



National Insurance Brokers Association.



NATIONAL INSURANCE BROKERS ASSOCIATION OF AUSTRALIA (NIBA)

SUBMISSION TO THE AUSTRALIAN GOVERNMENT

TREASURY CONSULTATION PAPER ON PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES INQUIRY RECOMMENDATIONS TO LIFT THE PROFESSIONAL, ETHICAL AND EDUCATION STANDARDS IN THE FINANCIAL SERVICES INDUSTRY

May 2015

The National Insurance Brokers Association of Australia (NIBA) appreciates the opportunity to make this submission in response to the Treasury consultation paper regarding the Parliamentary Joint Committee's Report and recommendations to lift the professional, ethical and education standards in the financial services industry (PJC Report).

Executive Summary

NIBA is strongly committed to the promotion of high standards of professional conduct by insurance brokers in Australia. One of the three core NIBA Goals and Objectives, approved by the NIBA Board of Directors in December 2014, is as follows:

Professionalism: develop and promote high standards of professional practice for insurance brokers in Australia for the benefit of their clients and the community. This will be achieved through:

- **Education** – industry relevant education and continuing professional development;
- **Code of Practice** – a membership that subscribes to the Insurance Brokers Code of Practice; and
- **Professional Standards** – a framework for high standards of ethical and professional conduct by Members.

NIBA's commitment to high standards of professional practice has been and continues to be evidenced by –

- NIBA College offering accredited and approved qualifications at Certificate, Diploma, Advanced Diploma and Graduate Diploma levels, with these courses and course content being regularly reviewed and enhanced as industry practice develops and changes;



- Longstanding requirements for insurance brokers to maintain Continuing Professional Development obligations;
- Insurance Brokers Code of Practice, reviewed in 2012 and 2013 and operating since 2014 under the auspices of an independent Code Compliance Committee; and
- A commitment to develop and promote higher standards of ethical and professional conduct in insurance broking.

NIBA notes the PJC Report has clearly made a number of recommendations based on the issues that have arisen in relation to financial planners and investment and superannuation advisers. At no point is consideration given to whether any equivalent issues have arisen in relation to general insurance brokers that would justify such significant changes. In NIBA's view there are no such equivalent issues in relation to general insurance brokers that would justify such changes.

In particular, there has been no examination or assessment of the adequacy or otherwise of education and training of insurance brokers under the current Australian Government vocational education and training regime.

NIBA notes that the Corporations Amendment (Register of Relevant Providers) Regulation 2014 clearly carved out general insurance advisers as it excluded the need for registration where personal advice is given in relation to general insurance. ASIC's release on the Financial Adviser's register notes that basic banking products, general insurance products, consumer credit products (life or general) or a combination of any of those products, won't be caught.

It is unclear to NIBA why the PJC Report appears to be taking a different approach without identifying any basis or evidence in support of such a position – this is clearly inconsistent with good regulatory practice.

While questioning the applicability and relevance of the PJC Report recommendations in relation to advice provided by insurance brokers, NIBA remains committed to the ongoing development of educational and professional standards in insurance broking. This continues to be undertaken within the existing legislative and regulatory frameworks.

NIBA respectfully requests an opportunity to discuss these matters with Treasury in detail. In the meantime, the submission that follows provides detailed responses to each of the issues raised in the Treasury consultation paper.

About NIBA

NIBA is the voice of the insurance broking industry in Australia. NIBA represents 370 member firms and nearly 2,000 individual Qualified Practising Insurance Brokers (QPIBS) 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 an estimated \$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. The 370 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 principal concern regarding poor regulatory practice

NIBA notes that the development and implementation of recent financial services reforms has been a difficult process in relation to the risk insurance advisory industry. In effect, risk insurance and insurance brokers have been caught up in processes and reforms directly aimed at resolving issues which had arisen principally in the investment and superannuation advisory industries.

This occurred when the Financial Services Reforms were initially implemented in Chapter 7 of the Corporations Act and also in relation to the more recent Future of Financial Services Reforms.

In both cases, it was only after the reforms were proposed and in some cases implemented, that the Government came to appreciate the real differences between the investment products and advice, and risk products and advice, and proceeded to include appropriate carve outs to take this reality into account.

