



Australian Government
The Treasury

TSY/AU

Quality of Advice Review – Conflicted Remuneration Consultation Paper

Template for response

October 2022



Consultation process

Request for feedback and comments

Interested parties are invited to provide feedback on the proposals for reform listed in the Quality of Advice Review Conflicted Remuneration Consultation Paper using the template in [Appendix 1](#). Consultation will close at 11:59pm on Monday 14 November 2022.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses in a Word or RTF format via email. An additional PDF version may also be submitted.

Closing date for submissions: 14 November 2022

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Appendix 1: Consultation template

Name/Organisation: National Insurance Brokers Association NIBA

General Insurance and consumer credit insurance (Proposal 1)

1. Do you support Proposal 1, which requires financial advisers or insurance brokers to obtain informed consent from their clients in order to be able to receive a commission from a product issuer for the sale of a general insurance product or consumer credit insurance?

a) If you do not support this proposal, please state your reasons

NIBA supports the proposal to retain the existing exemption for benefits given in relation to general insurance and consumer credit insurance products. NIBA notes that under the 2022 Insurance Brokers Code of Practice, insurance brokers are required to disclose the total amount of commission they will or expect to receive to all individual and small business clients, regardless of whether the advice is provided under a general, personal, or no advice model.

In addition to this, the Terms of Engagement that is to be provided by a broker to their new client requires the broker to inform the client in relation to the services provided and the method by which those services are paid i.e., Commission, fees, or a combination of both. This is then supported by disclosure of commissions most likely on or with the premium invoice. NIBA believes this is a practical way of informing the client and by paying the premium, the client is giving consent to the payment of commissions.

Example 1: Remuneration disclosure under the Insurance Brokers Code of Practice.

Client A approaches a general insurance broker about home and contents insurance. Prior to being engaged by client A, the broker provides client A with a Terms of Engagement that sets out the services the broker will provide as well as information about how the broker will be remunerated for those services. Client A agrees to the terms of service provided by the broker and is recommended a policy that meets their needs.

Client A then receives an invoice from the broker setting out the premium payable as well as the dollar amount of commission the broker will receive in exchange for placing the cover. Client A pays the invoice, and the broker binds the cover. In 12 months, when the policy is renewed, or the client is matched with a more appropriate policy the client will again be informed of the exact amount of commission the broker will receive.

The Terms of Engagement and remuneration disclosure provisions within the Code, apply regardless of whether the advice is provided under a personal, general, or no advice model meaning all retail clients receive the information required to make an informed decision.

Consent in writing

In relation to the proposal that insurance brokers must obtain the client's informed consent, in writing, to receive a commission or other benefit NIBA is concerned that the proposal in its current form would likely result in a number of clients being left uninsured. NIBA notes that insurance brokers are unlikely to place cover prior to receiving written consent from the client, this will likely result in retail clients being left uninsured if they fail to respond to the broker's attempts to gain consent or if their response is delayed. NIBA members have raised concerns that a large number of clients do not respond to communications relating to the renewal of their policy despite multiple attempts to contact the client and simply pay their invoice once issued. In these cases, brokers will often renew on the same terms to avoid the client being left without any cover. Additionally, the proposal does not take into consideration circumstances where advice is provided over the phone, often in time-sensitive situations. In these circumstances, it is even more unlikely that clients will provide written consent and will instead be left without cover.

As noted by the proposals paper, broker commissions on retail products are usually less than those payable on more complicated wholesale products. In many cases, the limited remuneration that brokers receive from these products would make it financially impractical for brokers to continually chase clients to provide written consent. This will likely result in brokers stepping away from providing personal advice to many retail clients as it is no longer economically viable to do so, which is contrary to the Reviews objectives.

Additionally, there are circumstances where the amount of commission is not known at the time. While commissions are usually consistent within the same product types there are circumstances where the broker will not know the amount of commission until the client confirms the product they require to be placed.

Types of remuneration

While NIBA has assumed that 'remuneration in this proposal' refers only to commissions paid on premiums, if this proposal is intended to extend to all remuneration including non-monetary remuneration it is likely that brokers will not be able to comply with this obligation as from time to time insurance broking firms may receive indirect benefits by reason of association that are not attributable to a single product or policy for example training, and access to software systems.

Distributors not caught by the proposal

The paper states that it applies to financial advisers (relevant providers), insurance brokers, and other intermediaries who provide personal advice to retail clients in relation to general insurance products or consumer credit insurance. It then states, "This requirement would not apply to other distributors of general insurance or consumer credit insurance products (such as white label providers or retailers) that distribute these products on behalf of the insurer." NIBA requests confirmation that such distributors would be caught when providing personal advice to retail clients (whether acting for the insurer or not). We understand from the discussion during the industry roundtable that this issue was clarified and that, the requirement would apply in all cases where personal advice was provided

to retail clients and commission was paid. If not, NIBA would question the rationale behind such an approach as this would create an uneven playing field and have the effect of promoting agency relationships which may not be in the best interests of clients. In NIBA's view, the influence of such remuneration on personal advice provided by an intermediary is the same regardless of whether they are acting on behalf of the client or not. In other words, if conflicted remuneration was paid the requirements should be the same for all so that clients remain suitably informed.

Other Conflicted Remuneration exemptions (Proposals 4-7)

2. Do you support Proposals 4 -7, which remove or modify the existing exemptions to the ban on conflicted remuneration?

- a) If you do not support any of these proposals, please state your reasons
- b) Do you consider there to be any unintended consequences related to the implementation of Proposals 4 -7?

NIBA supports the proposal to remove the exemption for monetary and non-monetary benefits given to an agent or employee of an Australian ADI if access to the benefit is in whole, or in part, dependent on the agent or employee recommending a basic banking product, a general insurance product or a consumer credit product.

General

3. Do you have any other comments or feedback on the Quality of Advice Review Conflicted Remuneration Consultation Paper?

NIBA would like to take this opportunity to reiterate its support for the review's proposals and to thank the independent reviewer and the broader review team for the consultative approach with which the Review has been conducted.

4. Do you have any other comments on the regulation of conflicted remuneration under Chapter 7 of the Corporations Act?