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10 November, 2016

SIRA

Self-insurance Framework Review

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RE: CONSULTATION, FOCUS QUESTIONS AND PWC RECOMMENDATIONS

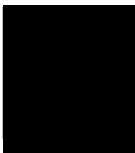
As a long standing Self-insurer CSR would like to thank SIRA for the opportunity to consult and provide feedback in relation to proposed changes to the licencing framework review and access to relevant reports.

Our submission comprises of reply to the 6 Focus Questions and comment on the 16 PWC Recommendations.

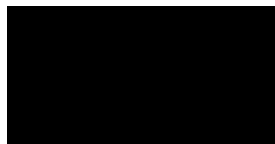
Please feel free to contact Linda Wright or myself should this submission require explanation or clarification and we look forward to seeing positive improvements as a result of changes made as a result of the review.

A framework will only work effectively if the key elements have clear objectives and purpose and are translated to practical and well understood arrangements with regards to implementation. With this being said CSR would like the opportunity to participate in subsequent focus groups and forums to ensure the implemented framework achieves the improvement outcomes required for SIRA, SafeWork NSW, CSR and our people.

Yours Sincerely,



Scott Lewis
Group Manager
WHS & Workers Compensation
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Linda Wright
NSW & ACT Workers Compensation Manager
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FOCUS QUESTIONS

Focus question 1: What is your view of the proposed standard licence conditions?

The "standards acceptable to the Authority" would need to be published in order to form a view of the new requirement of section 3.1.

It is not clear how adherence to a business plan to SIRA's satisfaction will impact on self-insurers flexibility to meet business objectives, innovation, competitive advantage or to provide fairness on behalf of injured workers and claimants without knowing the requirements established by the Authority of section 3.2.1.

Fairness, it is acknowledged that fairness to injured workers is paramount and expected. Without an understanding as to how this is expected to operate and be measured there is a significant risk that the measure/s may not reflect the desired outcome and drive undesired behaviour of section 3.2.1.

The definition of a "significant matter" and the reporting time frame would need to be published in order to form a view on section 3.5 requirement.
The requirements established by the Authority and the reporting time frame would need to be published in order to form a view on section 3.6.2. It is expected that this requirement will reduce administrative burden and streamline the overall audit approach.
All other requirements of the standard licence conditions appear reasonable and acceptable.

Focus question 2: What is your view of the appropriateness of the draft top tier measures for conduct and claims management to set SIRA's expectations of insurance performance?

Without SIRA providing a commitment to redefine existing methodology and guidance in relation to interpretation the proposal is not considered to be inappropriate.

- It is not clear from the draft document how adherence to a business plan by the licensee satisfies fairness on behalf of injured workers and claimants without knowing the requirements of the Authority.
- It is also not clear from the draft document how compliance for Self Insurers will be measured as Self Insurers must currently comply with the requirements of the Work Health and Safety Legislation.
- The definition of a "significant matter" and the reporting time frame would need to be published in order to form a view on top tier reporting requirement.
- It is also not clear from the draft document what the requirements of the data quality audit manual are.
- How will SIRA obtaining information on complaints/disputes that have been separately lodged with WIRO? How will the disputes be reviewed to determine if the same complaint and/or dispute has been lodged with both WIRO and SIRA?

Focus question 3: Are there any other areas or measures that should be considered?

No.

Focus question 4: What is your view on applying the same assessment criteria to applications for a new self-insurer licence?

Our view is that having the same assessment criteria for applications for new self-insurance licences appears reasonable as it implies a fair process for self-insurers entering the scheme

Focus question 5: What is your view of the allocation of new self-insurers to the mid-tier for their first year under licence?

The proposed licence conditions have been designed to be less onerous than the existing licence conditions, however specific details regarding particulars for financial, operational and information performance requirements have not been published making it difficult to form a view at this time.

Focus question 6: What is your view on the requirement for self-insurers to submit a business plan to outline their strategic direction consistent with licensed insurers?

I disagree with the concept of a business plan. I am of the view this is the intent of the S189.

Licensed insurers are able to operate in the open market. Should the opportunity for self-insurers eg. Within their industry, relative business, knowledge or technical capability then a business plan should be presented.

PWC REPORT RECOMMENDATIONS

Recommendation 1: Implement a three-tiered oversight module for self-insurance, based on self-insurer performance.

Agree in principal. Detailed consideration and further consultation is required on the intended performance measures to be adopted by SIRA. It should be intended and facilitated so that most self-insurers sit in the top tier. The requirements should not be so onerous that only few achieve this level.

