3rd March 2022

Committee Secretary
Senate Economics Legislation Committee
Department of the Senate
Parliament House
Canberra ACT 2600

NIBA Submission: Senate Economics Legislation Committee Inquiry into Treasury Laws Amendment (Cyclone and Flood Management Reinsurance Pool) Bill 2022

Introduction

The National Insurance Brokers Association (NIBA) welcomes the opportunity to provide feedback on the *Treasury Laws Amendment (Cyclone and Flood Management Reinsurance Pool) Bill 2022 (the Bill).*

As the peak representative body for the intermediated insurance industry, NIBA represents more than 15,000 brokers all around Australia.

Our members include major international broking firms, large Australian-owned firms and over 400 medium and small insurance broking firms operating in the cities, towns and regions across the length and breadth of Australia.

Insurance brokers perform a number of valuable services for their clients including;

• Helping clients to understand, manage and minimise their risk exposure,

• Identifying and arranging appropriate insurance or other risk financing mechanisms, and

• Acting as the client's advocate when an insured event occurs.

In performing these duties, insurance brokers act as agents of their client and have statutory, common law and professional obligations to act in the best interests of their client at all times.

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

While we commend the Federal government for their efforts to address industry's concerns over the draft legislations' ability to deliver the desired policy outcome there remains a number concerns that NIBA believes should be addressed prior to the passing of the legislation. NIBA's concerns and recommendations are set out below.

Insurer participation in Northern Australia

NIBA notes that the legislation fails to provide any incentive for insurers who have already exited the Northern Australian market to return. Despite the Northern Australia Insurance Inquiry finding that there were not significant insurance availability issues in northern Australia, feedback from our members, has indicated that there are in reality very few general insurers willing to write cover for cyclone exposed risks, and many have placed an embargo on writing cover for new risks.

Currently the legislation requires general insurers who undertake liability, under pool insurance contracts, **in respect of eligible cyclone losses** to maintain contracts of reinsurance with the Australian Reinsurance Pool Corporation (ARPC).

Based on the current wording, general insurers who write cover for other types of risks in Northern Australia but do no write cyclone risk, or who have ceased writing such risks by the date they are required to join the pool are not required to participate.

NIBA notes that there is nothing preventing these insurers from gradually declining to renew existing cyclone exposed risks until eventually they are no longer required to participate.
Furthermore, insurers may refuse to provide cover to properties that are not eligible for the reinsurance pool, further exacerbating the issues raised by NIBA and other associations in regard to the eligibility of properties.

In NIBA's view this directly contradicts the pools' aim to increase insurer participation and competition in the Northern Australian market. NIBA recommends that Treasury consider a notification obligation on insurers regarding the risk as was done in relation to flood damage.

Mitigation and long-term viability

Long-term viability of the pool will require a significant investment in mitigation and resilience. A report into natural disaster resilience by the Productivity Commission recommended that the Federal Government invest $200 million a year in this area, almost double the current investment.
NIBA notes that the reinsurance pool is only part of the solution. Risk mitigation by policyholders and Government public infrastructure reforms are likely to be the most effective way to reduce premiums rather than direct government intervention in the market for reinsurance, where reinsurance does not make up a significant portion of premiums. NIBA notes that the ALRC intends to consider mitigation works as part of its reinsurance premium pricing model, however many mitigation measures are financially out-of-reach for homeowners and renters.

Natural disaster mitigation has many benefits; improved community safety and resilience, a reduction in property damage, faster recovery, and reduction in the economic impact of natural disasters. There are a diverse array of mitigation measures. These may be carried out by the state and its agencies (public mitigation works), or the property owner (private mitigation works).

Public mitigation

Public mitigation options may include both structural and non-structural measures, for example; increasing building standards, land-use planning, hazard reduction and flood levees.
Following consecutive large flooding events in the Queensland town of Roma in 2010, 2011, 2012 local, State and Federal governments jointly funded a series of flood mitigation works including the construction of a diversion drain and a town levee. Following the completion of these works property insurance premiums were reduced by an average of 45%.