It appears from reading the Report's recommendations that this unfortunate process may be repeated. The proposed changes are clearly aimed at addressing the real issues associated with financial advisers and planners involved in the investment and superannuation industries, but the recommendations appear to catch risk insurance brokers under the broad term "financial adviser" where no equivalent problems have been identified.

NIBA considers that Australia has been well served by insurance brokers who provide significantly different services to those involved in the investment and superannuation industries. The Insurance Brokers Code of Practice, extremely low dispute numbers at the Financial Ombudsman Service, limited ASIC involvement and the lack of affordability issues in relation to insurance brokers' professional indemnity insurance are good proof of this.



NIBA believes it is important, in developing any legislation and reform proposals, to consider up front whether there is any detriment that needs addressing, rather than catching all and after the fact seeking to carve out those who are in reality not the focus of the change.

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 history of financial services regulation in Australia, including the FOFA reforms, does not show strong and consistent observance of these key principles. A stated preference for principles based regulation has been followed by hundreds of pages of statutes, regulations, regulatory guides and other instruments. The “one size fits all” approach has resulted in regulations designed for one sector being applied inappropriately in other areas, where there were no issues or concerns in the first place.

NIBA sets out in this submission its comments on the recommendations and the potential adverse impact they may have on risk insurance brokers and consumers.



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 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.

Previous NIBA Submission

NIBA provided a detailed response to the Australian Government in February 2015, where comments were made on each of the PJC Report recommendations. This response to the Treasury Consultation Paper should be read in conjunction with that submission.



NIBA SUBMISSION IN RESPONSE TO THE TREASURY CONSULTATION PAPER

Section 1: The PJC Model

Question 1.1: What impact would the introduction of the PJC model have on the structure of the financial advice industry?

Question 1.2: What are the practical implications of the PJC model applying to advisers from all sizes and types of firms?

Question 1.3: Are the lines of responsibility under the PJC model clear?

The PJC model is centred on the education, qualifications, professional and ethical standards of advisers who are or wish to be included on the ASIC Register of Financial Advisers.

The Register is now in operation, and does not include people who give advice in relation to general insurance products.

As NIBA has noted on many occasions, there is no evidence of systemic issues or concerns in relation to the nature and quality of advice being given by insurance brokers in relation to general insurance products, services and advice. This is the very reason for the distinct treatment of general insurance brokers in the FOFA reforms.

NIBA therefore submits that the proposed PJC model should not apply to people who give personal advice on general insurance products. In the absence of evidence justifying greater regulatory obligations on insurance brokers and their staff, NIBA firmly submits that the new regulatory model should not apply in this area.

NIBA also wishes to offer the following comments in relation to the PJC model.

The regulation of financial advice in Australia occurs under Chapter 7 of the Corporations Act 2001, and in particular Part 7.6 of the Act – Licensing of providers of financial services. The Australian financial services licence is at the heart of the regime.

Key obligations of financial services licensees are set out in section 912A of the Act, and include the obligations to:

- maintain the competence to provide those financial services (section 912A (1)(e)); and
- ensure that its representatives are adequately trained, and are competent, to provide those financial services (section 912A (1)(f)).

The PJC Report proposes a comprehensive regulatory regime which is directed at the adviser (and, to a certain degree, their “professional association”), not the AFS licensee. As such, the PJC Report would appear to recommend an entirely new regulatory framework (outlined on page 6 of the



Consultation Paper), which would operate alongside and IN ADDITION to the current AFS licensing regime contained in Part 7.6 of the Corporations Act.

Ultimately, the impact of this new regulatory model on the operation and structure of the financial advice industry will depend on the response of companies and individuals operating within the industry at the present time.

The regulatory requirements under current laws impose substantial obligations on AFS licensees, who carry a serious compliance burden in order to ensure the legal requirements of the regime are being met. Licensees will form their own views as to whether the obligations that arise out of the PJC recommended framework, if implemented, can be readily adopted and implemented, or are regarded as excessive, unnecessary, and unduly burdensome.

