



Submission on SIRA's review of Self-Insurance Licensing Framework

December 2015

About QBE

QBE is one of the few domestic Australian-based financial institutions to be operating 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 global insurer, QBE believes that Australia must continually look to refresh its financial and regulatory systems to ensure the nation remains competitive with global financial markets, and attractive to investment.

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

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

For over a decade, QBE has supported outsourced self-insurance arrangements in Australia on behalf of its self-insured clients under various self-insurance schemes including the Commonwealth Government Comcare scheme, the Treasury Managed Fund scheme in New South Wales and various state schemes.

Background

QBE welcomes the opportunity to respond to the State Insurance Regulatory Authority's (**SIRA**) Review of Self-insurance Licencing Framework Issues Paper (**Issues Paper**) of November 2015.

QBE understands the aim of the review is to establish a fit for purpose, best practice self-insurance licencing framework that incentivises the performance of self-insurers to achieve better outcomes in the context of the NSW Government's aim to "make it easier to do business in NSW". In this respect, QBE refers SIRA to the Insurance Council of Australia's *A Best Practice Workers Compensation Scheme (May 2015)*, a "best practice scheme" (**ICA Best Practice Report**) which provides a comprehensive and helpful analysis of the important attributes necessary to develop and sustain a best practice statutory scheme.

QBE supports the aim of the SIRA review and provides the following additional comments or suggestions on the key questions raised in the Issues Paper.

Stage 1 – Is licensing appropriate?

The role of self-insurance in NSW is to provide choice to eligible employers to manage and bear the costs and risks of their own claims. Those organisations with the financial and operational capacity to underwrite their own workers compensation risks should be permitted to do so. QBE has supported some of the largest outsourced self-insured programs over the last decade.

The provision of insurance in Australia is highly regulated to ensure appropriate protections are in place for consumers and the broader economy. Insurance however, is generally not "core business" for self-insurers. As such, an appropriate licencing framework that carefully analyses a potential self-insurer's capacity, capability and commitment to this type of program is essential.

The licencing framework for self-insurers needs to focus on both the financial and prudential capacity as well as the sustainability of the applicant to determine whether self-insurance is a viable alternative to an insurance scheme.

QBE considers that the current licencing requirements for self-insurers in NSW are broadly appropriate however, suggests increased focus should be brought to bear on an applicant's:

- safety regime (including historical performance and current safety management systems);
- incidence of injuries and cost of claims;
- ability to demonstrate their capability and capacity to manage claims (including claims management, occupational rehabilitation and return to work focus and outcomes).

In particular, there should be an appropriate evaluation of an organisation's internal capability (or proposed outsourcing plans) of a variety of services that support claims management that would previously be provided by insurers/scheme agents. This includes medical knowledge to evaluate and process claims, legal skills and services to assess the merits of claims and manage potential disputes or litigation, actuarial analysis to determine future liabilities and rehabilitation and return to work programs and so on.

Stage 2 - Is licensing well designed?

Based on QBE's experience and observations, a well-managed self-insurance program is characterised by:

- Accountability at an executive level for work, health and safety (cultural commitment);
- An excellent claims reporting record;
- A demonstrable link between Workers Compensation and Work Health Safety (WHS) (evidencing cultural commitment by the organisation);
- Benchmarked performance against the scheme and industry;
- Demonstrable best practise and proactive systems/processes in place for claims handling and risk management, including service provider management;
- Low claim numbers/claim incidence rate;
- Reduced number of high severity long term injuries;
- A higher return to work (**RTW**) rate than the overall average;
- Low incidence of Workers Compensation Commission (**WCC**) and common law matters (demonstrating a RTW focus rather than disputes and liability);
- Lower reactivation rates outside of legislative changes.

Accordingly, QBE considers the SIRA review provides an opportunity to embed direct incentives to improve injury prevention, rehabilitation performance and ensure that workers are treated fairly and equitably. We believe incentivising continuous improvement in health and safety and return to work performance will facilitate best practice risk transfer across the scheme. Such incentives could include (as suggested) a reduction in the frequency of compliance audits. Similar incentives operate under the Comcare Tier Model for those Self-Insured licensees that can demonstrate continuous improvement in the performance of their self-insured workers compensation programs.

QBE does not support any changes that would ultimately lower the standards of financial and prudential considerations that would have the effect of reducing scheme stability and the sustainability of premium funding models currently in place. In these circumstances, it would be difficult to consider employers with fewer than 500 employees would be able to allocate the requisite resources to deliver against these objectives.

Although we believe there is an opportunity to extend the licence renewal period for high performing self-insurers, we are not supportive of an open ended renewal period. QBE considers a review should occur at least every 5 years.

Stage 3 - Is licensing administered effectively /efficiently?

The level of scrutiny applied at the time of lodging an application to be self-insured, and at regular reviews of the licence, is in our view reasonable in order to assess key financial criteria to ensure that the self-insurer is:

- adequately capitalised, without any undue reliance on external borrowings;
- is in a strong and sound financial position (based on net tangible assets); and
- has a sound profit history with a positive cash flow.

