

**NATIONAL INSURANCE BROKERS
ASSOCIATION OF AUSTRALIA**

**SUBMISSION TO FINANCIAL
SYSTEM INQUIRY**

The NIBA submission to the Financial System Inquiry is in 2 parts. Part 1 contains NIBA's submission itself and Part 2 provides information about the insurance industry, insurance brokers and NIBA and its functions.

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PART 1

NIBA's Submission to the Financial System Inquiry

1. Introduction

1.1 NIBA

NIBA, the National Insurance Brokers Association of Australia, is the voice of the insurance broking industry representing the majority of the 1000 odd registered insurance brokers in Australia. NIBA members handle around \$5 billion in premiums a year which represents over 90 per cent of all premiums placed with brokers. NIBA represents both life insurance and general insurance brokers. In law and in practice the insurance broker is the only intermediary required to act impartially and independently on behalf of the insurance buyer.

1.2 The Focus of NIBA's Submission

Part of the terms of reference for the Inquiry relates to establishing a common regulatory framework for overlapping financial products. NIBA's submission focuses on this aspect of the terms of reference and the way it applies to the insurance industry.

It has been suggested that in order to make the regulatory scheme more consistent a single regulator for the whole of the financial system should be appointed who applies the same set of rules to all industries and products. NIBA is strongly opposed to such an approach believing that it would stifle development and innovation but it is not opposed to the co-ordination of regulation in order to produce an overall strategy for the financial system. NIBA does, however, believe that the overall strategy needs to have regard to individual differences and circumstances.

NIBA considers that regulation should be flexible and have regard to the particular circumstances that exist from time to time in different industries and with different products. Community expectations of industries and products vary, so too do industry responses to demands and pressures.

While there has been a blurring of the boundaries between industries operating within the financial system there never-the-less remain significant differences between the

general insurance industry, the life insurance industry, the banking industry and the financial products industry. Similarly, insurance brokers operate differently to other intermediaries in the financial system. These individual differences need to be recognised by the regulations. For example where there is effective self regulation, as there is in the insurance broking industry, the extent and nature of the regulation can reflect the compliant nature of the participants.

1.3 The Insurance Industry

The insurance industry (life and general) in Australia is robust and highly competitive. It is an industry that is outward looking, globally orientated and quick to adapt new technology to processing and marketing.

The insurance industry offers policy holders protection in the event of death, accident and loss or destruction of property. Without the protection offered by insurance, business would not function effectively being reluctant to expose capital to what are currently regarded as everyday risks. The life insurance industry also plays a significant part in encouraging Australians to save. It currently manages funds in excess of \$116 billion, including \$80 billion of superannuation assets.

1.4 The Major Regulatory Issue for the Industry

In considering any changes to the current regulatory arrangements the Committee of Inquiry should bear in mind that:

- (a) a large part of the current regulatory arrangements are working effectively; and
- (b) sections of the financial system operate under self regulatory arrangements that function well offering a high level of consumer protection with minimum costs.

The prudential regulation of the industry in Australia has been very effective over the last twenty years. Very few policy holders have lost money because of the failure of an insurance company. As a result the public has confidence in the ability of the industry to meet its commitments and our prudential regulatory regime and record are the envy of many countries in the world. The record is even more remarkable when consideration is given to the highly competitive nature of the industry in Australia.

The major regulatory issues for the insurance industry are associated with consumer protection with life insurance and the imposition by the Regulator of additional rules for the sale of life insurance products. Life insurance products have been subjected to

a higher level of regulation than similar products distributed by banks and the financial sector and consequently the so called playing field has become uneven.

Because of effective self regulatory arrangements the same sort of problems have not occurred in the insurance broking industry (both general and life). Any changes to regulatory arrangements need to take into account differences in distribution methods.

