

20 January 2020

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Langton Crescent
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By email: ClaimsHandling@treasury.gov.au

Dear Ms McCrea

EXPOSURE DRAFT – FINANCIAL SECTOR REFORM (HAYNE ROYAL COMMISSION RESPONSE – PROTECTING CONSUMER (2020 MEASURES)) BILL 2020: CLAIMS HANDLING

Suncorp Group Limited (*Suncorp*) welcomes the opportunity to respond to the Exposure Draft of the Financial Sector Reform Bill – Claims Handling and related materials.

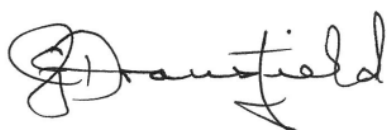
Suncorp supports removing the existing exemption of claims handling and settlement of insurance claims from the definition of ‘financial service’ (Recommendation 4.8). This will mean that insurers are obliged to do all things necessary to ensure claims handling services are provided efficiently, honestly and fairly. We firmly believe that we are responsible for meeting our commitments to our customers, including aspects provided by third parties.

Suncorp supports many parts of the design of this legislation, including the carve-out from the financial advice regime which will ensure that we can continue to have timely conversations with our customers when they make claims. This submission focuses on the elements of the legislation that we are concerned will introduce complexity to claims without a corresponding increase in customer protections.

The authorised representative scheme proposed in the Exposure Draft is unnecessarily onerous and will create new and large compliance burdens on small businesses that form part of our claims fulfilment chain, which will ultimately lead to poor customer outcomes. Suncorp’s core AFSL requirements place appropriate levels of obligations upon us to monitor our suppliers. Suncorp’s insurance arm, AAI Ltd, is a signatory to the General Insurance Code of Practice, which also contains these conduct provisions, building on the protection of the Utmost Good Faith obligation in relation to claims contained in the Insurance Contracts Act. Furthermore, the expansion of the Banking Executive Accountability Regime to insurance will also place additional accountabilities on our senior executives across the insurance value chain.

We would welcome the opportunity to discuss this reform further. Should you wish to contact us regarding this reform, please contact Pip Freebairn, Senior Manager – Government, Industry and Public Policy on 0402 417 368 or by email to pip.freebairn@suncorp.com.au.

Regards,



Gary Dransfield
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Suncorp Group Limited

Suncorp response to the Exposure Draft and related materials

Executive Summary

Suncorp has actively engaged with Treasury in policy discussions and development of the reform to remove the existing exemption of claims handling and settlement of insurance claims from the definition of 'financial service'. We thank Treasury for the opportunity to respond on the Exposure Draft and related materials.

Suncorp aims to meet the obligations of the Corporations Act to act honestly, efficiently and fairly, including on claims settlement. We welcome the legislative clarity that this reform will bring around conduct expectations on claims handling, noting that ASIC already has oversight in relation to claims handling via the Insurance Contracts Act 1984 (the IC Act).

The IC Act requires Suncorp to act in Utmost Good Faith while the General Insurance Code (GI Code) also requires subscribing insurers to abide by provisions regarding supplier management (AAI Ltd is a signatory).

As currently drafted, the new reforms will require insurers to appoint all suppliers, including those in the claims fulfilment process, under the authorised representatives model or as representatives. Suncorp is concerned that these provisions would bring thousands of small businesses who undertake repair work for insurers into ASIC's regulatory oversight. This would include thousands of building firms and their subcontractors including electricians, roofers and so on, as well as smash repairers. Many of these businesses are sole traders.

Such a model would create a significant compliance burden for these businesses (particularly small businesses including thousands of sole traders) without a clear and corresponding strengthening in customer protection. The reform would slow our ability to respond to customer claims and would restrict competition. Customers wishing to rebuild their homes would be harmed as the increased administrative burden on small businesses would slow down the recovery process, either due to the time taken to appoint the builder as an authorised representative or because they choose not to undertake insurance work. The reduction in the number of small businesses undertaking insurance work would push up the cost of rebuild, thereby harming customer outcomes. It would reduce the ability for local trades and small businesses to undertake insurance work, including in response to the recent bushfires. Suncorp seeks to use local businesses where possible to perform work in disaster-affected regions as this helps local economies recover.