Recommendation 2: Increase the licence term to a maximum of eight years for higher performing self-insurers (i.e with top tier self-insurers having a longer renewal period than other self-insurers) and maintain shorter terms for other self-insurers (including new self-insurers).

Agree, however further consultation should be sought from the insurers in regards to assessment criteria and opportunity to move to higher tiers. The longer renewal period should be advantageous and other requirements should not be put in its place to make the 8 year license ineffectual.

Recommendation 3: SIRA should consider the views of the industry, employees and injured worker representatives when assessing a self-insurer's performance, tier placement and/or licence renewal.

Agree somewhat, but should be taken as an indicator only and in the right context. The self-insurer should be allowed the right of reply to negative comments.

Recommendation 4: Adopt a risk based approach to claims management oversight, in which top tier self-insurers are subject to few audit requirements than middle and bottom tier employers.

Agree.

Recommendation 5: Redevelop the existing claims management audit tool to ensure that it is fit for purpose under the new regulator's objectives, is compatible with the audit of historical claims and can be directly linked to claims management performance measures.

Agree. Past and current tools were too subjective, onerous and not outcome focused. It needs to be totally redeveloped. Due to the importance of this tool further detailed consultation should be sought from insurers in the development stage.

Recommendation 6: Develop complementary measures (to traditional audits) to assess claims management performance.

Agree in principal, however as a main objective of the review of the licensing framework is to reduce regulatory burden, any complementary measures should be carefully considered and consultation sought with insurers in the development stages and prior to implementation. The intent should be to streamline the process not add to it.

Recommendation 7: Require self-insurers to have privacy management plans in place that are cognisant of the link between an organisation being both an employer and an insurer for workers compensation.

Agree.

Recommendation 8: Remove the OHSMS self-audit and OHSMS audit requirements from the self-insurance licensing framework. Instead rely on the existing WHS engagement and enforcement activity undertaken by SafeWork NSW that applies to all employers in NSW. Also, establish a new and contemporary framework for referring any WHS issues that come to SIRA's attention to SafeWork NSW.

Agree. OHMS audits should not be included in the licensing criteria. WHS should be managed under SafeWork NSW in a manner consistent with other similar employers. In the event this recommendation is not achieved audit requirements need to be representative, foster continuous improvement and not be perfectionistic in nature. A program that allows for employer internal and external qualified external providers would be welcomed.

Recommendation 9: Establish an integrated and automated data analysis system to enable SIRA to better assess self-insurer performance. This system will support the proposed risk-based approach to self-insurance oversight by SIRA.

Agree, however any system should not negatively impact self-insurers in relation to costs or time.

Recommendation 10: Prepare a quarterly summary performance report for each self-insurer that provides transparency on its performance relative to other self-insurers and its industry.

Agree.

Recommendation 11: Publish on SIRA's website a quarterly update on the performance of self-insurers compared with the rest of the NSW scheme.

Agree with this recommendation for self-insurers as a group. Insurers should not be individually named on the SIRA website.

Recommendation 12: Introduce a data auditing program to help to ensure data submitted by self-insurers and published by SIRA are accurate.

We do not agree with initiating a new audit process as this is contradictory to the principals outlined in the PWC Report. One of the overall intentions and benefit of the review is to reduce the regulatory burden, not to add to or replace. If this approach is to be adopted further consultation is required to ensure the data and its interpretation provides a practical, risk based outputs in line with the overall audit framework and audit objectives.

Recommendation 13: Require self-insurers to formally advise SIRA of any strategically significant matters related to their management of claims.

Agree in principal, however the reporting should be simple ie via a brief email or a very simple form and not create further administrative burden.

Recommendation 14: Align SIRA's cost recovery model more closely with the regulatory effort incurred by the regulator by differentiating self-insurer licence fees based on their level of performance. The fee structure would be aligned with the proposed three tiered model.

This recommendation seems reasonable in principal, however insurers should be consulted and participate in the development of the model.

Recommendation 15: Provide a mechanism by which employers that exit self-insurance scheme are required to pass on their tail claims to a licenced insurer. This would require the employer to pay a buyout amount covering the cost of its outstanding claims liabilities.

Agree, however further consultation should be sought from insurers in the development of this mechanism.

Recommendation 16: SIRA, in consultation with its actuaries, should consider updating the prudential requirements to ensure that they remain fit for purpose.

Agree.