

REVIEW OF SELF-INSURANCE LICENSING FRAMEWORK: ANZ RESPONSE

On 12 November 2015 the NSW State Insurance Regulatory Authority (**SIRA**) released an Issues Paper inviting submissions from stakeholders on ways to improve self-insurance licensing in NSW.

As a licensed self-insurer, Australia and New Zealand Banking Group Limited (**ANZ**) has an interest in the outcome of the consultation process.

ANZ is pleased to be able to make the following submissions and looks forward to working with SIRA and other stakeholders to ensure the licensing and management of the self-insurance system in New South Wales (**NSW**) meets the following objectives:

1. Employers provide a safe and healthy workplace, and foster a culture of safety in line with Workplace Health and Safety (**WHS**) requirements.
2. Injured workers are appropriately compensated for injuries sustained at work in keeping with the objects of the relevant statutory schemes, and they are proactively supported in returning to work (**RTW**).
3. Regulation of self-insurers provides protection to injured workers via regulations that are relative to the risk profile of each self-insurer and commercially appropriate.
4. Self-insurers are sufficiently capitalised to meet their obligations.

The following submissions reflect ANZ's response to the Issues Paper and do not reflect the views of any other party or entity. To the extent possible, ANZ has limited its responses to those issues raised by SIRA in the Issues Paper prepared by PriceWaterhouseCoopers (**PWC**), while acknowledging this is merely a first step in a process.

ANZ looks forward to contributing further as the review process evolves to ensure that the foregoing objectives are met to the satisfaction of all stakeholders.

STAGE ONE: Is licensing appropriate?

1. ANZ values its relationship with each State and Territory regulator and views licensing and regulation of self-insurers by the relevant States and Territories as the most appropriate method of ensuring the integrity of the self-insurance system.
2. ANZ considers licensing to be an effective means of ensuring the aims of a beneficial workers' compensation scheme – namely, the protection and rehabilitation of injured workers; the provision of a safe workplace; and the prevention of workplace injuries – are achieved.
3. Ensuring injured workers receive fair compensation and rehabilitation support is vital to the continued operation of the NSW economy. ANZ recognises that, in

order to protect injured workers, only those entities able to meet and annually maintain licensing standards should be licensed to provide self-insurance.

4. A commitment to self-insurance must be accompanied by the capacity to manage and meet liabilities in a prudentially sound manner.
5. In supporting a licensing regime, ANZ is also mindful that regulation is a core element of other insurance licensing schemes operating in the Australian and international marketplace.
6. ANZ considers that SIRA's licensing process should mimic a prudential model that embraces a principles based approach to regulation.
7. To achieve this SIRA should develop a best practice regulatory model that is receptive to and flexible to commercial realities, business needs, the relevant risk portfolio of the self-insurer's business and claims performance.
8. While ANZ acknowledges the importance of the licensing process, ANZ submits SIRA should be cognisant of relevant licensing processes in other Australian jurisdictions (and, for entities like ANZ, international licensing processes). It should also take into consideration the needs of self-insurers that operate nationally having to comply with each jurisdiction's separate requirements, thus diverting resources to meeting up to eight different regulatory regimes.
9. As a global business with a national footprint, ANZ is required to navigate a complex regulatory landscape with multiple compliance and regulatory requirements. Therefore, where possible, the ability to harmonise the licensing process across various regulatory regimes should be the goal of each regulator. This will result in lower compliance costs, particularly where multiple costs of compliance incurred in each State and Territory are not associated with a reduction in risk. Subsequently this will enable even more investment into early intervention and prevention initiatives.
10. ANZ considers a prudentially grounded licensing system directs resources towards activities which provide better WHS outcomes and better RTW outcomes.
11. ANZ observes the current NSW self-insurance system, which is estimated to cover 25% of the NSW working population, relieves the State based nominal insurer of the need to manage the workers' compensation obligation of all state based workers. In this way, ANZ and other self-insurers alleviate the need for the NSW nominal insurer to take on the administrative burden of managing insurance cover for all individuals that work in NSW.

STAGE TWO: Is licensing well designed?

12. ANZ supports the application of minimum standards that permit only viable entities committed to the long term protection of workers to be licensed.
13. ANZ believes changes to licensing are not required to incentivise performance as self-insurers which, by virtue of their decision to manage their own risks, have made a commitment to providing a safe work culture and promoting optimal RTW outcomes for injured workers.
14. ANZ supports changes to the licensing system that would permit a newly acquired business to be covered by an existing license.
15. ANZ supports a regulatory environment where, integration of newly acquired businesses that have a similar risk profile are able to integrate such businesses in a timely, cost efficient and seamless manner.
16. ANZ considers the term of a self-insurer's licence should be commensurate with its risk profile and performance. In keeping with this approach ANZ supports the issuing of longer term license renewals (e.g. for a period of six years) for self-insurers with a low risk profile. A harmonised approach, where appropriate, to licensing renewal across the various States and Territories is also preferred.
17. If a harmonised approach was achieved, each jurisdiction would need to consider what transitional arrangements would need to be implemented to permit an entity to submit licensing renewal applications for each State and/or Territory in a coordinated way.
18. A harmonised approach for organisations with a national footprint would assist the organisation to direct resources towards activities which provide better WHS outcomes and better RTW outcomes.
19. Furthermore, for those self-insurers operating in multiple States and Territories, harmonisation of the licensing process across jurisdictions, would permit an entity to audit its national claims management and safety management systems process at the one time and using the same audit tools.
20. In relation to regulatory audits, ANZ supports auditing of both WHS and Claims and Injury Management processes and considers auditing to be an essential component of the licensing and regulatory scheme.
21. ANZ considers auditing, whether for WHS or for worker's compensation, should be focussed on the provision of a safe work culture and effective rehabilitation of injured workers rather than focussing on administrative processes.