Consequently, Suncorp seeks clarification in the Exposure Draft and Explanatory Memorandum ("**EM**") if these impacts are aligned with the intention of the reform. Suncorp believes that claims fulfilment should not fall under the authorised representative model, nor should they be considered as representatives under our Australian Financial Services license ("**AFSL**"). This is consistent with the Insurance Council of Australia submission.

In this submission, we briefly outline the claims process at Suncorp to provide context for our recommendations on the Exposure Draft and related materials.

Our submission focuses on the following recommendations:

- Ensuring appropriate licensing requirements for participants across the claims value chain.
- Ensuring that Statements of Cash Settlement are designed to provide customers with valuable and appropriate information.
- Ensuring that the circumstances around a natural disaster are considered appropriately in the design of the reform.

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Overview of Suncorp's claims process

Suncorp is focused on continually improving our processes and delivering good customer outcomes. In 2018-19, Suncorp Insurance business in Australia received approximately 179,000 property insurance claims and 555,000 motor insurance claims. Suncorp's paid out more than 98% of all consumer (motor and property) insurance claims in 2018-19. This totalled approximately \$3.7 billion annually, averaging more than \$10.3 million per day.

Suncorp has always looked to how we can improve claims handling and deliver our customers the best experience. As an example, we are proud of the support we provided to our customers in response to the 2019 Townsville floods. This included hosting a series of community forums and establishing a Customer Support Centre as a place where customers go to discuss their claim in person. We purchased caravans to house customers who preferred to stay closer to home, given the pressure on the rental market in the region, and assigned dedicated client managers for large loss customers, providing a central point of contact throughout the process. Suncorp is committed to helping our customers and their communities recover from the devastating effects of the 2019-20 Bushfires.

Claim events

Suncorp customers make claims in two scenarios:

- isolated incidents that affect individuals, or few individuals. For example, a motor collision, tenant damage or a leaky pipe in a home; or
- natural disasters, where communities are affected, and many people make insurance claims.

Our priority is to get customers back on their feet as quickly possible in both scenarios. In the case of a natural disaster, this process can take time. A single home claim following a disaster may involve multiple business including architects, plumbers, carpenters, electricians, tilers and many more. Suncorp is also committed to supporting local businesses where possible, especially in the case of natural disasters where insurers using local trades stimulates economic activity and assists a community to recover from the disaster. We also engage building partners and panel suppliers so we are able to respond quickly.

For large scale motor events like the Sydney hailstorm in 2018, we established a mass assessment centre where cars were assessed and then repaired by our network of repairers, or by a customer's choice of repairer where they had that coverage under their policy.

