



NATIONAL INSURANCE BROKERS ASSOCIATION OF AUSTRALIA (NIBA)

REFORMING FLOOD INSURANCE: A PROPOSAL TO IMPROVE AVAILABILITY AND TRANSPARENCY

ABOUT NIBA

NIBA is the voice of the insurance broking industry in Australia. NIBA represents 500 member firms and over 2000 individual Qualified Practising Insurance Brokers (QPIBS) throughout Australia.

Brokers handle almost 90% of the commercial insurance transacted in Australia, and play a major role in insurance distribution, handling an estimated \$18 billion in premiums annually and placing around half of Australia's total insurance business. Insurance brokers also place substantial insurance business into overseas markets for large and special risks.

Over a number of years NIBA has been a driving force for change in the Australian insurance broking industry. It has supported financial services reforms, encouraged higher educational standards for insurance brokers and introduced a strong independently administered and monitored code of practice for members. The 500 member firms all hold an Australian financial services (AFS) licence under the Corporations Act that enables them to deal in or advise on Risk Insurance products.

NIBA appreciates the opportunity to be able to provide further feedback on the latest proposals in relation to the reform of flood insurance in Australia.

ABOUT INSURANCE BROKERS

The role of insurance brokers

The traditional role of insurance brokers is to:

- assist customers to assess and manage their risks, and provide advice on what insurance is appropriate for the customer's needs;
- assist customers to arrange and acquire insurance; and
- assist the customer in relation to any claim that may be made by them under the insurance.

In doing the above the insurance broker acts on behalf of the customer as their agent. Insurance brokers offer many benefits to customers and consumers:

- assistance with selecting and arranging appropriate, tailored insurance policies and packages
- detailed technical expertise including knowledge of prices, terms and conditions, benefits and pitfalls of the wide range of insurance policies on the market;



- assistance in interpreting, arranging and completing insurance documentation;
- experience in predicting, managing and reducing risks; and
- assistance with claims and a higher success rate with settlements (about 10 per cent higher than claims made without a broker).

In limited cases insurance brokers may act as agent of the insurer not the insured but where such a relationship exists the customer is clearly advised up front.

EXECUTIVE SUMMARY

Generally NIBA supports the proposals subject to them being shown to be workable from a commercial and practical perspective. The feedback received from insurers will need to be considered carefully to determine if this is the case. NIBA's main concerns as explained in detail in previous submissions are that the changes could force certain participants out of the market to the detriment of consumers without any real flood risk and further reduce competition.

In addition:

- NIBA queries how insurers will determine whether an insured does or does not have a flood risk with any certainty given the lack of comprehensive flood data across Australia.
- NIBA understands that insurers providing flood insurance with no opt out has resulted in some insureds being subject to significant premium increases which some have been unable to afford. If all insurers were to adopt such a no opt out approach this would be of real concern.
- NIBA would be concerned about sub limits and excesses being applied if there were no protection mechanism built in to protect consumers.
- An insured's understanding of the storm flood distinction issue is of concern. Such disputes may reduce because of an increase in flood cover. It is worth considering whether in such disputes the parties be required to use the services of an independent assessor whose report would be binding on the insurer. This would save insureds the costs and difficulty associated with finding their own assessor.

Obtaining personal advice from a licensed Insurance broker can go a significant way towards helping an insured manage the above and understand the risks. Consideration should be given to whether insureds should be advised by insurers to consider seeking personal advice on the flood risk from a licensed insurance broker. This is akin to telling a consumer to seek appropriate legal advice before entering into a contract.



NIBA sets out its detailed responses to each of the questions asked below.

CONSULTATION QUESTIONS

OPERATION OF THE PROPOSAL IN PRACTICE

Questions

What other ways could insurers implement the proposal?

NIBA has no issues with the proposal that:

- all insurers include flood cover in home building and home contents policies which they offer to consumers.
- flood will be defined consistently across all policies, being based on a standard definition of flood – NIBA assumes as proposed in the recent Insurance Contracts Act amendments.
- insurers can choose whether to give consumers the option to ‘opt out’ of flood cover with the way in which this would occur being at the discretion of the insurer, provided that there is an initial offer of insurance which includes flood cover. E.g insurers might:
 - initially provide two quotes to consumers, one inclusive of flood cover and one exclusive of flood cover; or
 - provide one quote to consumers inclusive of flood cover, and require that the consumer contact the insurer for an additional quote without flood cover if they so choose.
- Where consumers *with a flood risk* are given the option of ‘opting out’ of flood cover, insurers would also be required to inform those consumers that they have a flood risk. For example, for internet quotes of insurance a statement could be presented along the lines of:

‘your home has been assessed as having a flood risk. We have automatically included flood cover in your quote. If you would like to exclude flood cover, you can do so by selecting the quote without flood cover/contacting us on ...’