2. Prudential Regulation

Because of the importance of the insurance industry to both individuals and companies it is almost universally accepted that some form of prudential regulation designed to ensure that policy holder liabilities are met should be implemented by the Government. Insurance company policy holder liability for both life and general insurance products can extend for upward of thirty years and prudential regulation provides the community with a degree of stability and certainty necessary before such important long term agreements could be entered into.

2.1 Cost of Prudential Regulation

Regulation, however, is not without its costs. The costs can include:

- (a) the direct cost of supervision by the Government;
- (b) the compliance costs by companies;
- (c) monopolistic profits resulting from barriers to entry into the regulated industry; and
- (d) impediments that regulation can place in the way of introducing new techniques and procedures.

In addition regulation brings complexity into conducting business and complexity involves additional costs associated with understanding and compliance with rules. While it is very difficult to measure the costs flowing from regulation it is nevertheless important to recognise their existence when considering the nature of regulation.

2.2 Simple Minimum Regulation

NIBA considers that prudential regulation of the insurance industry should be simple to understand and to administer and that it be no more extensive than necessary to meet the desired objectives. Accordingly, prudential regulation should be directed at ensuring that companies satisfy minimal standards. Regulators should concentrate their supervision on the weak not the strong.

2.3 Industry Based Regulation

If regulations are to be kept to a minimum then they cannot be applied on a lowest common denominator basis across all industries in the financial system. It is therefore not appropriate for a uniform system of regulation to be applied to all industries. Quite clearly prudential regulation in respect of banks needs to be stronger than that applying to general insurance. In the general insurance industry companies should be able to fail and the regulation should be directed at the orderly entry and exit of companies with minimum loss to policy holders. There are wider implications, however, when banks fail and this needs to be recognised by the nature of the regulation applied to banks. A bank failure could have a fundamental effect on the financial system and confidence in the economy generally. Consequently it is international practice for banks to be required to satisfy a higher level of prudential supervision than that which applies to the general insurance companies.

The level of prudential regulation needs to have regard to a wide variety of issues including the risk involved, the effect of a failure and community expectations.

2.4 Regulation needs to be well directed and administered

In the case of the general insurance industry the issues involved with prudential supervision are significantly different, and in many respect more complex, than those which apply to banks and financial institutions. As yet there is no internationally recognised solvency measure for general insurance and any assessment of a general insurance company's ability to pay all of its policyholder claims is necessarily subjective. An assessment of a general insurance company involves, not only the usual problems of valuing assets and liabilities, but it also involves, an examination of assumptions made in respect of such matters as, the number and extent of future claims, and changes in, law, court decisions, community expectations and future inflation. In some cases the assumptions made go outward for over thirty years. In addition general insurance companies reduce their exposures by reinsurance and any assessment of a company's ability to pay claims must involve a thorough analysis of the reinsurance arrangements in place and the security of the reinsurers involved. As a result assessment of general insurance companies is difficult and even international rating agencies often get it wrong. In fact it would be useful if a simple method of comparing the ability of general insurance companies to pay their claims could be developed.

With regard to life insurance the introduction of the Life Insurance Act 1995 has meant that financial reporting is now standardised between life insurance companies. The prudential supervision does, however, need to take account of long term actuarial issues, including those associated with providing capital guarantees.

Competition within the financial system is increasing and the likelihood of company failure is correspondingly increasing. Consequently, it is important that prudential

regulation be well directed and effectively administered. Broad brush regulation is likely to be less successful than regulation directed at a specific industry and administered by people who have an in-depth understanding of the industry.

NIBA strongly believes that the prudential requirements in relation to banks, life insurance and general insurance etc, need to have regard to the individual circumstances of the industry and be tailored to suit that industry. In other words, solutions to problems in one industry should not automatically be applied to all other industries in the financial system.

The concept of regulation on the basis of industry applies not only in Australia today but it applies generally throughout the world. Separate individual prudential requirements have or are being developed internationally for banking, life and general insurance. NIBA considers that not only is it important that separate prudential requirements apply to different industries but also that the administration of the regulation should have regard to the circumstances of industries concerned. In other words there is a need for regulation specialists for different industries.