Claims process

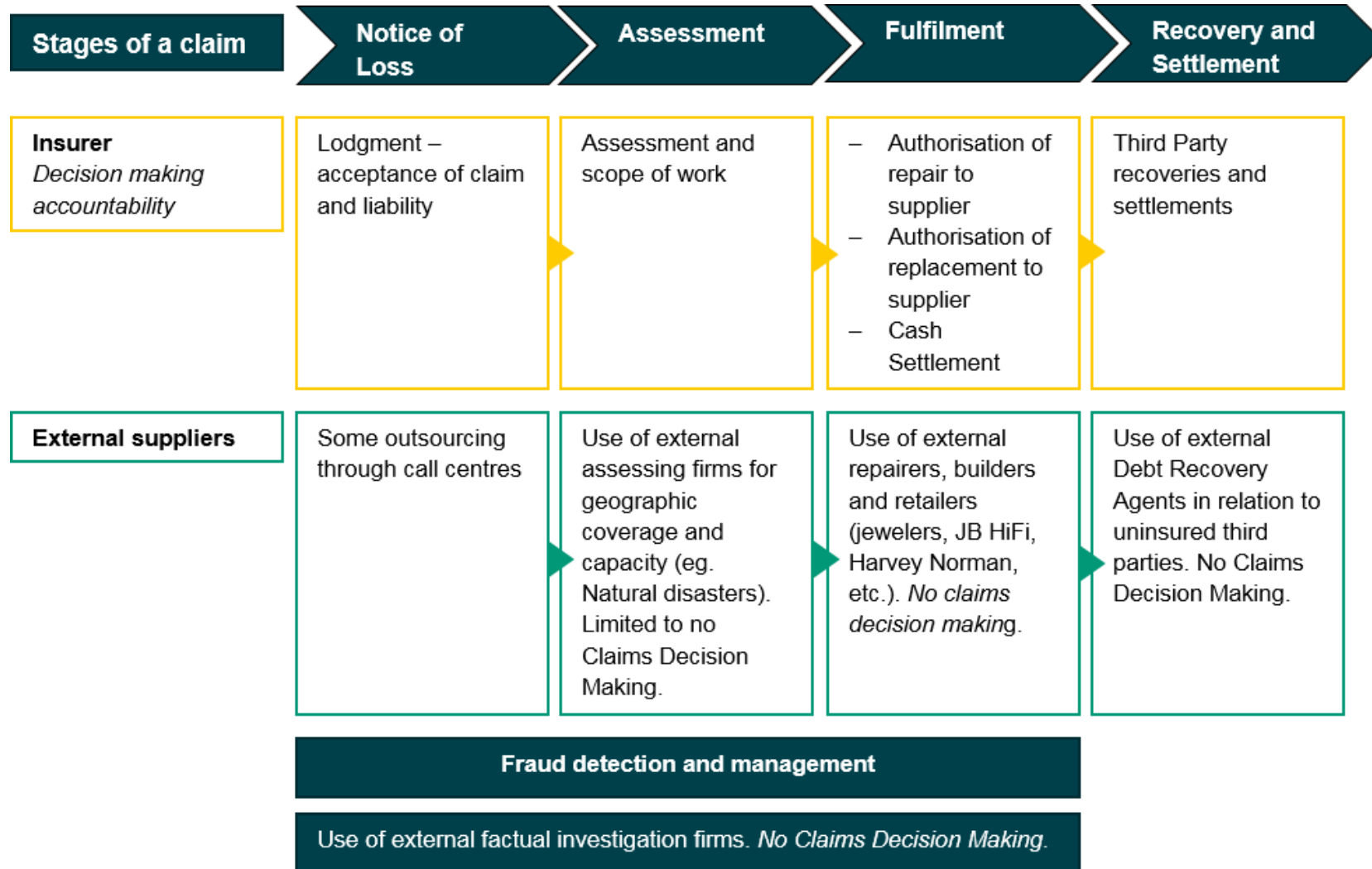
Insurers settle customers' claims for property damage either through repair, rebuild or replace, and to the best quality possible under the policy's terms and conditions. In some circumstances where it is not possible to replace the property (for example, that model of car is no longer made), the insurer may offer the customer a cash settlement. Customers may also be given the choice between cash settlement or repair/replace.

Suncorp uses a range of suppliers over the claims chain, these are outlined in the following graphic. Suncorp has in place a range of supplier agreements (see attached Repairer Customer Management Guide) to set expectations and manage the performance of our suppliers. These suppliers are also required to meet the GI Code of Practice.

In the case of a customer with a landlord insurance policy, a real estate agent or property manager can arrange repair work (up to an agreed threshold) that may form part of a claim but only an insurer can accept or reject a claim. The real estate agent/property manager will typically pay for these works from the customer's rental account and then the insurer will settle should a claim be accepted. For larger claims, the real estate agent/property manager may secure quotes and provide to the insurer.

Where there is a total loss claim like we have seen during the recent bushfires, the insurer would deploy assessor panels and the decisions on repairs and/or settlement rest with the insurer.

Stages of a claim at Suncorp



Recommendations: Licensing

Oversight of claims fulfillment activities

Suncorp agrees that insurers should be responsible for their claims fulfillment chain. This includes having systems and governance in place to monitor supplier and contractor relationships and customer outcomes.