This assessment will be undertaken by large companies, and by the very many SME businesses who hold AFS licences. It is also critically important to note that the recommended framework will also apply to the very many micro businesses who operate as individual authorised representatives or corporate authorised representatives. Each of these groups will form their own views about the nature and burden of any new regulatory framework, and they will then make their own decisions regarding the ongoing provision of personal advice to retail clients, and the employment of people to give that advice.

If companies and authorised representatives decide to move away from the personal advice business, or to employ less people in that business, it can be expected the community will ultimately suffer through lack of easy access to good personal advice at affordable cost.

In relation to lines of responsibility, the short answer is that this is not clear at all.

From an education perspective, we will be faced with the existing vocational education and training frameworks – within which NIBA College currently works – and a proposed new framework to be developed by the proposed Finance Professionals Education Council. NIBA notes the announcement by the Assistant Minister for Education and Training on 21 April 2015 regarding a new approach for the development of vocational education and training products. Australia already has frameworks for the development of appropriate education and training in industry and commerce. NIBA prefers to work within those frameworks, and does not see the need to develop a new educational oversight body.

From a regulatory perspective, financial advisers will be faced with ongoing accountability to ASIC, and the need to comply with frameworks to be developed by the Professional Standards Councils. NIBA notes that the Professional Standards Councils currently do not have the legislative authority or jurisdiction to undertake the roles recommended by the PJC Report. This was acknowledged by Dr Sanders at the Assistant Treasurer's "round table" meeting on 29 April 2015.

There is no clarity at the present time as to the respective roles and responsibilities of ASIC and the Professional Standards Councils under the PJC model. This is critical, especially in view of the fact



that competence and training fall directly within the (ASIC administered) AFS licensing requirements noted above.

Section 2: Current regulatory framework

Question 2.1: What are the practical implications of overlapping of responsibilities? Would this shift have flow-on implications for other provisions in the Corporations Act, or any other parts of the licensing regime?

Question 2.2: Should licensees maintain a legal obligation to ensure advisers meet relevant training and competency standards?

As noted above, the PJC model does not clarify the respective roles and responsibilities of ASIC and the Professional Standards Councils.

Further, the PJC model does not clarify the expected roles and responsibilities of the licensee regarding the competency, training, performance and ethical behaviour of the adviser. The model seems to suggest training and competency issues are the responsibility of the adviser and their professional association, but this leaves open the question of the licensee's role in this regard.

There has been much discussion about organisational and industry culture, and the need to improve commitments to client service and acting in the client's best interests. This would assume an important role for the licensee, however the PJC model does not make this clear.

A further potential confusion relates to the roles and responsibilities of ASIC and the Professional Standards Council in relation to industry codes of conduct. ASIC currently has the power to approve Codes of Conduct under section 1101A of the Corporations Act.

It is NIBA's intention to seek ASIC approval of the next revision of the Insurance Brokers Code of Practice under this provision. NIBA has taken a considered decision to not seek PSC approval for a professional standards scheme, on the basis that the costs associated with implementing such a scheme would outweigh the benefits any such scheme would provide.

Currently the regulatory framework is based on the AFS licence, and the licensee's obligations in respect of their own operations and in respect of the operations of their authorised representatives. NIBA would prefer to see improvements to this licensing framework and regime, rather than the creation of a new, potentially conflicting regime.

This is particularly the case in relation to training and competency. The law on this point is very clear. Steps should therefore be taken to ensure that the application and enforcement of the current provisions is properly undertaken, within the context of the Australian education and training frameworks – at both VET and university levels.



Section 3: Education and training standards of financial advisers

NIBA operates a registered training organisation – NIBA College. For over 20 years, NIBA College has worked with experienced insurance brokers to determine, and regularly review, the knowledge, skills and competencies required of someone seeking to work as an insurance broker.

This work has led to the development of the following courses:

- Certificate III in Insurance Broking
- Certificate IV in Insurance Broking
- Diploma of Insurance Broking
- Diploma of Life Insurance
- Advanced Diploma of Insurance Broking
- Graduate Diploma of Insurance Broking
- Graduate Diploma of Financial Services.

These courses are accredited by the Australian Skills Quality Authority. NIBA College itself is registered with and audited by ASQA.