2.5 Competition between industries

The fact that banks are able to design products for sale in what have traditionally been life insurance or general insurance markets, and vice versa, is not an argument for regulating all companies operating within the financial system in the same way. It is simply an argument for there to be co-ordination between well informed sector regulators. Active competition both within and between sectors is good for consumers and demonstrates that the regulatory arrangements have not caused a monopoly situation to develop. The competition encourages innovation and the adoption of new technologies. Clients should, however, be made aware of the nature of the product they purchase (eg life insurance) and the legislation that applies (eg Life Insurance Act).

2.6 Co-operation between industry regulators

Different prudential regulations for different industries does not mean that there should not be co-operation and co-ordination between industry regulators. In fact it is important that such co-operation takes place particularly in relation to the regulation of financial conglomerates. Nevertheless co-operation should be a secondary and not the primary driver in determining and administering prudential requirements.

In this respect it is clear that the present system of consultation and co-operation involving the Council of Financial Supervisors is not working well enough and it needs to be replaced by a more effective arrangement. Consideration should be given to

formalising the existence of the Council, extending its membership, and providing it with a secretariat. If it was to be chaired by the Treasurer it would be given greater status.

2.7 Regulation needs to be conservative

The importance of effective regulation for the stability of the financial system cannot be over emphasised. Public confidence in the system is vital. The financial system is not something to be experimented and played with. Internationally accepted supervisory practices should be followed and there needs to be an element of conservatism in determining and administering prudential requirements.

Regulation must also take account of public expectations, but it should not anticipate changes in expectations or run ahead of them. Nor should regulation anticipate changes in the market which may or may not eventuate. The general public must have confidence in the system of regulation.

3. Regulation Relating to Products and Selling Practices

NIBA believes that regulations in respect of selling practices should be appropriate to the products concerned and have regard to the industry's ability to regulate itself.

There is little doubt that the best form of regulation is self regulation and where participants act responsibly costs associated with Government regulation can be avoided. It is only where self regulation breaks down and undesirable selling practices occur is there a need for Government regulation.

It is also simplistic to assume that Government regulation can fix all consumer protection problems. For Government regulation to work it too must have a high level of support by all participants.

While consistency in regulation is a good thing, consistency should not mean that the good are required to pay for the sins of the bad. Properly targeted regulation is usually better than a general increase in regulation.

Accordingly consumer regulation should be relevant to the industry sector and to the product concerned.

3.1 Selling Practices in the Life Insurance Industry

There are significant differences between life and general insurance. Life insurance is largely about saving for the future while general insurance is about risk protection. General insurance contracts are usually for one year during which time they can be easily cancelled with a proportional refund. Only a small proportion of general insurance policy holders will ever make a claim on a policy. On the other hand life insurance contracts generally involve long term savings contracts with a definite payout on maturity or at a particular date. Life insurance products can offer risk protection in the event of death.

Significantly more rules and regulations apply to the sale of life insurance products than there are to the sale of general insurance products. This came about largely because the life insurance industry was perceived by the regulators to be slow to react to consumer requirements.

Because insurance brokers genuinely represent the interest of their clients and because of effective self regulatory arrangements, the selling problems in the life insurance industry have been restricted to agents and not to brokers.

3.2 Selling Practices in the General Insurance Industry

Companies in the general insurance industry have recognised that they need to provide a high level of customer service if they are to survive and the industry through the Insurance Council of Australia has been quick to introduce self regulatory measures such as the Code of Conduct and the Claims Review Panel system.

Without doubt the introduction of the General Insurance Claims Review Panel system has proven to be the most important consumer protection measure ever introduced by the industry. The system has had a significant affect on policy wordings, administration practices and claims payment. This highly important consumer protection measure was introduced without recourse to legislation and is an indication of the industry's willingness to effectively regulate itself.