Suncorp believes that the existing general AFSL and the new GI Code requirements place appropriate levels of obligations on insurers to monitor our suppliers to ensure they are acting honestly, fairly and efficiently without the need for them to be appointed as authorised representatives or be considered as representative under the Corporations Act. The expansion of the Banking Executive Accountability Regime to insurance will also place additional accountabilities on senior executives around all aspects of the value chain, including claims fulfillment.

Suncorp undertakes due diligence on claims fulfillers before they are onboarded and we monitor their performance. We require our suppliers to meet Suncorp agreements, including the *Repairer Customer Management Guide* which we have attached as an example of how we monitor and manage supplier performance. Suncorp provides our customers with a lifetime guarantee over repair work undertaken by agreed third-party claims fulfillers.

Third-party claims fulfillers responsible for claims fulfillment, such as repairers, assessors and tradespeople, are generally required to meet relevant industry codes before providing their service. Many claims fulfillers are also subject to their own state-based licensing regime, for example motor vehicle repairers in NSW, while real estate agents are required to be licenced in each state or territory in which they operate. Claims fulfillers can also include highly-educated specialists like hydrologists and engineers, who belong to their own professional accreditation organisations.

In the case of landlord insurance, real estate agents and property managers may be appointed distributors. Distributors are a class of 'representatives' similar to authorised representatives and the appointing AFS Licensee is responsible for their conduct in the same manner as authorised representatives. As covered earlier, real estate agents/property managers do not have the ability to approve or reject a claim.

Finally, fulfillment of customer claims can take place overseas and clarity is required over the extent of regulation required on overseas providers. For example, Emergency Assistance is provided to customers travelling overseas facing a medical emergency. These third parties may have the ability to accept a claim in an emergency. It is hard to see how these providers could fall under an Australian licensing regime.

Recommendations

- *The legislation should expressly exclude claims fulfillers without the authority to reject a claim from any licensing requirements (repairers or builders, medical providers) and include clarifying examples within the EM.*
- *The legislation should exclude appointed distributors (real estate agents/property managers) and include clarification in examples in the EM that the existing arrangements under the Corporations Act continue to apply.*

Appropriate licensing for claims fulfillment

Suncorp does not support those in the claims fulfillment chain to be required to be appointed either as *authorised representatives* or as *representatives* under the Corporations Act. Suncorp strongly believes that either reform would harm customers and small businesses.

If either were to occur, it would place significant regulatory burden and cost on captured businesses including thousands of subcontractors in the building and smash repair industries, the majority of which are sole traders. This would almost certainly lead to a contraction in the number of businesses able to provide repairs for insurance work, thereby lessening competition and leading to higher premiums as insurers would be forced to pay higher claims fulfillment costs. The reduced availability of repairers and suppliers would also increase the time taken for customers' homes or cars to be repaired.

Suncorp suggests this would lead to a contraction in competition as repairers choose to leave the market or combine together in order to address the additional expectations arising out of being authorised. Most importantly, it would reduce choice for customers, which is likely to lead to longer claims handling times and increased costs for insurers and ultimately customers.

The draft bill and EM suggest that all repairers, builders and other potential parties (such as real estate agents) who are involved in claims fulfillment will be required to apply to ASIC to become authorised representatives of an insurer in order to undertake insurance claims work like rebuilding a home or fixing a dent in a car. Suncorp does not support this model and we note that the current drafting is at odds with the policy intention of the reform.

Suncorp supports the definition in the proposed Section 911A(2)(ek). This section will not require representatives to be licensed (or become an authorised representative of a licensee) unless they are an insurer, a loss assessor, an insurance fulfilment supplier with the authority to reject a claim, an insurance claims manager, an insurance broker or a financial product advisor acting on the insurer's behalf.

However, Section 911B(1) states that a person must only provide a financial service if that person is a licensee, or is an employee, director or an authorised representative of a licensee. Consequently, this means that a fulfilment supplier *without* the authority to reject a claim will be required to be a licensee or an authorised representative to be able to provide claims fulfilment services. We note that this does not appear to be the intention of the legislation as defined in Section 911A(20)(ek).

The current drafting also implies that fulfilment providers would be 'representatives' for the purposes of Section 912A as they would be providing a financial service 'on behalf' of the licensed insurer. Importantly, small businesses which most frequently are fulfilment providers would need to ramp up their own regulatory compliance including training as well as reporting to give the AFSL holder confidence that their AFSL obligations are being met.