QBE also considers:

- the levels of retention for reinsurance are reasonable and the security requirements of 150% to be reasonable and consistent with the views of other regulators and actuarial recommendations; and
- the current compliance regime adequately addresses the required levels of program governance in relation to the management of executive commitment and oversight, injury prevention, return to work and injury management.

There is however, an opportunity to improve risk funding arrangements to support self-insurers with more flexible options in relation to the acceptable security that is required to be provided by self-insurers to support their workers compensation liabilities on an annual renewable basis. QBE is frequently approached by licensed self-insurers seeking access to less capital intense options to secure their liabilities.

Currently, most self-insureds either provide “Cash Cover” or a “Bank Guarantee” in support of their Workers Compensation liabilities as determined via independent actuarial assessments. These options are not the most effective use of the employer’s capital and can place an unnecessary burden on the self-insured’s cash flow or liquidity position.

Security bonds provide a cost effective alternative to bank guarantees and facilitate the more effective use of an entities’ capital which may then be utilised for productivity initiatives or future growth opportunities. QBE has developed a workers compensation security bond for self-insurers to address this heightened need in the current economic environment. Functionally, these bonds operate in the same way as bank guarantees, the wording is unconditional and payable on demand. These bonds do not require cash backed security or any form of registered security allowing a company to free up working capital and allow better utilisation which can create capacity in their existing finance facilities.

These bonds are currently being used in South Australia (as approved by the South Australian government). QBE submits that a change to the current requirements allowing security bonds to be provided as an alternative form of acceptable security is consistent with the NSW Government’s objectives of creating an environment in which business is encouraged to invest in growth initiatives.

Stage 4 - Is the licensing scheme the best response?

QBE is of the view that self-insurance by employers with a suitable appetite, financial and operational capacity to underwrite their own workers compensation risks should be allowed to coexist alongside premium paying employers in managed fund or underwritten environments. QBE recognises, however, that changes to the licensing framework could have the potential to impact on the stability of the broader schemes to the extent that a large number of employers move from the nominally insured scheme to self-insurance.

Australia has 10 separate workers compensation systems and eight separate compulsory third party systems. The role that various governments play in these schemes ranges from regulatory supervision to total scheme administration and underwriting depending on the class of insurance and

jurisdiction involved. Various governments have embarked on scheme reviews and reform programs in recent years, leading to overhauls of scheme administration arrangements focused on addressing rising scheme costs, substantial funding deficits and slower injury recovery and return to work rates. Further reform remains on the agenda.

There is extensive literature and debate on the benefits and disadvantages of a federated system. Regardless of 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) which impedes competition and innovation.

Nowhere is this more apparent than in our arrangements with employees. Great progress has been made with the implementation of a consistent model for work, health and safety in most states, but the workers compensation arrangement in Australia is an ambiguous, inconsistent and often nonsensical system characterised by multiple regimes. The differences across jurisdictions produce potential inequities between workers in different jurisdictions and added costs for employers operating nationally.

In essence, amounts paid to injured parties should constitute the vast majority of the costs which are met by an insurance company. Under the current complex arrangements far too much is being spent tailoring to the multitude of schemes.

At the most operational level, different benefit structures, definitions and case management practices across the states and territories means that operational personnel within the insurance company cannot seamlessly operate across different states and territories. Additional costs are incurred in terms of training and development and affect an insurance company's ability to create synergies and direct more attention to the effective management of workplace injuries.

QBE believes Australia's federated approach to the management of injury compensation arrangements creates a range of efficiency, affordability and equity issues that impact on productivity and competition. Although unquestionably challenging and complex to address, establishing national (or nationally consistent) compensation schemes that interface appropriately with the other compensation systems will enhance Australia's standing as an attractive place to do business, increase competition and have a positive effect on productivity.

As many national employers grapple with the complexities in this area and consider the benefits and risks of self-insurance, the opportunity exists for regulators and Governments across Australia to align requirements and leverage best practice approaches via benchmarking and sharing data and streamlining requirements to deliver improved productivity and equity outcomes.

There may also be other incentives for the Government to pursue national reform. The December meeting of the Council on Financial Relations supported the Harper Review's recommendation to put in place a new institutional structure with the states and territories, including the potential for productivity payments for delivery of reforms. As such, there may be an opportunity for the NSW Government to receive additional recognition for enhanced private sector competition for self-insurance and to achieve greater harmonisation, productivity and efficiency of self-insurance frameworks through a timely finalisation of the collective response by governments to the Harper Review.

More specifically on licence design, consideration could be given to the ability for self-insureds to transfer the risk associated with their tail liabilities, particularly in cases where the self-insurer has retained claims for long term illnesses such as dust diseases etc., and where due to business acquisitions, or divestment, the compounding impacts of liability growth on the balance sheet makes a liability transfer an attractive option. The option to transfer liabilities and free up capital for such organisations is not currently an option under the Workers Compensation framework in NSW.

Conclusion

QBE welcomes SIRA's review of the self-insurance licensing framework and the opportunity to provide this submission. If there is any further detail or information QBE could provide that would assist, please do not hesitate to contact Kate O'Loughlin, Head of Government Relations & Industry Affairs at [REDACTED].