

Monday 27th February 2023

Parliamentary Joint Committee on Corporations and Financial Services
Parliament House
Canberra ACT 2600
Via email:

NIBA Submission: Parliamentary Joint Committee on Corporations and Financial Services

Introduction

The National Insurance Brokers Association (NIBA) welcomes the opportunity to provide this submission to the Parliamentary Joint Committee on Corporations and Financial Services inquiry into ASIC's capacity and capability to respond to reports of alleged misconduct.

A strong financial regulator is key to promoting efficient financial markets and supporting confident and informed participation by investors and financial consumers. Over the past few years, the financial services industry has undergone unprecedented reform, much of which has been overseen by ASIC.

About NIBA

NIBA is the peak representative body for the intermediated general insurance industry. NIBA represents approximately 450 member firms and 15,000 individual brokers including large, multinational insurance brokers, Australian broker networks, and small to medium-sized businesses located in cities and regional areas right around Australia.

NIBA aims to promote the role of insurance brokers and the role they play in supporting and advising their clients on risk and insurance matters. NIBA provides this knowledge and expertise to governments and government agencies to promote understanding of the operation of general insurance markets.

Insurance brokers represent the interests of the purchasers of insurance, the policyholders, and not those of insurance companies. Consequently, comments made by NIBA are made on behalf of its members and the public that purchases general insurance, not on behalf of insurers.

ASIC Investigation and Enforcement

(a) the potential for dispute resolution and compensation schemes to distort efficient market outcomes and regulatory action.

Moral hazard

Fees associated with such schemes create a higher barrier to entry which disproportionately impacts smaller firms. These increased costs act as an inhibition to

competition and innovation as new market entrants may be unwilling or unable to meet the cost of any levy and be deterred from entering.

Encourage less risk adverse behaviour by financial firms knowing there is a safety net.

Smaller, less-capitalised financial firms could adopt less risk-averse approaches and behaviours in the expectation that if something goes wrong, a CSLR will compensate the client.

A financial firm in financial difficulty might worry less about trying to salvage its position if it knows that its customers will not be left entirely out-of-pocket.

A CSLR could reduce the incentive for compliance with existing compensation arrangements.

Consumers could become complacent about the fundamental risks of dealing in the market, which could incentivise riskier behaviour.

A consumer might be less diligent in checking compliance history or financial standing before choosing a financial firm.

An aggrieved customer may not pursue a defaulting financial firm as aggressively as they would otherwise

A decision-maker might be more inclined to award compensation to a customer knowing that a 'deep pocket' was available to cover the loss

ASIC may decide to set lower thresholds or be less rigorous in enforcing financial firms' statutory obligations in relation to their compensation arrangements

(b) the balance in policy settings that deliver an efficient market but also effectively deter poor behaviour;

it is not clear to NIBA that the current policy settings have succeeded in balancing the facilitation of efficient market outcomes with deterring poor behaviour. The one-size-fits-all approach to financial services regulation has seen industries with vastly different needs subject to the same regulations approach- sees industries lumped together increasing the regulatory burden and distorting market outcomes through decreased competition, reducing access to advice and less innovation as resources are funnelled to compliance.

(c) whether ASIC is meeting the expectations of government, business and the community with respect to regulatory action and enforcement;

No, ASIC must be seen to be taking action against firms that fail to meet their requirements under the financial services regime, this not only includes large firms where ASIC action is usually visible but also smaller firms where misconduct is reported from within the industry.

(d) the range and use of various regulatory tools and their effectiveness in contributing to good market outcomes;

ASIC has sufficient regulatory tools, product intervention powers, information-gathering powers, under-utilisation of existing tools in particular. NIBA notes that ASIC has said they have been given sufficient tools

Should you have any queries or wish to discuss any aspect of this submission please don't hesitate to contact me or my office.

Yours sincerely,



Philip Kewin

Chief Executive Officer
National Insurance Brokers Association