Suncorp supports the position stated in the ICA submission that it is best resolved by the legislation specifying that fulfilment providers not having authority to reject a claim will not be 'representatives' for the purposes of Chapter 7.

The current authorised representative model which is proposed by Treasury to now cover claims was developed with product distribution in mind. At the time it was developed, claims handling was exempt from being considered a financial service. This model does not readily work in relation to the roles that claims fulfillers play in the claims process. This model is unworkable for claims fulfilment where many providers are responsible for different aspects of claims fulfilment. It will require all claims fulfillers to meet unnecessarily stringent burdens that do not enhance consumer protections.

For many small businesses, seeking and maintaining authorised representative status would be their first interaction with ASIC, introducing compliance that may cause them significant costs and unnecessary regulation in addition to their existing codes and state-based licencing requirements.

Suncorp's view is that most claims fulfillers, especially in industries like smash repair, small building business and smash repairers would be unwilling to undergo the administration, training and accreditation expected as an authorised representative and would therefore be ineligible to work for an insurer. Smaller providers may not have the resources available in their business to obtain and maintain an AFSL or maintain the expectation associated with being authorised by a licensee (for example, meeting heightened monitoring and supervision requirements). This would especially be the case for small tradespeople who may wish to undertake insurance work if a natural disaster occurred in their local area.

We also note that insurers already face supplier shortages in areas like smash repairers where the workforce is ageing and few apprentices are replacing retiring workers. Any further reduction in the availability of suppliers would significantly harm our customers and prevent us from being able to fulfil motor claims efficiently.

For insurers, the requirement to appoint claims fulfillers as authorised representatives would impact our ability to respond to natural disasters. AFSL holders face additional obligations arising out of the appointment of an authorised representative, so they need to undertake significant due diligence before deciding if they will appoint an entity as an authorised representative or as a representative. This process usually takes some time and would apply even if they were authorised by another insurer. In the claims process, completing this onboarding may not be achievable in the required timeframe thereby leading to poor customer outcomes as claims may not be able to be processed until the onboarding is completed.

Additionally, corporate authorised representatives are unable to sub-authorise corporate representatives. Structurally this is not workable as it would leave insurers potentially having to directly authorise many providers, which could lead to delays in claims completion. For example, authorising a building firm and then having to directly authorise their sub-contractors, such as carpenters, tilers, plumbers and roofers who have chosen to set up a company to undertake a business. It is possible that the subcontractor may only be used for a job which could last for a few days or weeks, such as a response to the bushfires. In this situation it would be necessary to undertake due diligence before allowing to work on the claim.

If a claims fulfiller is authorised by other AFSL holders, then the insurer would also be required to obtain the consent of each of these AFSL holders which is likely to add to the period before they could commence work on the claim, harming the customer.

We also note that the legislation should capture and allow for flexibility so third parties can continue to respond to claim scenarios where appropriate and in an emergency. For example, a repairer may be sent to a home and be required to perform a 'makesafe' which may technically fall into the 'scope of work' or decision making. In this instance, there is an immediate need that requires swift action to reduce any further customer impact. We also note scenarios where third-party travel policy claims managers need to be able to give timely advice in the case of overseas medical emergency.

Finally, on occasions, Suncorp will employ builders to undertake scope of work activities that are referred to Suncorp which ultimately make the decision to accept, reject or partially reject a claim. For example, insurers will not cover damage to a house that could be attributed to poor upkeep of a roof. Insurers will seek the professional advice of the builder to make this assessment, but it will be Suncorp making the ultimate decision. This should be able to continue without the need for the builder or smash repairer to become an authorised representative given the insurer is responsible for the claims decision making.

