Eligibility application.	Yes	Yes
Costing system used	Yes	Yes
Requested turnover limit	Yes	Yes
Proposed non-insured construction	Yes	Yes
Required project limits	Yes	Yes
Principals' history in building or other businesses (including adverse issues) first time PER under HBCF scheme only	Yes	Yes
Financial statements of the builder – for the last 2 years (audited accounts if available or otherwise accountant and director certified accounts): • Sole Trader or Partnership – Tax returns or accountant prepared and principal certified financial statements • Company or Trust - External accountant prepared and director certified financial statements. Where these are older than 9 months, interim Year to Date accounts no older than 3 months are required.	Yes Yes	Yes Yes
Copy of trust deed for trusts where applicable	Yes	Yes
Statement of financial position of principal/s or director/s	Yes	Yes
Statement of working capital (including aged debtors & creditors reports for Medium Builders only)	Yes	Yes
Declaration of solvency and details of any outstanding disputes or legal matters	Yes	Yes
Work In Progress (WIP) report of all projects under construction including address, name of owner, contract value and stage of work)	Yes	Yes

Information Required	Small	Medium
Display Home Information (including address, market value, date completed or stage of construction and brief description)	Yes	Yes
Related Party Financial Statements (*if connected by some substantive financial transaction*)	No	Yes

Note: *The HBCF and its agents reserve the right to request further information in order to clarify issues that may arise from the initial assessment of information provided by the builder.*

What happens if the required information is not provided by the Builder?
If the builder via their broker does not respond to requests to provide all required information/ documentation by the review date, the following action may be taken by the Insurance Agent on behalf of the Home Warranty Insurance Fund:

Suspension of Eligibility:

The Insurance Agent is to commence a PER in sufficient time, prior to any Eligibility review date. Agent also take all reasonable steps for the timely completion of any Eligibility review, to minimise the risk of an Eligibility being suspended unnecessarily and disrupting the builder's normal business operations and potentially exacerbating the risk of insurance cover being called upon.

The Insurance Agent is to suspend Eligibility where the builder has not provided (via their broker) the necessary information to allow the Insurance Agent to complete a PER in a timely way and has not responded to previous requests for the required information or otherwise the builder is not co-operating with reasonable requests from the Insurance Agent.

Prior to suspending Eligibility, the Insurance Agent is to formally put the builder on notice, in writing (via the builder's broker), that the builder's Eligibility will be suspended if the required information is not provided by a specified date. The advice is to be issued at least **10 business days** in advance of the specified date and to list all outstanding information to be provided by that date.

Insurance agents are to seek approval from HBCF before suspending Eligibility where insured projects are still under construction.

Certificates of Insurance (project certificates) will **not** be issued where a builder's Eligibility for insurance has been suspended unless the prior agreement of the HBCF in a specific case or a class of cases has been obtained (such as where the Insurance Agent has not completed the review and the builder or their intermediary has not contributed to the delay).

Licence condition

Where a builder's Eligibility for insurance has been suspended the HBCF is unable to include the builder's details in the list of builders with current Eligibility reported to NSW Fair Trading at the end of each month. This will result in a condition '*only for contracts not requiring insurance the HBCF*' being placed on the licence record of the builder in the online register of builder's licences maintained by Fair Trading.

New application for Eligibility required

Where a builder's Eligibility for insurance has been suspended because of the failure to provide the necessary information to allow the Insurance Agent to complete a PER, the builder will be required to complete and submit a new application form in order reacquire Eligibility.

Confidentiality and privacy

The NSW Self Insurance Corporation (SICorp), is a statutory corporation constituted under the *NSW Self Insurance Corporation Act 2004* (NSW) and is responsible for carrying on the business of providing insurance undwer the HBCF for building work done in New South Wales that requires such insurance under the *Home Building Act 1989* (NSW). SICorp is regulated by the *Privacy and Personal Information Protection Act 1998* (NSW).

A Builder Confidentiality & Privacy Notice in relation to information and documentation obtained as part the Periodic Eligibility Review (PER) process will accompany the advice to the builder's broker of the intention to undertake the review. The Notice is also available on the HBCF website at www.hbcf.nsw.gov.au.

Service Standards

Item	Service Standard
Issue notice to the builder commencing an Eligibility review process and requesting provision of information and documentation by specified due date (Periodic Eligibility Reviews only)	Notice issued at least **40 days** prior to due date
Acknowledge receipt of Eligibility review documents	Within **2 days** of receipt of the documents
The review documents have been received but are deficient and further information is required from the builder to progress the review	Within **7 days** of receipt of the documents
Complete Eligibility review and communicate Eligibility profile, terms and conditions to the builder (via the broker)	Within **10 days** of receipt of complete information

***Note**: All days are business days.*

Making a complaint

If a builder is not satisfied with the way a review of their Eligibility has been undertaken or with any decision to cancel, suspend or modify their Eligibility, they can, in the first instance, through their broker request a review by the Insurance Agent. If the matter is not resolved, the builder can then request via their broker that it be escalated to the Insurance Agent's underwriting committee and potentially to the Home Building Compensation Fund's underwriting committee.

For further information on making a complaint please refer to the complaints section of the Home Building Compensation Fund's website at www.hbcf.nsw.gov.au.

References in this fact sheet to builders and building work include and apply to trade contractors and other building contractors (e.g. electrical contractors, plumbers, carpenters, swimming pool builders etc.) and to trade and other residential building work (e.g. electrical wiring, plumbing, carpentry, swimming pool construction/installation etc.).