Private mitigation

Building science research consistently shows that losses caused by severe wind events can be minimised if appropriate mitigation activities are employed, however, such works are not widely implemented.

Cyclone mitigation works vary significantly by the age, location and structure of the property but may include;

- increasing the wind uplift resistance of the premises
- sealing the building envelope from water ingress
- securing items outside the house that are susceptible to wind uplift (e.g., outdoor furniture).

From 2007-2009 the Florida Department of Financial Services administered the *'My Safe Florida Home'* program. The program offered homeowners free assessments of their home for structural vulnerabilities and allowed them to apply for a $5000 grant to retrofit their homes. Participating homeowners were provided with a report that outlined the findings of the assessment, including necessary structural improvements, the costs of such works and the associated reduction in insurance premiums if the improvements were completed.

Over a three-year period 401,372 home inspections were carried out and more than $80 million in mitigation grants was distributed. An evaluation of the program estimated that the 100-year probable maximum loss (PML) had reduced by at least $1.50 per dollar invested.

Flooding subsequent to Cyclone

In many coastal areas Cyclones are followed by an extensive rain depression, eventually leading to flooding. This is especially true for coastal towns that are also situated along a major river system, such as Townsville.

Under the proposed legislation, the ARPC will be responsible for declaring when a Cyclone has begun and finished (based on Bureau of Meteorology advice). Once the ARPC has declared that the Cyclone has ended, a ‘damage period’ will then apply to account for flooding and other damage caused by the rain depression.

The draft regulations, currently provide for a 48- hour damage period, after such time any damage to properties will not be covered by the reinsurance pool. However, this period fails to take into consideration the extensive damage caused to other parts of Northern Australia by ex-Cyclones as they move across the country.

However, this period fails to take into consideration the extensive damage caused to other parts of Northern Australia by ex-Cyclones as they move across the country. A large number of towns and regional centres are not affected by cyclones but are impacted by flooding once the cyclone turns into a tropical low.

Many properties in these areas face increasingly high premiums as a result of flood risk, however the reinsurance pool is unlikely to provide any relief for those who reside in these areas, as the flooding does not usually occur until after the proposed ‘damage period’ has finished.

NIBA recommends that the proposed damage period be extended to account for flooding as a result of an ex-cyclone/tropical low. Alternatively, as the ex-cyclone/tropical low moves inland, a new damage period should commence for each affected area.

Uncertainty over predicted savings

NIBA has previously raised concerns about the level of savings that the reinsurance pool is expected to provide. Reinsurance costs make up a very small portion of total premiums in fact, the largest driver of pricing is the underlying risk profile due to more frequent and severe weather events some of included low pressure and monsoonal systems which will not be covered by the reinsurance pool.

While savings as high as 58 per cent have been touted by government, the ARPC has yet to release any pricing or reinsurance premium modelling data to allow insurers to assess the impact of the reinsurance pool on premiums. It is also not clear to NIBA what pricing data has been gathered from within the industry to support such claims.

Classification of aged care facilities.

Under the legislation, aged care (and other care) facilities are considered commercial properties, despite the fact they are the primary place of residence for many elderly people and those with additional care needs. As a result of this classification, these properties are only eligible for inclusion in the reinsurance pool if they have a sum insured less than $5 million.

Many of these facilities are run by not-for-profit and community-based organisations, where increases in operating costs have a significant impact on the number and/or quality of services they provide. Excluding these properties would likely increase the cost of care for residents.

To address this issue, NIBA recommends that the definition of residential properties be expanded to include aged care and residential care properties thus removing the sum-insured value test.

Conclusion

NIBA notes that the legislation is proposed to take effect on 1 July 2022. While NIBA, in principle, supports the legislation the issues raised above have the potential to leave many Australians without access to much needed premium relief or worse, result in even poorer outcomes for policyholders. In NIBA's view a small delay in implementation is preferable if it results in a better outcome for policyholders.

Yours sincerely,

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