Recommendations

- *Suncorp recommends that authorised representatives model should not be applied to claims fulfillers who do not have the ability to reject the claim. The legislation should be clear that the authorised representative model or AFS licensing does not apply to claims fulfillers without the ability to reject a claim.*
- *The legislation should be clear that claims fulfillers without the authority to reject a claim should not be considered as "representatives" of an AFS licensee.*
- *The regime needs to remain flexible so that claims fulfillers can provide appropriate advice in emergency situations and can provide insurers with professional advice when it comes to accepting, rejecting or partially rejecting a claim.*
- *The regime should also recognise that insurers may consider professional advice when making the decision to accept or reject a claim, but ultimately it is the insurer that makes the decision.*

If the authorised representative model is adopted, Suncorp recommends:

- *that Treasury amend the legislation to allow corporate authorised representative to appoint other corporate authorised representatives. This would remove the need for insurers to directly authorise subcontractors.*
- *Treasury remove the need to seek consent from other licensees to appoint a supplier as our authorised representative (when they have already been appointed as an authorised representatives).*

Choice of repairer

If the authorised representative or representative regime is to apply, the legislation and the EM also need to clarify that the requirements to be authorised are only for claims fulfillers who are acting on behalf of the insurer.

Insurers should not be responsible for service providers who are chosen directly by the customer. For example, a customer may select a motor vehicle repairer and then provide a quote from that repairer to the insurer. The insurer will then authorise the work and pay for the repairs under the policy. However, this repairer may not be within the insurer's network and it would be impossible for an insurer to then carry out appropriate due diligence on the repairer and appoint the repairer as an authorised representative before they can carry out the repair works. We believe the legislation should make this clear and that the EM should give an example reflecting this.

If this did not occur and insurers became responsible for repairers chosen by a customer outside of our network, then it is possible that many insurers would remove this option from their policies. This would lead to consumer detriment by removing a policy option that many of our customers value.

Recommendation

- *Insurers should not have responsibility over fulfilment suppliers directly engaged by customers (and where the insurer does not subsequently enter into separate contractual arrangements with those suppliers).*

Investigators

Suncorp supports the position outlined in 911A(2)(ek) that investigators will not fall under the regulation. However, several examples in the EM suggest that investigators are classified as loss assessors.

The GI Code of Practice defines investigators as a company, entity or person who is not our employee and that we contract to verify the circumstances relating to a customer's claim. The EM highlights several examples using investigators where they are not making decisions on the claim but are merely collecting information, where it appears to characterise them as loss assessors where they would be regulated. Furthermore, investigators will undertake factual investigations that enable the insurer to make a claim decision for reasons such as non-cooperation, confirmed fraud and a duty of disclosure breach.

Recommendation

- *Further clarity around investigators is needed in the EM as it highlights several examples around investigators that appear to characterise them as loss assessors.*

Claims advocates

Insurance claims advocates acting on the behalf of customers should be required to act fairly, efficiently and honestly when providing advocacy services to their customers. Insurance claims management services, or so called 'claims advocates', are for profit businesses that typically approach the insured after a disaster such as the recent bushfires, offering to help them engage with their insurer. In return, they receive a portion of the customer's claim settlement as their fee, on a no-win, no-fee model. These claims advocates are therefore conflicted to push for outcomes that in many cases do not serve the best interests of the customer including prolonging the time taken to settle the claim.

Suncorp strongly believes claims advocates should be subjected to the same regulatory requirements as those in the claims management process acting on behalf of the insurer given their ability to substantially influence the customer outcome. We note that the Financial Rights Legal Centre, Choice, Financial Counselling Australia and the Consumer Action Law Centre have also made the same recommendation in their submission. As the consumer advocates say, many 'claims advocates' prey on highly-vulnerable customers and do not operate in their best interests.

Recommendation

- *The licensing requirements outlined in the proposed Section 9AA(2)(ek) of the draft bill should require claims advocates to be licensed.*

Implementation issues

Our recommendation is that existing AFSL holders who have been providing claims services over a period of years should not be required to provide any additional documentation beyond the list of authorised representatives.

ASIC should keep the documentation and administration requirements as simple as possible as a full licencing regime in such a short period of time, will potentially cause smaller insurers to struggle to meet the timeframes (The Financial Services Reform Act had a four-year transition attached to it for this reason).

Additionally, requiring insurers to provide a full list of authorised representatives by December 2020 means that an insurer will be unable to appoint additional authorised representatives between December 2020 and July 2021. This is problematic given that time of the year is the natural disaster season, especially if disasters were to occur in remote areas.