There has been no evidence presented to date that there are any deficiencies in the development and delivery of education and training for insurance brokers, by NIBA College or by the Australian and New Zealand Institute for Insurance and Finance – ANZIIF.

NIBA firmly believes the current framework for the education and training of insurance brokers is relevant and appropriate.

NIBA sees no reason to mandate a Bachelor Degree as a minimum education requirement for insurance broking. Indeed, NIBA is not aware of any degree course which would be regarded as relevant for the purposes of acting as an insurance broker, or for giving advice in relation to risk assessment, risk management, risk funding and insurance, and insurance matters generally.

In other words, a person coming into insurance broking with a degree in business, commerce, finance, or a related field, would need to undertake an appropriate level of further training – normally the Diploma of Insurance Broking – in order to learn the knowledge, skills and competencies needed to be a competent insurance broker.

NIBA is also very concerned that if it becomes mandatory to hold a relevant Bachelor Degree in order to provide personal advice on risk insurance products, business owners and managers would be less likely to offer personal advice and support, leading to a lessening of advice being provided to the community.

Finally, NIBA believes it is important to note that training and education of insurance brokers is normally undertaken while the student is working in an insurance broking office. Formal education and qualifications have been designed over many years to match the student/employee's gaining of



work experience in insurance broking. The Certificate qualifications match the early years of employment when there is substantial monitoring and oversight of the person's work. The Diploma courses are designed for those with some experience in the business. The Advanced and Graduate courses are available for those with extensive experience in insurance broking.

On this basis, NIBA once again submits that the existing structure of industry training and qualifications is adequate and appropriate for those giving personal advice on risk insurance issues, products and services. In this regard, it is important to note that the courses and qualifications are constantly and regularly reviewed to ensure they remain relevant, up to date and accurate, in keeping with changes in the industry, the development of new products and processes, and any changes in the law that might affect insurance policies and the rights and obligations of clients and policyholders.

Section 4: Structure and role of a standard-setting body

Because NIBA has long experience in operating a registered training college within the Australian Government's education and training framework, NIBA does not support the PJC Report recommendations for the formation of a Finance Professionals Education Council. The framework and role proposed for the FPEC already largely exists, and has been thoroughly reviewed by the Federal Government very recently – the announcement by the Assistant Minister for Education and Training on 21 April 2015 refers.

Under the existing framework, course content and standards are initially determined by industry experts, but ASQA must be satisfied that the courses are of an appropriate standard and quality before accreditation is given.

We also note that continuing professional development has been and continues to be an important requirement for individual members of NIBA. Our professional recognition status – Qualified Practising Insurance Broker – requires ongoing training and learning, and has done so for many years.

In these circumstances, if FPEC performs a similar role in relation to risk insurance products, services and advice, that role would duplicate a role already undertaken by existing mechanisms operating under the ASQA framework and within NIBA and NIBA College.

NIBA does not object to the proposed FPEC framework applying to advisers who must be included on the ASIC Register of Financial Advisers, as general insurance brokers have been excluded from this process.

If the FPEC is to have a role in relation to the education and training of risk insurance advisers, NIBA would want to be closely involved in the process. Regardless of whether insurance brokers were covered by a Professional Standards Scheme, and regardless of whether NIBA comes to be regarded



as a professional association, NIBA has many years' experience in working with industry leaders to develop appropriate education and training packages for insurance brokers.

As the Assistant Minister for Education and Training acknowledged recently, it is critical that industry takes the lead in this area "because it is employers who best know what skills and competencies they need in their current and future employees".

Section 5: Registration

The PJC model envisages financial advisers must be listed on the Register of Financial Advisers, and in order to allow this to occur the adviser must:

- Have met the education and training requirements (degree qualification and successful completion of a professional year);
- Have passed a registration examination;
- Be undertaking ongoing professional development; and
- Be a member of a PSC approved professional association.

NIBA has expressed strong concerns in relation to each of these matters, at least in regards to their potential application to risk and insurance advisers (insurance brokers). These recommendations appear to suggest a substantial regulatory framework that would operate IN ADDITION to the Australian financial services licensing arrangements currently administered by ASIC.