NIBA would be concerned if special rules relating to the selling of savings and investment products were foisted upon the general insurance industry. Increasing regulation in one sector of the financial system simply for uniformity sake makes no sense what-so-ever.

3.3 Insurance Regulator

At the present time the industry prudential regulator is also the regulator chiefly responsible for product and selling practices within the industry. This has the advantage that the prudential regulator fully understands the nature of the products being sold by the industry for which he is responsible. The prudential regulator to be effective must have a detailed knowledge of all activity affecting the industry. NIBA supports this concept.

Industry experts are better able to target necessary regulation and so avoid an overall increase in the level of regulation. They are also in a better position to remove unnecessary and obsolete regulation.

3.4 Product Distribution in the Insurance Industry

The distribution of insurance products is carried out by way of direct marketing by insurance companies and by agents and insurance brokers.

- (a) **Direct marketing** of insurance is usually carried out by direct mail, over the counter sales or by phone. It is possible that in future other electronic means will be used. Direct marketing is normally restricted to personal lines or domestic classes of insurance eg. motor vehicle, household insurance, illness and term life and it involves little or no customer advice.
- (b) **Agents.** A wide variety of agents are involved in marketing insurance and include building societies, credit unions, service stations, chemists, newsagents, post offices, real estate agents and motor vehicle dealers etc as well as traditional and specialist insurance agents. Under the Insurance (Agents and Brokers) Act insurers are completely responsible for the conduct of their agents and insurers are required to enter into a written agreement with agents. Under the industry Codes of Conduct/ Practice insurance companies are required to ensure that their agents are appropriately trained and act responsibly.
- (c) **Insurance Brokers.** In law and in practice the insurance broker is the only intermediary required to act impartially and independently on behalf of the insurance buyer. Brokers advise clients on all forms of insurance and tailor the best cover to suit the client's need. Brokers also become involved in risk management and advise clients about the risks to which they are exposed and how those exposures can be reduced and managed. Insurance brokers are required to be registered under the Insurance (Agents and Brokers) Act. While general insurance brokers do become involved in domestic classes of insurance, around seventy per cent of all broker business relates to commercial operations. Life insurance brokers are principally involved with commercial and high net worth clients. General insurance brokers are subject to an industry Code of Practice and life insurance brokers to an ISC introduced Code of Practice.

4. General Insurance Brokers

As at 30 June 1996 there were 1017 general insurance brokers registered by the Insurance and Superannuation Commission. The size, resources and technical skills of broking firms varies considerably, as is the case with most professional service providers. Brokers vary in size from small single person businesses to large multi national corporations.

While the insurance broking industry is going through a period of rapid change and rationalisation, the number of registered brokers has remained relatively constant over a number of years due largely to an influx of new brokers each year. 118 new general insurance brokers were registered in 1995/96 representing over 10 per cent of all registered general insurance brokers.

Brokers handle large sums of money, around \$5 1/2 billion in premiums alone, and in order to reduce the risk to the public of insurance broker insolvency, the Insurance (Agents and Brokers) Act requires brokers to be registered and to:

- (a) establish a bank account (broking account) for insurance moneys;
- (b) submit the broking account to annual audit; and
- (c) provide certain information about their activities to the ISC.

In addition, in order to ensure that the public is protected in the event of broker error, insurance brokers are required to maintain professional indemnity insurance. The Act also contains measures that ensure broker impartiality in their dealings with clients. The Act's requirements are minimal, there being no solvency, professional or academic requirements for registration and entry to the industry is relatively easy.

NIBA ensures that its members have the necessary qualifications and expertise to carry out their functions in a professional manner. All members of NIBA are bound by a Code of Conduct and are required to undertake continuing professional development through an ongoing training and education scheme known as the Qualified Practising Insurance Brokers (QPIB) program. NIBA has also developed an external dispute resolution arrangement. Further details of NIBA's self regulatory arrangements are given in Part 2 of this submission.