Suncorp also recommends that Treasury modify the proposed legislation to continue transitional arrangements until 30 June 2021 for all entities, regardless of when the licencing application has been lodged, so that entities who submit their applications earlier are not disadvantaged.

Finally, we would encourage ASIC to begin drafting regulatory guidance early so insurers are able to implement this reform in time with its start date.

Recommendations

- *The authorised representative process for existing providers should remain simple, similar to when the AFSL regime were first introduced.*
- *ASIC should not require insurers to provide a list of authorised representatives until 1 July 2021.*
- *ASIC should begin drafting regulatory guidance as soon as possible and don't wait until law is passed in mid-2020.*

Recommendations: Statement of Claim Settlement Options

Ensuring the SoC provides customer benefit

The legislation requires that insurers offering the option to cash settle a claim must provide retail clients with a Statement of Claim Settlement Options ("**SoC**"). Suncorp welcomes changes that will strengthen customers' understanding of cash settlements, provided that the notice contains useful information valuable to the customer and that it is sent to the customer at a time that makes sense.

Suncorp makes cash settlements to our customers in a range of scenarios including:

- small one-off cash payments, including for a damaged camera under a travel policy;
- a series of weekly or fortnightly cash payments, for example to landlord insurance policyholders for loss of rental payments;
- a mixture of cash settlements, replace and repair where cash settlements are made for the smaller items in contents claims (for example, a sofa that has been damaged by flood water), while other items will be replaced (for example a fridge that has suffered motor burnout). It will depend on the customer's wishes and the ability for the insurer to repair/replace.
- large settlement payments for those customers whose home has been destroyed in a fire, labelled a "total loss". A larger claim could consist of more than one cash settlement, as the insurer settles the claim over time. For example, a total loss payment for a home as well as ongoing cash payments for emergency accommodation.

Suncorp questions the value of providing a SoC in the case of small claims and when cash settlement is the only option. We note that Treasury's research into effective disclosure, [Disclosure in General Insurance: Improving Consumer Understanding](#) (January 2019), found that simply providing customers with more information does not enhance their understanding of insurance.

We propose that the SoC is only provided when there is a genuine choice between cash settlement or repair/replace. The SoC should provide customers with useful information that helps them understand the consequences of each option. We also note that the document should only be provided when it is a full cash settlement or more than 50% of the value of the claim, and/or when the payment is above \$20,000.

In many claims, small payments are made immediately following a call between the customer and Suncorp via EFT. We are concerned that if we were required to send this document before the payment is made, it may lead to customer detriment especially for vulnerable customers who may be in urgent need of settlement money, and may not have email access to receive the SoC. This will be very problematic for Essentials by AAI (micro insurer for low income earners), where the purpose of immediate settlement for contents claims is to support the customer immediately for their loss.

If the SoC has to be sent at the same time as the offer, this will be difficult for "no touch claims" where small cash settlements are forwarded immediately on lodgement and acceptance by the insurer. Around 20% of Suncorp

claims are made online and paid very quickly via EFT. Customers value the ease and speed of this process, so we would welcome a threshold being introduced.

The draft bill implies that a SoC should be sent each time a cash payment is made. It would be better that a SoC is sent once, early in the process to ensure that the customer is provided with the right information to make the best choice for their circumstances. Otherwise customers will receive information multiple times, and this may be confusing if they have made multiple claims, for example home building and home contents.

Finally, we also suggest changing the title of the SoC given its confusion with Statements of Claim in a litigation context. Suncorp has no strong view but suggests Settlement Factsheet as an option.

Recommendations

- *SoCs should only be sent when there is a genuine choice between cash settlement and repair/rebuild/replace.*
- *SoCs should only be sent once, early in the process to ensure that customers receive useful information at the right time.*
- *The legislation should include a threshold that Statement of Claims Settlement Options (“SoC”) are required for claims when the payment is over \$20,000; and the payment is a full cash settlement or more than 50% of the value of the claim.*
- *The document should be called a Settlement Factsheet, to remove any confusion with Statements of Claim.*

Communications required by new GI Code of Practice

The content of a SoC should also contain complaints handling information and should also be allowed to contain other information like the new GI Code of Practice’s requirements for disclosure for cash settlements (see below) or other information the insurer deems useful, such as Written Off Vehicle Register information for cars (state dependent).