NIBA also has no issues with the proposed implementation process.

NIBA queries how insurers will determine whether an insured does or does not have a flood risk with certainty. While the Federal Government and the insurance industry have made substantial progress in relation to the collection and publication of flood data, comprehensive data is not yet available across Australia. If an insurer says a person has a flood risk and this is incorrect, they may be



exposed to misleading and deceptive conduct. This also gives rise to the issue of whether an insurer by doing so is providing personal advice to the insured from a Corporations Act perspective.

NIBA also understand that recent experience with insurers providing flood insurance with no opt out has been that some insureds have been subject to significant premium increases which some have been unable to afford. If all insurers were to adopt such an approach this would be of real concern.

Given it seems to be in an insurer's interest not to provide an opt out, as it spreads the risk (ie with an opt out insureds with a low risk can chose not to insure) the above could become a real concern.

What other ways could insurers inform consumers about flood risk? How could this be implemented?

It should be made clear that when the insurer provides the notice to an insurance broker acting as agent of the insured, this will be sufficient to meet their obligation to the insured. This is consistent with the approach taken in the Insurance Contracts Act.

What might be the most effective way for insurers to implement the proposal in terms of engaging consumers in electing to take insurance with or without flood?

NIBA has no issues with the current proposal. NIBA notes that it will not be an issue where the insured is represented and advised by an insurance broker in the transaction. Consideration should be given to whether insureds should be advised by insurers to consider seeking personal advice on the flood risk from a licensed insurance broker. Given apparent confusion regarding flood coverage in recent times, and the potential for further confusion regarding the insured's position under the "opt out" proposal, NIBA strongly supports any move to encourage consumers (insureds) to seek personal advice from a licensed insurance broker.

How could the proposal to inform consumers of their flood risk be implemented?

NIBA has no issues with the current proposal provided an appropriate transition period is put in place to allow for systems and documentation changes.

INCREASING THE AWARENESS OF FLOOD RISK AND FLOOD COVER

Questions

What benefits are there in offering flood cover to all consumers with an 'opt out' option? What benefits are there in using insurance premiums to provide an indication of flood risk to consumers?

The benefit of an opt out approach is that insureds without a flood risk or the desire to cover it will not be forced to pay for such a risk.



Given the inconsistent data available in relation to flood risk NIBA queries how useful the information will be.

However it will go without saying that low premium indicates the insurer believes there is a low flood risk and a high premium indicates a high flood risk. A comparison of the “flood” premium charges by different “opt out” insurers should also provide a basis for comparison.

NIBA notes that it will not be clear what premium is allocated to flood risk by insurers not providing an opt out and this needs to be watched.

The insurance broking market will of course be monitoring the pricing of insurers in this respect very carefully.

What information would consumers require to make reasonable decisions as to whether or not to ‘opt out’ of flood cover? Is this information readily available? Are consumers able to adequately assess this information?

NIBA does not believe this information is readily available.

Obtaining personal advice from a licensed Insurance broker can go a significant way towards helping an insured manage and understand the risks. Consideration should be given to whether insureds should be advised by insurers to consider seeking personal advice on the flood risk from a licensed insurance broker. This is akin to telling a consumer to seek appropriate legal advice before entering into a contract.

What initiatives would be required with respect to consumer education and financial literacy to assist consumers to make appropriate decisions with respect to ‘opting out’ of flood cover?

The main focus will be in identifying what flood risks they actually face and in understanding the cover actually provided under the policy.

INCREASING THE AVAILABILITY OF FLOOD INSURANCE

Questions

To what extent would insurers offering flood cover to all consumers (including where an ‘opt out’ option is provided) increase the take-up of flood cover? Is it likely that there would be different take-up rates among groups exposed to different levels of flood risk? Please provide reasons.

NIBA believes that the take up is likely to increase but with higher flood risk properties, the cost increase is likely to mean that the insured will not take up the flood cover.

If most insurers were to provide no opt out this may result in a reduced market of insurers for insureds to approach and higher prices.



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Flood cover is not the only issue. An insurer with no opt out may have a better range of covers in other respects. However, the end cost because of flood being included makes it unaffordable to a consumer. The consumer might then have to go to another insurer that offers an opt out but with worse coverage generally (not just for flood). Whilst the consumer ends up with flood cover other risks which may be more significant to them are not covered.

How prevalent would the practice of offering an 'opt-out' option be? For insurers — would you envisage providing an 'opt-out' option? Why/why not? If you intend to offer an 'opt out' option, who would you intend to offer it to; for example: any consumer with any flood risk, or any consumer who has a flood risk premium above a certain value?