The NIBA Code of Practice and dispute resolution arrangements are distinct and separate from those undertaken by the Insurance Council of Australia and which apply to insurance companies and their agents.

The insurance broker registration arrangement, supported by NIBA's self regulation, is working well. While there has been a steady stream of brokers leaving the industry over the years the exits have generally taken place without the public suffering any loss. The broking industry also has a good reputation, there being few complaints about the behaviour of individual brokers.

Notwithstanding the professionalism of the broking industry, broking is an occupation that is subject to considerable competitive pressures both from within the industry itself and from an increased emphasis on direct marketing by insurance companies. The competitive pressures are leading to increased efficiency and greater use of technology by the industry.

NIBA would like to ensure that the present high standard of professionalism is maintained by the broking industry and increased gradually over time. It does not consider it necessary nor desirable, however, for additional consumer protection measures to be introduced by way of Government regulation for general insurance brokers. The self regulatory arrangements that are in place are more flexible than Government regulation and they can be adjusted to reflect changing circumstances.

5. Life Insurance Brokers

As at 30 June 1996 there were 107 registered life insurance brokers an increase of 65 on the number as at 30 June 1993. Similarly to general insurance brokers, life insurance brokers represent the insured and they provide truly independent advice. Life insurance brokers are subject to the same type of regulation as general insurance brokers including NIBA's QPIB, and external complaints system. Life insurance brokers are, however, involved with life insurance products both savings and risk and not general insurance products. They are accordingly subject to the Life Insurance Code of Practice introduced by the ISC.

While the number of life insurance brokers is relatively small, the number of representatives engaged by life insurance brokers represents in excess of 20% of all life insurance intermediaries in Australia and they do play an important role in the life insurance market. Life insurance brokers have, however, not been the subject of the same type of criticism as have life insurance agents and financial planners.

NIBA appreciates that there is inconsistency in the rules and regulations relating to the sale of saving products by different regulators within the financial system and that it is in everyone's interest for a simple set of uniform rules to be applied to the similar products that are offered by different industries.

NIBA is also aware of the suggestion that intermediaries in the life insurance area should be regulated in a similar manner to the way in which the ASC currently regulates financial planners and advisors. NIBA questions the appropriateness of this approach. The ASC's regulatory system for intermediaries has not been without its problems or its critics and simply by transferring insurance agents to a new regulator does not address the fundamental issue of the needs for life insurance companies to take responsibility for their agents. The ASC model is still very dependent upon life insurance companies or their subsidiaries effectively supervising their agents irrespective of how the agents are described.

Representatives of brokers give advice to clients on behalf of only one broker and the customer is clearly aware of the broker involved. This practice avoids potential conflicts of interest and customer confusion. It is not however, followed in other areas of the distribution chain for life insurance in Australia.

Under a largely self-regulatory system, life insurance brokers have not suffered the same difficulties as those experienced with life insurance agents. Once again NIBA ensures that its members have the necessary qualifications and expertise to carry out their functions in a professional manner.

6. Direct Cost of Regulation

The direct cost of the Insurance and Superannuation Commission's supervision of registered brokers is recovered by a fee paid by each broker at the time of annual registration. Accordingly the ISC's costs of regulation are borne directly by the public that pay for the use of broker services. The current fee is \$800 for a body corporate, \$400 for a sole trader and in the case of persons in business as a partnership \$800 divided by the number of partners. NIBA supports this method of cost recovery.

NIBA has not undertaken any study of the cost of insurance regulation to its members. It does, however, recognise that costs associated with regulation are passed on to consumers and that it is in the consumer's best interest for necessary regulation to be simple to understand and to comply with.

NIBA's own self regulatory arrangements are cost effective for its members. For example, NIBA's external dispute resolution arrangement has a budget of only \$250,000 a year. As a result, any alternative to NIBA's self regulatory approach is likely to lead to an increase in costs for brokers.