In addition to the detailed matters discussed previously in this submission, there is one further key consideration which has received very little discussion to date: it is not clear what organisations would be or would seek to be regarded as professional associations for the purposes of implementing the PJC model.

Secondly, and perhaps more importantly, the Professional Standards Councils do not currently have any legislative role or authority to approve professional associations in the manner envisioned by the PJC model. The role of the Councils is to approve Professional Standards Schemes, which offer limited liability for members in return for appropriate risk management programs and professional indemnity insurance.

Some industry associations may be well placed to become professional associations (Financial Planning Association, Association of Financial Advisers and NIBA) while some organisations are unlikely to be able to fulfil that role (presumably the Australian Bankers Association and the Financial Services Council would not seek to take on a role of this nature).

An important question for Government is whether it is prepared to make membership of a professional association compulsory.



The Corporations Act already contains a provision which would go some way to achieving higher levels of professionalism in financial advice: section 1101A, and the ASIC power to approve Codes of Conduct.

An industry Code of Conduct brings together the respective roles and obligations of the AFS licensee and their employees and authorised representatives in meeting the needs of and serving their clients. The Code of Conduct should outline the commitment to client service, the standards the client should expect, the mechanisms for resolution of complaints and disputes, and provision for external dispute resolution. The Insurance Brokers Code of Practice contains these provisions, and is monitored and overseen by an independent Code Compliance Committee.

One core issue in relation to the use of ASIC approved Codes of Conduct is the potential need for the Government (or ASIC, if the power is available) to mandate membership of an ASIC approved Code. This already occurs in relation to external dispute resolution – AFS licensees must be a member of an ASIC approved EDR scheme. Insurance brokers are invariably members of the Financial Ombudsman Service for this purpose.

In response to the issues raised in the Consultation Paper, NIBA would like to offer the following further observations.

Question 5.1: What are the practical implications of requiring individuals to be registered in order to provide financial advice?

The practical implications are, firstly, the need to establish a process for assessment and approval of professional associations. This would presumably need legislative support. It would then be necessary for industry bodies to determine whether they wished to seek approval for that purpose.

The second outcome is the need for those wishing to offer financial advice to undertake the necessary training, and meet their continuing professional development obligations.

Each of these activities would incur cost, and each party would be constantly assessing the benefits provided by participating in this regulatory framework against the cost of doing so.

Question 5.2: Should it be the role of professional associations to notify ASIC that all requirements have been met for an adviser's registration, and of factors which affect their subsequent fitness for registration?

NIBA would require substantial additional resources to undertake this role. The finance industry is very dynamic, with people entering the industry, changing employment, and leaving the industry every day. The place where information resides regarding an adviser's qualifications and performance is their employer and/or the licensee.



Question 5.3: What are the practical implications of having these criteria listed on a public adviser register?

The main implications are the costs associated with the need to develop and maintain administrative processes for reporting the relevant information every time there is a change which needs to be reported. This must then be backed up by compliance monitoring processes and audit processes. All these processes have a cost, which would ultimately need to be passed on to the clients.

Question 5.4: Are there alternative or additional criteria that should be listed on the Register?

NIBA does not believe any additional criteria should be listed on the Register.

Question 5.5: Provision of information to ASIC.

As noted above, it is the licensees and employers that are fully aware of the people, and their qualifications and performance, who need to be included on the Register. It is difficult for professional associations to maintain accurate and up to date information about everyone working in the industry.

Question 5.6: Is legislative protection of the titles ‘financial adviser’ and ‘financial planner’ necessary?

NIBA’s earlier submission to the Australian Government in response to the PJC Report and recommendations deals with this issue at length.

Section 6: Exam

Based on many years’ experience in the education and training of insurance brokers and others in the insurance industry, NIBA does not support proposals for an industry examination as a pre-condition for acting as an insurance broker and providing personal advice on risk and insurance products.

The development of the necessary knowledge, skills, competencies and approach to be a professional and competent financial adviser requires a course of learning and study, covering a range of topics, over a period of time. During the course of that period of study and learning, it is important that each area of work is assessed, to ensure the student has understood the relevant issues, and has learnt what they need to know in order to do their job competently and professionally. A single exam will not give the necessary assurance that appropriate levels of learning and understanding have been reached.

