

## **Submission in response to the State Insurance Regulatory Authority Issues Paper: Review of Self-Insurance Licensing Framework**

The National Insurance Brokers Association of Australia (NIBA) appreciates the opportunity to make a brief submission in response to the SIRA Issues Paper: Review of Self-insurance Licensing Framework.

NIBA represents over 300 insurance broking firms across Australia, the majority of which are small to medium businesses. Insurance broking firms provide traditional insurance broking and risk management advice in the privately underwritten workers compensation jurisdictions, and provide risk management and related advice and services in the publicly underwritten States. Insurance broking firms also provide services and support to self insurers in many instances, especially in relation to arranging and placing “reinsurance”.

NIBA welcomes the review of the self-insurance framework being undertaken by the State Insurance Regulatory Authority.

### **5 – Issues: Is licensing appropriate?**

NIBA believes it is appropriate to have a licensing and regulatory framework in place for workers compensation self insurers. The primary reason is that self insurers retain a substantial portion of the risk of workplace injury and disease, and the liabilities arising therefrom, on their own account, as opposed to the remainder of employers who transfer this risk to the nominal insurer.

It is therefore appropriate that the self insurance regulatory framework monitors and review the ongoing capacity of self insurers to meet their liabilities to injured workers as and when they fall due for payment.

Self insurers are subject to the same legislative and regulatory requirements as all other employers in relation to the assessment and resolution of claims in a proper, efficient and satisfactory manner, appropriate injury management and return to work strategies, and work health and safety obligations. Self insurers should therefore be subject to similar monitoring and regulatory obligations as are imposed on all other employers in the State, with appropriate modifications for their self insurance status.

### **8 – Issues: Is the licensing scheme the best response?**

In section 8.1 the Issues Paper makes a number of statements arguing the merits of the nominally insured scheme. No evidence is provided for the statements that are made in the Issues Paper.

Further, there are statements to the effect that the nominal insurance scheme is able to more efficiently spread its risk by having greater numbers of employers covered by that scheme. Again, there is no evidence for this assertion, and in fact the opposite is more plausible. The NSW nominal insurance scheme accumulates risks relating to a single line of business, within NSW only, and spreads those risks across employers in NSW only. The scheme has been subject to major fluctuations in costs and prices over the past 20 years, with very significant unfunded liabilities being experienced until the recent action taken by the NSW Government to reform the nature and level of benefits.

Private insurers underwriting workers compensation liabilities in Australia ultimately carry those risks in conjunction with a wide range of other risks, across all products and all areas of operation. Arguably there is a much greater spreading of risk in those circumstances than the accumulation of risk that occurs in relation to the NSW nominal insurer scheme. These factors are not discussed in the Issues Paper.

More importantly, in recent times, public policy debates and Australian governments have strongly argued for and accepted the need for competition in all areas of the economy, unless there is clear evidence of public benefit being provided from the exclusion of competition.

Today, in Western Australia, Tasmania, Australian Capital Territory and Northern Territory, employers have a choice of underwriter, and are able to exercise that choice in the context of a competitive market operating in those jurisdictions. There is no competition on the policy being purchased (which is defined in the relevant statute), but there is often strong competition on price, and on the nature and level of service being provided by the insurance company.

Only self insurers, by assuming a substantial portion of the liabilities associated with workplace injury and disease, are able to position themselves outside of the nominal insurer scheme in NSW.

NIBA believes there are no rational reasons why NSW employers should not be given the opportunity to choose their preferred workers compensation insurance underwriter. We are aware of no cost/benefit analysis that justifies the maintenance of the current nominal insurance arrangement.

Thank you for the opportunity to provide these brief comments on the Issues Paper.

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