7. Conclusion

NIBA endorses the concept of minimum regulation supported by industry self regulatory measures. NIBA considers that in order to ensure that regulation is kept to a minimum it needs to be carefully directed at individual industries and problems. Regulation to overcome perceived problems in one area of the financial systems should not be foisted on another simply for uniformity sake. Not only is there a need for separate legislation in respect of banks, life insurance and general insurance but the regulations need to be administered by people who understand the industry concerned.

There is a need for greater consistency in regulation relating to the selling and distribution of saving products. If the Commission of Inquiry is able to develop a simple and consistent set of rules for saving and superannuation products that were fully supported by all participants this would be a good thing. It does not, however, follow that those rules should automatically be applied to the risk based products of the insurance industry. Such an approach is likely to saddle the insurance industry with unnecessary regulation. Consistency can only be achieved if all sectors of the market co-operate and act professionally. Where the necessary standards in selling practices are not achieved in a particular sector, the regulator should target that sector and not the whole industry.

In the future industry regulators will need to co-operate much more than they have done if we are to have an effective financial system. Co-operation, however, does not mean that what is effective for one industry should automatically be applied to another. Rules in relation to selling practices should have regard to the effectiveness of self regulation and they should not be automatically applied to the insurance industry or to insurance brokers.

The structure for the regulation of insurance brokers is working reasonably well and it is incumbent on the Committee of Inquiry to demonstrate that any proposed change to the existing structure would involve less yet more effective regulation.

PART 2

1. Information About The Insurance Industry, Insurance Brokers and NIBA and its Functions

In Australia insurance is essentially divided between general insurance and life insurance. To carry on “insurance business” in Australia a company must be authorised under the **Insurance Act 1973 (Cth)**, whilst to carry on “life insurance business” it must be registered under the **Life Insurance Act 1945 (Cth)**.

Brokers, whether arranging general or life insurance contracts, or both, must be registered under the **Insurance (Agents and Brokers) Act 1984 (Cth)**.

The Insurance and Superannuation Commissioner is vested with the responsibility of overseeing the above regulatory system pursuant to the **Insurance and Superannuation Commissioner Act 1987 (Cth)**.

On an international and national level, the general insurance industry is experiencing a period of rapid change.

According to figures put forward by the ISC, the general insurance industry in Australia is made up as follows:

- size of market - gross general premiums: \$16 Billion;
- number of general insurers established in Australia: 162;
- net assets of general insurers: \$9 Billion;
- total assets of general insurers \$32 Billion;
- total number of general brokers: 1017 as at June 1996

Based on NIBA’s own and Insurance Employers’ Industrial Association (IEIA) figures:

- general insurers employ approximately 17,000 personnel; and
- general brokers employ approximately 7,500 personnel.

Life insurance essentially includes the following forms of insurance:

- Term;

- Whole life;
- Endowment;
- Unbundled/ Investment/ Savings Policies;
- Annuities, Superannuation;
- Total and Permanent Disability;
- Disability Income; and
- Trauma.

General Insurance on the other hand is much broader and includes the following forms of insurance:

- All Risks or Special Risks;
- Accident and Illness;
- Aviation;
- Boiler and Pressure Vessel Explosion;
- Business Interruption or Consequential Loss;
- Cash in Transit;
- Contract Works;
- Credit;
- Export and Import;
- Farm Produce (or crop) and Livestock;
- Fidelity Guarantee;
- Fire;
- Householder's Contents;
- Houseowner's;
- Industrial Special Risks (or Combined Material Damage and Consequential Loss);

- Legal Expense
- Machinery Breakdown;
- Marine Hull;
- Marine Cargo;
- Money;
- Motor Vehicles - Compulsory Third Party;
- Motor Vehicle - Property;
- Products Liability;
- Public Liability;
- Professional Indemnity;
- Travel; and
- Workers Compensation.