The practical implication of a registration exam is that people will learn how to pass the exam. They will not necessarily learn how to be a competent and professional financial adviser or insurance broker.



NIBA believes it is more important to ensure that the qualifications courses and programs are well developed, well taught and have strong assessment processes to ensure that those completing the courses are in fact well qualified to work as financial advisers.

Section 7: Ongoing Professional Development

NIBA supports continuing professional development obligations, which ensure advisers are aware of and understand ongoing developments in products, the operation of the industry, the development of the law, and other regulatory matters.

Continuing Professional Development has been a requirement of NIBA membership for many years. NIBA provides CPD learning opportunities to insurance brokers, and also recognises and accredits other organisations who provide genuine learning opportunities to insurance brokers.

Section 8: Professional and Ethical Standards

As a preliminary point, NIBA believes it is necessary to confirm whether there is any difference between –

- Code of Ethics, as recommended by the PJC Report;
- Code of Conduct, which can be approved by ASIC under section 1101A of the Corporations Act; and
- Insurance Brokers Code of Practice, and similar codes, currently in existence.

As noted above, the PJC Report does not clarify the intended operation of a Code of Ethics under their model, in the light of ASIC's powers to approve a Code under the Corporations Act.

The Insurance Brokers Code of Practice was comprehensively reviewed in 2012 and 2013, and has been in place since 2014. The Code is independently administered by the Financial Ombudsman Service, and the Code is monitored and overseen by an independent Code Compliance Committee.

NIBA has indicated that it will seek to have the next Insurance Brokers Code of Practice approved by ASIC.

NIBA has given careful consideration to the question of whether a Professional Standards Scheme would be appropriate for insurance brokers in Australia. After careful analysis and consultation with Members, NIBA decided not to proceed with such a scheme.



Insurance brokers currently have access to comprehensive professional indemnity insurance cover at affordable cost. There is no need to cap the liability of insurance brokers in order to facilitate better access to the professional indemnity insurance markets.

In these circumstances, it was felt that the costs and burden of satisfying the requirements of the Professional Standards Councils would be far greater than any benefits which might accrue from the development of a Professional Standards Scheme.

Paragraph 61 of the Consultation Paper notes the PJC view that there needs to be a change in the drivers of behaviour in the financial advice industry.

NIBA firmly believes that where change is needed, effective change must come from the industry itself – the large and small companies, the groups, and the industry bodies that represent those companies. The core drivers of poor performance need to be identified, and management action needs to be taken to change any incentive or other structures which give rise to poor performance and bad advice for clients. A number of leaders of the financial services industry have reaffirmed this position in recent days.

In all the circumstances, NIBA has strong reservations regarding the PJC model, and the role it gives to the Professional Standards Council – a role which is not currently within its legislative mandate.

NIBA would prefer effective implementation of the current legislative requirements for appropriately trained and competent advisers, and the promotion of ASIC approved codes of conduct. If necessary, Government should require financial advisers to be members of an ASIC approved code of conduct.

Section 9: Other Issues

Question 9.1: Advice on Tier 2 Products

In September 2013 NIBA provided a comprehensive submission to ASIC in response to ASIC Consultation Paper 212 – Licensing: Training of financial product advisers. That submission outlined a number of areas of concern regarding the operation of Regulatory Guide 146, including the classification of insurance products (Tier 1 and Tier 2), and the need for improved requirements for both knowledge and skills.

NIBA believes that if the issues and concerns that are outlined in that submission are adequately addressed, the resulting framework will result in proper education and training requirements for those giving advice on insurance and risk products and services.

NIBA is currently consulting with Members regarding the minimum educational requirements for insurance brokers in Australia. The results of those consultations will be provided to the Government in the near future.



Questions 9.2 to 9.5: Transitional arrangements

As there have been no demonstrated issues or concerns with the nature of training and education for insurance brokers in Australia, NIBA firmly believes insurance brokers who have attained the professional status of Qualified Practising Insurance Broker should not be required to undertake further academic study. NIBA currently requires brokers with the QPIB status to undertake continuing professional development, in order to maintain their knowledge and expertise.

