



**NIIS – Workplace Accidents
Consultation Regulation Impact
Statement Submission**

April 2015

NIIS – Workplace Accidents Consultation Regulation Impact Statement

QBE appreciates the opportunity to provide feedback in response to the National Injury Insurance Scheme (**NIIS**) – Workplace Accidents Consultation Regulation Impact Statement (**RIS**).

QBE is one of the few domestic Australian-based financial institutions to be functioning globally, with operations in and revenue flowing from 38 countries. Listed on the ASX and headquartered in Sydney, stable organic growth and strategic acquisitions have seen QBE grow to become one of the world's top 20 insurers with a presence in all of the key global insurance markets.

As a member of the QBE Insurance Group, QBE operates in Australia primarily through an intermediated business model that provides all major lines of insurance cover for personal and commercial risk throughout Australia.

QBE has a major presence in the Australian workers compensation and compulsory third party sector, providing insurance and specialist agency services in most jurisdictions throughout the country. QBE also has extensive experience in injury compensation in international jurisdictions.

Supporting national consistency

Although unquestionably challenging and complex to address, QBE is strongly of the view that establishing national (or nationally consistent) compensation schemes that interface appropriately with the other compensation systems will ease the rising cost pressures of injury compensation schemes and enhance the efficiency, affordability and equity of Australia's injury compensation schemes.

One of the key objectives for an effective injury compensation scheme is that the amounts paid to injured parties should constitute the vast majority of the costs which insurance companies or government entities (as relevant) will pay out. The introduction of the NDIS and the NIIS creates potential for change and the ability to create improved synergies to direct more attention to the effective management of workplace injuries.

Workers compensation, compulsory third party and the proposed NDIS/NIIS are all schemes that have or are being developed as a response to serious societal problems reflecting the range of socio-cultural, economic and political arrangements made by society to provide for injured people.

There is a continual challenge to balance the societal needs and benefits for the injured individual against the rising costs and substantial funding deficits that governments face with these schemes. In addition, the interface between the social security system and the other compensation schemes is far from seamless. The historical and political dimensions influencing the development of our compensation schemes have tended to obscure the true role and function of the scheme arrangements.

These schemes have developed in an incremental fashion often with little regard to the origins or long term rationale for particular developments, with little articulation of the interfaces of the compensation schemes and the wider political and social security system. State and territory governments have been fiscally challenged with unfunded deficits at different times which drives political responses that invariably lead to increased premiums or reduced benefits. Where the boundaries of one scheme are opaque or there is benefit arbitrage between schemes, cost shifting is incentivised.

Overlapping, duplicative and inconsistent regulation between the states, territories and Commonwealth on the same activity creates significant inefficiencies and, in some instances, inequities and adds considerably to the cost of doing business in Australia. Under the current complex arrangements in Australia far too much is being spent by insurance companies and agents tailoring to the multitude of schemes. IT requirements vary markedly across the different jurisdictions, driven by both differences in legislation as well as the regulatory requirements imposed in each state and

territory, which is costly to maintain. This means that investment which could otherwise be directed toward capability development or case management innovation is being used to fund systems maintenance across multiple jurisdictions. This maintenance is often of questionable value.

Legal costs and the costs of rehabilitation providers have escalated. These additional cost burdens often have a direct negative impact on productivity without any significant benefit to the injured person.

There is extensive literature and debate on the benefits and disadvantages of a federated system. Whatever your view, in the context of lifting national efficiency and productivity there is a pressing need to ensure greater national consistency and uniformity of regulation. QBE recognises this is a complex issue and also that there has been progress in a number of areas. However the degree of economic integration that now exists within the country creates increased pressure for greater uniformity to reduce inefficient duplication of regulations and service delivery (including at the public service level).

Minimum benchmarks option

As such, QBE philosophically supports progression to a harmonised model of lifetime care and support in relation to catastrophically injured persons. We are mindful however, that as recognised in the RIS, attempts to harmonise workers compensation insurance schemes would be extremely difficult to achieve in the timeframe contemplated. On this basis, although QBE believes harmonisation should continue to be a longer term aspiration, QBE in principle, **is supportive** in the first instance of the adoption of **minimum benchmarks option**.

There is significant variability between the state based schemes. Under the base case option, it is proposed that jurisdictions will not make changes to their workers compensation schemes but workers can “top up” support from the NDIS, which is then to be reimbursed by the relevant jurisdiction. This will necessitate eligible workers to access support from two separate schemes which we consider will increase complexity, the administration burden and costs both for workers and for the separate scheme administrations. QBE also considers that the demographic issue in Australia with its aging population needs to be addressed, with workers over 65 years of age increasing in number. Under the base case option, eligibility for workers over 65 in certain jurisdictions will be problematic. If these workers are not covered under existing jurisdictional workplace injury schemes, then they would not be eligible for top up support from the NDIS, which will create anomalies.

Adoption of the minimum benchmark option whilst challenging, is more likely to support the principles of the NDIS/NIIS and to achieve national consistency, simplicity and fairness. This will also align more effectively with the current approach to catastrophic motor vehicle injuries. Of particular importance is that the injured person will only need to interact with one scheme, which will presumably reduce complexity and cost and is likely to provide better outcomes for the affected individual.

If minimum benchmarks are established then those schemes that do not currently meet the minimum requirements would need to determine how these benchmarks are to be implemented (presumably by legislation) and also funded. Having minimum benchmarks, but allowing flexibility to each state and territory in terms of how they implement those benchmarks is likely to be more successful in achieving the target timeframe. One of the issues that will need careful consideration however, will be the question of retrospective and prospective application of the minimum benchmarks. Each will present a challenge from a funding perspective, both for state based schemes as well as those that are privately underwritten.

From a private insurer perspective, it is critical that any such adjustments to premiums are prospective only and not retrospective. Any retrospective extension of benefits could lead to circumstances in which a relevant insurer may be exposed to claims for which it has not collected sufficient premium, which may also create challenges for insurers in relation to prudential management. This is of particular relevance for those jurisdictions where workers compensation is privately underwritten (currently ACT, WA, NT and Tasmania) and, if retrospective, may lead to private insurers exiting relevant markets.

The increased entitlements will presumably need to be factored into employer premiums (including any additional administrative costs that may be incurred). Changes to the benefit structures within a scheme is a matter of public policy for regulators to consider. QBE would note however, the direct link to the benefit structure, including the ability to commute future liabilities, is factored into pricing

methodologies. This would need to be carefully considered by scheme stakeholders along with the broader policy position.

QBE would advocate that funding for future claims is a matter best considered on a scheme wide basis through the application of an appropriate levy that can be clearly reflected in an employer's premium. In principle, QBE would be supportive of a system that operates similarly to the NSW Lifetime Care and Support Scheme where a levy (or extra premium) is collected and flows to a central scheme that administers the support of the catastrophically injured person. QBE anticipates that this would enable resources utilised in the motor vehicle accident claims to work concurrently in the area of workplace injuries to maximum effect. There is also a likely parallel in services provided in the NDIS where consistency of service can be leveraged.

Thank you again for the opportunity to respond to RIS. QBE is supportive of the NIIS program and would welcome the opportunity to provide further input as this initiative progresses. QBE appreciates the complexities involved in the introduction of the NIIS/NDIS and in particular, the interface with the existing injury schemes and social security systems. Further detail however, on these issues would be helpful in order for us to comment more substantively on these matters.

Please do not hesitate to contact Kate O'Loughlin, Head of Government Relations & Industry Affairs at kate.oloughlin@qbe.com if you would like to discuss any aspect of this submission, or if you require more information at this stage.