GI Code 2019 requirements Section 79 – Cash Settlements

- *If we offer a cash settlement under a home building policy, we will provide you with information to help you understand how they work and how decisions are made on cash settlements.*

If customers receive more than one document outlining relevant information regarding cash settlements this will lead to consumer confusion and will not be clear, concise and effective.

Recommendation

- *SoCs should contain complaints handling information and should also be allowed to contain other information, including the new GI Code of Practice’s requirements for disclosure for cash settlements.*

Recommendations: Claim finalisation

Claims finalisation for a customer

In addition to the Statement of Cash Settlement requirements, the draft bill introduces requirements that we notify a customer when a claim is considered finalised.

Claims finalisation will occur at different points for customers and insurers. For an insurer, a claim is finalised when all payments to parties other than the insured have been completed, for example, payments to tow truck drivers, smash repairers have been made and the insurers has recovered any money owing from third parties. Some Suncorp suppliers invoice on quarterly cycles, as they are providing a high volume of service to the insurer so it may take a while for the file to be finalised/closed. In some cases, it could take insurers years to finalise a claim when legal action is taking place to recover from third parties.

From a customer perspective, the claim will have been finalised prior as they have received full indemnity, for example, they have received a cash settlement, or had their home or car repaired etc. The law should make it clear that the finalisation of a claim is when the insurer has met their indemnity requirements to the insured, not when the claim is finalised.

Recommendation

- *The law should make it clear that the finalisation of a claim is when the insurer has met their indemnity requirements to the insured, not when the claim is finalised for an insurer.*

Ex gratia payments and AFCA/CGC Determinations

In some cases, Suncorp elects to make ex gratia payments to customers where coverage does not exist under the policy. These decisions are made where it is fair to fulfil the claim (for example, in a case of domestic violence where one person listed on the policy destroys the property). AAI will consider these claims on a case-by-case basis and may choose to make an ex gratia payment. These types of payments should be specifically excluded, as they are not in settlement of the claim.

AFCA will often require an insurer to make payments (consequential loss or full settlement of a loss where an insurer has not offered enough to full indemnity the customer under the policy). These types of payments should be clearly excluded from the legislation as they are ordered by a Statutory Body. Additionally, the Code Governance Committee can also order the insurer to pay consequential loss arising out of a breach of the new GI Code, again these should be excluded.

Recommendations

- *The law should make it clear that the finalisation of a claim is when the insurer has met their indemnity requirements to the insured, not when the claim is finalised for an insurer.*
- *Ex gratia payments and AFCA/CGC determinations should not be considered as a claims finalisation and should not require a SoC.*

Catastrophes

Unfortunately, Suncorp is familiar with the devastating impact that natural disasters can have on affected communities. Rebuilding communities after natural disasters requires insurers to mobilise significant resources, including home and motor repairer value chains. While supporting impacted customers and communities is our priority, our people and repair networks are also put under significant strain.

Suncorp believes that the requirement to act “efficiently” should be viewed in the context of each natural disaster. This will differ from business-as-usual claims. For example, a large-scale event will put pressure on the availability of trades. The extent to which we conduct due diligence on suppliers may also differ in a natural disaster context.

In the case of the recent bushfires across New South Wales, Victoria, South Australia, Queensland and Tasmania, Suncorp has already identified issues that, left unaddressed, will slow our ability to respond to the fires.

These include:

- access to site;
- the speed of debris removal by state governments;
- local council decision making including Bushfire Attack Level ratings and building approvals
- rebuild timeframes owing to the availability of trades and any other weather events that might impact rebuild progress.

Suncorp believes this should be directly addressed in the legislation, and further clarity provided in the EM through examples that identify these issues.

Recommendation

- *Suncorp would welcome a greater recognition within the legislation around natural disasters and their specific impact on claims handling requirements.*