A contract of general insurance and the arrangement thereof by a broker includes an extensive range of services, the need for which is uncertain when the product is bought. The need is uncertain by virtue of the fact that contracts of general insurance are based on protection or indemnity to an insured necessitated by a fortuitous event, unforeseen and unintended.

Examples of such services are:

- an exact and comprehensive understanding of the insured's business and the risk exposures attached thereto;
- claims handling;
- risk management surveys and advice;
- alterations in cover;
- general advice and information regarding the policy and market security;
- recoveries under the subrogation clauses of policies;
- product design and structure; and

- coverage of the full spectrum of the available insurance market in placing the risk.

2. Role of Insurers

The role of insurers in the general insurance market is to underwrite risks and to pay claims as and when they arise. Some insurers deal direct with consumers. Others deal with brokers as agents of the consumer. Others deal through intermediaries, including brokers, as their agents under agreements.

In the general insurance market a broker either acts as an agent of the insurer pursuant to an agreement (see the Act) or as agent of the insured.

It is important to note that the position of insurers and brokers in the marketplace viz-a-viz a consumer is very different. The function of insurers is to sell their products and services. When acting as agent of the insured, a broker's function or duty is to provide competent independent advice to the insured and act in the interests of the insured by choosing impartially between insurers when arranging the most appropriate insurance in accordance with the insured's instructions. The broker's main role is that of a skilled intermediary using special knowledge to help the client obtain the best from the insurance market.

3. Services Provided by Brokers

In arranging cover on behalf of the insured, a broker may provide or be called upon to provide all or some of the following services:

- completion of risk surveys and recommendations;
- detailed analysis and description of risk exposures;
- explaining an insurer's forms and documentation, particularly as they relate to the individual client and its needs;
- informing clients about many of the issues which would have been covered by statutory motives under the **Insurance Contracts Act 1984 (Cth)**, had the placement been direct with an insurer;
- negotiating amendments to standard policies to meet particular client's needs;

- preparation of summaries of insurance covers;
- market research to establish most appropriate insurer(s) and/ or most competitive terms;
- claims administration and advice;
- analysis of claims data;
- arranging for and assisting in the completion of proposal forms;
- collection of other risk details;
- checking of policy documents;
- collection of premiums;
- preparation of policy document and endorsements;
- assisting the smooth processing and payment of claims, including using knowledge of the particular insurer and its practices;
- where necessary, assisting clients with the resolution of disputed claims, including referral to expert lawyers, independent adjusters, and consultants and recommending non-litigious methods for such resolution where possible; and
- alerting the client to possible insurer insolvency and assisting in the transfer of cover.

NIBA

4. History/Role

NIBA was established in 1982, following the amalgamation of existing broker associations. It is the voice of the insurance broking industry, representing the vast majority of all registered insurance brokers in Australia. Members handle over 90% (around \$5 billion) of premiums transacted by all insurance brokers nationally.

NIBA's role is to provide services to support the professionalism of members and to represent their interests to the insuring public, government, media and the insurance industry. NIBA also provides support for policyholders dealing with brokers and can assist and mediate should a problem with a member broker arise.

5. Membership

Membership of NIBA is considered a valuable asset and all applications are carefully vetted to ensure that strict conditions additional to government requirements are met.

NIBA has four levels of membership:

- **Principal Member** - any company, trust, partnership or sole trader in business as a general, life or reinsurance broker. Principal Members must supply the names of five insurers with whom they have conducted business for at least 2 years, who will provide references of professionalism and credit worthiness.
- **Corporate Associate** - any subsidiary company of a Principal Member.
- **QPIB** (Qualified Practising Insurance Broker) Member - any person being a director, partner or employee of a Principal Member, who meets the required level of education and experience.
- **Fellow** - any person being a QPIB Member, who makes application to the Board and who meets certain criteria.

