

26 July 2017

ASIC Enforcement Review
Financial System Division
The Treasury
Langton Crescent
Parkes ACT 2600

**NIBA Preliminary Submission in response to the
Consultation on Industry Codes in the Financial Sector**

Thank you for the opportunity to provide our comments on the consultation paper Industry Codes in the Financial Sector.

The National Insurance Brokers Association (NIBA) represents over 4,500 insurance brokers across Australia. NIBA has a long history of promoting high standards of professional conduct among insurance brokers, and has a longstanding commitment to a strong, effective industry code of practice.

The Insurance Brokers Code of Practice has been operating since July 2014. The Code is independently monitored and administered by the Insurance Brokers Code Compliance Committee, which operates within the Financial Ombudsman Service Code Administration area.

We are not aware of any insurance broking code of practice overseas that is as comprehensive and as thorough as the NIBA Insurance Brokers Code of Practice.

The Code Compliance Committee publishes annual reports of its activities in overseeing and monitoring Code adoption and compliance.

Preliminary Submission

NIBA believes the consultation paper raises a number of critically important issues regarding the nature, role, content and operation of industry codes of practice. The consultation paper also raises very important issues in relation to the legal status of the code, and the legal relationships between the code administrator, the code subscriber and their clients.

Our major concern is that if the proposals are implemented in the manner suggested in the consultation paper, we would not have an industry code of practice at all. It would be an ASIC code of practice for the insurance broking industry.

The NIBA Board of Directors has only had a limited opportunity to consider and discuss the very important issues that the consultation paper raises.

NIBA would therefore appreciate the opportunity to provide a more considered response to the consultation paper. We hope to be able to do this before the end of August 2017.

In the meantime, we would like to offer the following very preliminary and brief comments on the key Position statements set out in the consultation paper.

1. Content and governance arrangements, including coverage of ASIC specified activities, should be approved by ASIC.

Preliminary comment: with the suggested level of ASIC oversight, regulation and approval, at some point the code would cease to be an industry code and would become an ASIC code for the relevant industry.

2. Entities covered by the approved code should be required to subscribe to the code.

Preliminary comment: as a matter of principle, NIBA would support the mandating of code membership for industry codes.

3. Approved codes should be binding and enforceable against subscribers by contractual arrangements.

Preliminary comment: this position is consistent with current arrangements for the Insurance Brokers Code of Practice.

4. Individual customers would be able to seek appropriate redress via IDR and EDR.

Preliminary comment: this position is consistent with current arrangements for the Insurance Brokers Code of Practice.

5. The code monitoring body should monitor the adequacy of the code and industry compliance with it over time, and periodically report to ASIC on these matters.

Preliminary comment: the Insurance Brokers Code Compliance Committee currently monitors the adoption, application and compliance with the Insurance Brokers Code of Practice by Code subscribers, and examines and resolves complaints for breaches of the Code of Practice. The Committee publishes an annual report of its activities, a copy of which is provided to ASIC.

We would very much like to provide a more comprehensive response to the detailed matters discussed in the consultation paper, after our Board of Directors has had an opportunity to carefully consider those issues.

Please let us know if there is a time constraint in relation to the ASIC Enforcement Review team's consideration of these matters.

Dallas Booth
Chief Executive Officer