STAGE THREE: Is licensing administered effectively / efficiently?

22. In considering whether the current licensing regime is effective or efficient, ANZ has considered the licensing and ongoing regulatory approach for both WHS and Claims and Injury Management systems.

Workers' Compensation and Injury Management Audits

23. ANZ considers it appropriate that mandatory audits and reviews continue for all licensed entities. ANZ recognises the value in the audit process as ANZ continues to learn many vital lessons through claims audits either conducted by the relevant State and Territory regulators or those done internally in compliance with regulatory obligations.
24. Currently, ANZ conducts claims and injury management audits annually, and considers this appropriate, provided material irregularities are not cited during the audit process.
25. ANZ considers that a licencing system that has audits that improve outcomes for workers without imposing additional administrative obligations on the self-insurer will improve RTW outcomes for injured workers.
26. ANZ supports a risk based system which recognises a self-insurer's business circumstances and allows the self-insurer to manage its claims without having to meet imposed requirements which are standard or uniform across all self-insurers. This would enable self-insurers to direct resources in the most effective manner to achieve better outcomes.

Workplace Health and Safety Audits

27. ANZ are committed to continuous improvement in managing workplace health and safety, with a focus on preventing and controlling current and emerging risks.
28. ANZ has an excellent record and a proactive focus on WHS risk management.
29. In order to optimise WHS outcomes a greater level of consultation between the regulator and individual self-insurers is recommended to ensure WHS audit requirements are commercially appropriate and fit the self-insurer's risk and performance profile.
30. ANZ is supportive of a scheme that provides for regulation, licensing and audits based on the company risk profile rather than the comprehensiveness of its system documentation.
31. ANZ supports an audit approach that as well as being risk based, has key principles which guide the audit, rather than uniform requirements.

32. ANZ considers self-insurers are uniquely motivated and able to manage WHS issues without prescribed audit standards given the significant investment involved in self-insurance as well as their direct exposure to the factors which lead to injuries.
33. ANZ's experience is that a system that promotes compliance through standardised checklists does not necessarily assist in creating a safety culture or improved outcomes.
34. Each self-insurer should be able to devote time and resources to managing risk and performance relevant to the industry and business occupied by it rather than diverting resources to manage processes and risks not relevant to its business.

STAGE FOUR: Is the licensing scheme the best response?

35. ANZ considers self-insurance provides better WHS and injury management (RTW and claims) outcomes for its workers and businesses than would otherwise be achievable through involvement with third party insurers.
36. ANZ considers self-insurers have a unique and significant advantage over third party workers' compensation providers when it comes to management of claims and RTW outcomes, with self-insurers having direct access to all relevant parties involved in a claim.
37. Through centralised management of claims the self-insurer and its related organisations have a greater capacity to manage injuries in a timely manner and also implement change within the business to eliminate or minimise risk and reduce the likelihood of future claims.
38. A third party workers' compensation insurer does not have the same capacity to interact with all parties involved in an incident and thereby promote meaningful change in the workplace in order to reduce risk or manage performance (whether such change amounts to a change in the physical environment or culture of an organisation or business unit).
39. Better outcomes are generated courtesy of ANZ's capacity to manage claims autonomously and liaise directly with business units, line managers and other staff regarding claims, risks and RTW outcomes.
40. While licensing and self-insurance is the preferred option for ANZ, the current licensing system could be improved by harmonisation of licensing regulations in each State and Territory and via the application of a risk based approach to regulation reflecting the risk profile of each self-insurer and its claims management performance.

41. SIRA's focus should be on facilitating and supporting self-insurers through a regulatory environment geared towards ensuring self-insurers have the capacity to pay claims and maintain a safe working environment.
42. Ideally licensing should be instituted in a manner that does not create overlapping regulatory obligations and recognises that the self-insurance function supports the commercial enterprise.

ANZ welcomes this first step in the consultation process and looks forward to developing with SIRA and other stakeholders a best practice regulatory model in NSW for self-insurers that is harmonised, flexible, commercially aware, risk focussed and performance based.

ANZ would welcome the opportunity to join a consultative forum if one is created.

Should SIRA require any further information or wish to discuss any of the points raised in this submission please contact Vas Eliades [REDACTED].