This is a matter for insurers to respond on.

Would an annual decision on 'opt out' maintain coverage? If consumers elect to purchase flood cover, should they be provided with an 'opt out' option the following year or just offered a renewal of insurance including flood cover?

Insureds should have the ability to opt out if needed which is notified in the renewal notice and PDS and which they can exercise before expiry by contacting the insurer.

What would be the impact on actual insurance premiums for the different categories of flood risk?

This is a matter for insurers to respond on. Any response should be monitored against what ultimately may occur in practice.

THE STORM/FLOOD DISTINCTION

Questions

What initiatives might assist to resolve, in a timely fashion, disputes about whether damage has been caused by storm or flood?

NIBA notes that the General Insurance Code of Practice has been amended recently to improve timing of claims but nothing deals with the above.

Given such disputes may reduce because of an increase in flood cover, it is worth considering whether in such disputes the parties be required to use the services of an independent assessor whose report would be binding on the insurer. This would save insureds the costs and difficulty associated with finding their own assessor.



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INDUSTRY CAPACITY TO UNDERWRITE FLOOD

Questions

What particular issues need to be addressed before all insurers could be required to offer flood cover?

NIBA agrees with the concerns raised and noted in the paper that it has raised in its previous submissions. The main risk is a reduction in underwriting capacity or coverage, and a potential reduction in market participants and competition, for persons without a flood risk as underwriters not equipped to underwrite flood exit the market.

What is the likely impact on overall premiums of system costs?

NIBA expects they would cause an increase. Insurers will need to respond on this more specifically.

Would insurers need to cross subsidise parts of their business to make this proposal workable? If so why?

This is a matter for insurers to answer. Obviously smaller insurers without the ability to do so would be at a disadvantage. This may further reduce competition in the market place.

Would affordable reinsurance protection be available for all insurers who take on flood risk? What factors would influence whether affordable reinsurance is available? Would there be any difference between the availability of affordable reinsurance for large and small insurers?

This is a matter for insurers to answer. It is likely that the costs of reinsurance for some insurers may be prohibitive. This may further reduce competition in the market place.

What other costs might insurers face as a result of the requirement to offer flood cover in all home building and home contents insurance policies? For example, costs of training call centre staff.

This is for insurers to answer but training costs will obviously need to be incurred.

How will smaller insurers be affected by this proposal? Are they likely to engage in defensive pricing? Are they likely to exit the market entirely in certain areas?

This is for insurers to answer but is clearly a risk.

TRANSITION PERIOD

Questions

Is two years a sufficiently long transitional period to enable insurers to build the underwriting capacity required to offer flood cover on all home buildings and home contents insurance policies?



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This is for insurers to answer.

If the Government proceeds with implementing the proposed measure, is there a case for aligning the commencement date of the transitional period of the proposal measure with the commencement date of the Key Fact Sheet?

This is for insurers to answer. Consideration should also be given to the impact of the Insurance Contracts Amendment Bill 2012 regarding flood notices and the reforms to the Insurance Contracts Act and unfair contracts legislation being discussed.

CHANGES NEEDED TO INSURANCE CONTRACTS ACT 1984

WHICH ASSETS SHOULD BE COVERED BY THE PROPOSED 'OPT OUT' REGIME?

Questions

Should insurers also be required to offer flood cover in relation to strata title insurance policies? What issues would this raise?

NIBA would support such an option if it was proven to be commercially realistic.

SUB-LIMITS AND EXCESSES

Questions

Should insurers have to offer flood cover without any flood specific excesses or sub limits as an option for consumers to consider?

NIBA believes such options should be permitted to provide consumers with alternatives. The challenge appears to be that for most insureds the additional premium for flood will not be significant (subject to insurer's responses on this), having an excess or sub limit may ultimately not be of real benefit to consumers.

Should flood specific excesses be permitted in policies which offer flood cover? If yes, should there be a maximum permitted excess? If yes, what should it be?

NIBA agrees with the concerns raised about inappropriate excess levels. Further discussion is required but a maximum percentage of property replacement value/sum insured approach may be worth considering.

Should flood specific sub-limits be permitted in policies which offer flood cover? If yes, should there be a minimum permitted sub-limit? If yes, what should it be?



See comments above

Should flood specific sub-limits and excesses only be allowed for high flood risk properties?

These are the properties which would appear to benefit most from such a proposal. The issue will be who ultimately bears any shortfall in the event of a loss where it is not insured.

Are there any other issues raised with respect to sub-limits and excesses?

Not to NIBA's knowledge.

If you would like to discuss any aspect of this matter further do not hesitate to contact us.

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