NIBA also firmly believes that any new requirements must be accompanied with an appropriate recognition of prior learning and experience.

Questions 9.6 and 9.7: Timing

NIBA has serious issues and concerns with the PJC model. In the absence of demonstrated issues or concerns with the nature and level of training and education for insurance brokers, and in view of the steps taken by NIBA over the years to develop and promote the professionalism of insurance brokers, NIBA firmly submits the PJC model should not be applied to insurance broking in Australia.

Consultation Paper Attachment A – Regulation Impact

NIBA offers the following comments and observations on the questions raised in Attachment A of the Consultation Paper.

Question 1: How many advisers are likely to be affected?

Insurance broking firms are members of NIBA. Individual insurance brokers are members of NIBA College. NIBA College has a number of professional classes, according to the broker's level of training and experience.

The membership of the NIBA College professional classes in 2014 were:

| | |
|----------------------------------------------|-------|
| Associate (mostly Tier 1 qualified brokers) | 1,600 |
| Qualified Practising Insurance Broker (QPIB) | 1,836 |
| Fellow of NIBA College | 152 |
| Total: | 3,588 |



Question 2: What proportion are new entrants?

People are entering and leaving insurance broking on a regular basis. NIBA estimates there are approximately 500 people entering the industry each year.

Question 3: What is the typical education level?

People coming into insurance broking have a mixture of secondary and tertiary education. The majority would have secondary education, and pursue industry training through NIBA College or the Australian and New Zealand Institute of Insurance and Finance for their vocational education and training.

Question 4: What proportion of advisers are currently members of a professional association?

NIBA believes at least two thirds of insurance brokers in Australia are members of NIBA College.

Question 5: What are the likely costs of the PJC model?

If a Diploma of Insurance Broking becomes the minimum qualification for insurance brokers, the 1,600 Associates will need to complete the “Block 2” of the NIBA College Diploma course. The Block 2 course costs approximately \$3,000, so the resulting cost will be \$4,800,000,

If a university degree becomes the minimum qualification for insurance brokers, we expect the great majority of brokers would need to complete further study (in the absence of any “grandfathering” of current qualifications). At an estimated cost of \$10,000 per degree, the potential cost to insurance brokers would exceed \$30 million.

The collection, verification and supply of personal information by NIBA to the Register of Financial Advisers would require substantial additional resources. Currently, information on individual members of NIBA College is supplied and updated by the Members themselves, and they regularly fail to provide up to date details when they change employment, leave the industry and so on. It is difficult to determine the extent of additional resources that might be required if NIBA was given the task of supplying information to the Register. As discussed above, it would appear to be far more cost effective to place the onus of doing so where the information resides: on the individual and on their employer.

A further potential cost is the cost to the community if financial advisers cease to give personal advice. NIBA members have advised that general insurance brokers provide general advice to retail clients for most general insurance retail classes. There are two classes where personal advice is commonly provided: home and contents insurance (a Tier 2 product) and personal accident and sickness insurance (a Tier 1 product). If broking firms and their staff form the view that new educational and reporting requirements are excessive, they could decide to cease giving personal



advice, and concentrate on advising and assisting commercial clients, with general advice only being given to retail clients.

Question 6: Are there alternative options?

NIBA's preferred view is that professional, educational and ethical standards can be increased by more effective implementation of the existing statutory obligation on AFS licensees to ensure their staff are properly and adequately trained, and are competent, for the advice they are giving to their customers. The NIBA submission in response to ASIC Consultation Paper 212 provides very detailed commentary in this regard.

Secondly, ASIC has the power to approve industry Codes of Conduct under section 1101A of the Corporations Act. In this way, industry and licensee commitment to client service and providing advice in the best interests of the client can be achieved under existing law, by those directly responsible for the provision of financial advice and associated services.

NIBA is committed to having its next Insurance Brokers Code of Practice approved by ASIC under section 1101A.

Finally, the Government may need to consider requiring AFS licensees or financial advisers to be members of an ASIC approved Code of Conduct. A requirement of this nature would require time for implementation, given the time that would be needed in order to undertake a Code of Conduct review in accordance with the requirements of ASIC Regulatory Guide 183.

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

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