

29 March 2019

Manager  
Insurance and Financial Services Unit  
The Treasury  
Langton Crescent  
Parkes ACT 2600

By email: [claimshandling@treasury.gov.au](mailto:claimshandling@treasury.gov.au)

Dear Treasury,

### **AFA Submission: Insurance Claims Handling**

The Association of Financial Advisers Limited (**AFA**) has served the financial advice industry for over 70 years. Our objective is to achieve *Great Advice for More Australians* and we do this through:

- advocating for appropriate policy settings for financial advice
- enforcing a Code of Ethical Conduct
- investing in consumer-based research
- developing professional development pathways for financial advisers
- connecting key stakeholders within the financial advice community
- educating consumers around the importance of financial advice

The Board of the AFA is elected by the Membership and all Directors are currently practicing financial advisers. This ensures that the policy positions taken by the AFA are framed with practical, workable outcomes in mind, but are also aligned to achieving our vision of having the quality of relationships shared between advisers and their clients understood and valued throughout society. This will play a vital role in helping Australians reach their potential through building, managing and protecting wealth.

### **Introduction**

The AFA is very aware of the concerns identified by the Royal Commission with respect to insurance claims handling and is supportive of measures to improve consumer outcomes with insurance claims.

The AFA is supportive of changes to make insurance claims handling a financial service and therefore ensuring that this activity is covered under the Corporations Act and subject to comprehensive oversight by ASIC. We are supportive of this being achieved in an administratively effective manner where the potential complication of claims handling being treated as the provision of personal financial advice is avoided. We think that this should apply to all insurance clients and not just retail clients.

We support the application of this change to superannuation fund trustees and their staff who play an important role in the consideration of insurance claims on behalf of members of group superannuation insurance arrangements.

## Consultation Questions

### **1. Are there additional issues that have not been identified? If so, are there potential options for addressing them within the proposal?**

One area where we have been concerned for some period of time is people and businesses that provide claims management services and advice to clients. In many cases, these service providers are charging significant amounts through either charging fees or taking a percentage of the claim as the fee. Often this is being done on a no win, no fee basis. There is no guarantee that these service providers have the required skills to provide these services or that they are providing genuine value for money in these services. Alternatively, there is no guarantee that they have provided any service other than helping a client complete a claims form.

We recommend that as part of this consultation process, consideration be given to whether these claims service providers/advisers should be required to be licensed and also subject to oversight by ASIC. We certainly think that there is a need for greater oversight in this area.

In addressing this, we believe that it is also necessary to have a close look at some of the other exemptions from the requirement to be licensed, that apply with respect to the Corporations Act and the Corporations Regulations. A level playing field should apply to such operators.

### **2. Are there other approaches that can be taken in designing the legislative amendments that would further improve consumer outcomes (including by reducing compliance costs)?**

The AFA is supportive of the thinking in terms of the mechanism to address Recommendation 4.8 of the Royal Commission final report. We support the repeal of Corporations Regulation 7.1.33. We also believe that regulations could be used to ensure that the provisions of statements with respect to claims handling is not considered personal financial advice. The new education and exam standards that will apply to financial advisers is an important consideration, however these standards should not need to apply to claims handling staff. Nonetheless, we believe that education standards and ongoing CPD requirements should apply to people working in the claims handling and claims services/advice space.

We recommend that this change is considered carefully in order to ensure that there are no additional obligations that would restrict financial advisers from performing the role that they play in supporting their clients to make insurance claims. The majority of advisers do this at no additional cost to the client.

We do not believe that there is any need to create a new category of person as part of this reform.

### **3. Are there any obligations, besides the existing AFS licencing obligations, that would provide further useful consumer protections in respect claims handling activities and so should also apply to them?**

We are not aware of any additional consumer protection measures that would be appropriate in respect to insurance claims handling, other than those that have already been discussed, including the point mentioned above about third party claims management services and advice providers being licensed through ASIC.

**4. How could the activity of handling or settling an insurance claim (in relation to both life and general insurance products) be defined as a financial service for the purposes of the Corporations Act?**

As stated above we believe that this should be applied to both life insurers and people and businesses providing claims services and advice to clients. The range of services that would be caught would need to be defined and this could be based around the services that were specifically recognised as being excluded in Corporations Regulation 7.1.33.

**5. What penalties should apply to insurers breaching the general obligations of s912A in the specific instance of insurance claims handling? Should the penalties attaching to insurance claims handling, be the same that attach to other financial services?**

We do not believe that the penalties should be any different in the case of insurance claims handling as opposed to any other financial service.

**Concluding Remarks**

The AFA is supportive of changes being made to ensure that insurance claims handling is treated as a financial service and subject to licensing requirements and oversight by ASIC. We believe that this should apply to both insurers and other parties who offer services and advice to support clients making insurance claims.

The AFA welcomes further consultation with Treasury, should it require clarification of anything in this submission. If required, please contact us on (02) 9267 4003.

Yours faithfully,



**Philip Kewin**  
Chief Executive Officer  
Association of Financial Advisers Ltd