Newly formed brokers who initially do not meet NIBA's membership requirements can receive some services from the Association while working towards qualification. All Principal Members and Corporate Associates must lodge annual evidence of registration under the Act.

NIBA'S membership comprises approximately:

- 500 Principal Members and Corporate Associates.
- 2,400 QPIB Members and Fellows.

6. Education and Training

NIBA is at the forefront of industry training for brokers and staff. Though the QPIB training and accreditation scheme, continued membership of NIBA is dependent upon maintaining ongoing professional development. NIBA has developed an extensive range of general and broker specific training courses and seminars.

NIBA also provides the following publication services as part of its commitment to the continuing education of its members:

- "The Insurance Broker" Journal - the leading industry magazine.
- "The Gazette" - a monthly update on market and technical information.
- "Survival Kit" - to help members avoid professional negligence.
- Members Manual - to help members operate successfully.

NIBA also provides publications to assist members to educate their customers. These include:

- "Client Bulletin" - informative quarterly newsletter for clients.
- Promotional brochures.

7. Code of Practice and Dispute Facility

In February 1996 Governmental approval was obtained for NIBA's scheme for industry self-regulation. The scheme includes a dispute resolution facility for general and life insurance brokers and a Code of Practice for general insurance brokers. The Government imposed compulsory life code governs life insurance brokers.

The Insurance Brokers Dispute Facility (IBDF) is based in Melbourne and is managed by a Consumer Relations Manager (CRM). It is industry funded and its service is free for consumers.

If a broker's client is not satisfied with the outcome of a dispute the matter is passed to the IBDF Referee for resolution. Under the scheme, brokers must abide by the decisions made by the Referee, although they are not binding on consumers.

A Council representing consumers, the Government and brokers, oversees the IBDF.

The IBDF's primary aim is to help resolve disputes between brokers and clients, avoiding the need for potentially costly litigation. It also makes a dispute resolution process more accessible to consumers.

Policies covered by the IBDF include motor vehicle, home building and contents, sickness and accident, consumer credit, travel, personal and domestic property, life and small business. Brokers can choose to include other policies if they wish. The IBDF only handles disputes in relation to general insurance policies, which involve claims of up to \$10,000, except where the broker waives this limit. In addition, life brokers who are prepared to extend this limit to \$50,000, for disputes concerning life policies, may also subscribe to the IBDF.

The IBDF receives about 30 contacts a month of which 20 per cent develop into complaints being handled by the IBDF. Most complaints refer to private motor vehicle and domestic home and contents policies, closely followed by small business packages. Claims below \$5,000 are involved in 50 per cent of complaints. In the first eight months of the scheme's operation, only 3 cases were referred to the Referee.

Participating brokers also agree to adopt the self-regulatory General Insurance Brokers' Code. The Code only applies to general insurance matters and is designed to minimise problems in the first place. The IBDF's Consumer Relations Manager also deals with breaches of the Code.

The General Insurance Brokers' Code of Practice contains a description of the standards to be expected from brokers and standardises procedures for handling complaints.

The Code formally sets out requirements for insurance brokers in a number of areas. These include responsibilities relating to:

- policy arrangement and renewal;
- policy drafting;
- claims procedures;
- training of employees and agents;

- providing information to the IBDF, Consumer Relations Manager, Referee and Insurance Brokers' Compliance Council;
- complying with determinations, orders and sanctions of the Referee; and,
- forming an internal complaints handling process.

These responsibilities are divided between those affecting insurance brokers acting as agents of insureds and those affecting insurance brokers acting as agents of insurers.

Any alleged breach of the Code may be referred to the IBDF Consumer Relations Manager (CRM). Issues remaining unresolved will be referred by the CRM to the Referee who can make determinations, orders, and impose sanctions, which are binding on the broker.

Brochures which provide more detail in respect of both the IBDF scheme and the Code of Practice are attached.