Supplementary Submission to the Australian Government Regulation Taskforce

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1 Introduction

In November 2005, ICA made its primary submission to the Regulation Taskforce ("primary submission"). It made twenty seven recommendations for improving the regulatory process, the regulatory environment and removing unnecessary or duplicated regulation.

ICA also met with the Regulation Taskforce and attended the industry Round Table held by the Regulation Taskforce. Following on from questions raised in those discussions, this submission sets out a number of case studies that underpin the primary submission. The Supplementary Submission does not contain any recommendations in addition to the twenty seven recommendations made in our primary submission. Rather, it contains detailed accounts of the industry's recent experiences in various aspects of regulation.

This Supplementary Submission includes:

- Case studies on the general insurance industry's experience in light-handed self-regulation in developing the General Insurance Code of Practice and establishing the independent regulator, the Insurance Ombudsman Service (providing background to Recommendation 1 for using more light-handed models of regulation);

- Examples of consultation that have resulted in less effective regulation, such as the Financial Services Reform package, the proposed amendment to section 54 of the Insurance Contracts Act 1984 and the amendments to taxation legislation that were intended to encourage the structured settlement of damages claims (providing background to Recommendation 2 for improving the depth and regulatory of consultation);

- A case study of regulation that is regulated in each jurisdiction, yet inconsistent across those jurisdictions (providing background on our recommendation that the States and Territories implement a process designed to reduce inconsistencies in their statutory schemes, Recommendation 14); and

- The regulatory burden placed on a hypothetical insurer, XYZ Insurance by State and Federal taxation (providing background on Recommendations 16 - 19 for reducing the tax burden on insurance).

This submission should be read together with the primary submission of 30 November 2005. All abbreviations used in that submission are adopted in this Supplementary Submission.

2 Light-handed Regulation

This section supplements the matters raised in section 4.1 of the primary submission and provides background on Recommendation 1. Together with the Finance Industry Council of Australia, ICA has recommended that following the policy framework articulated in the Wallis Inquiry, the Government should be encouraged to adopt light-handed models of regulation in the major reviews of regulations currently underway. The implementation of these regulations, as for all regulation, should use the minimum level of market intrusion necessary to give effect to the identified policy objectives. It should be proportionate to the demonstrated market failure and applied efficiently (Recommendation 1).

In the 1990s, ICA developed a form of "light handed regulation". ICA developed the General Insurance Code of Practice ("GI Code of Practice") and established the Insurance Ombudsman Service ("IOS") (formerly known as Insurance Enquiries and Complaints Limited) to administer the GI Code of Practice and to resolve disputes between insurers and consumers. The GI Code of Practice supports the IOS by requiring insurers who adopt the GI Code of Practice to participate in the IOS, and also requiring participating insurers to establish internal dispute handling procedures.

Background on the IOS and GI Code of Practice is set out in Boxes 1 and 2 respectively.

Box 1

Case Study on an Independent Industry Supported Regulatory Body: the Insurance Ombudsman Service

In 1991, ICA initiated an external dispute resolution scheme which was launched by the then Federal Minister for Consumer Affairs.

The scheme, called the General Insurance Claims Review Panel ("Panel"), was supported by the Insurance and Superannuation Commission and the Trade Practices Commission, as APRA and the Australian Competition and Consumer Commission were then known. The Panel, together with the life insurance industry's alternative dispute resolution scheme, was overseen by an independent council, the Insurance Industrial Complaints Council ("IICC"). Similar to the current IOS Board, the IICC comprised an independent chair, together with two industry representatives and two consumer representatives, as set down by the Federal Minister for Consumer Affairs.

In 1993, the IICC was replaced by the body that came to be known for the next decade as the Insurance Enquiries and Complaints Limited, which oversaw the activities of the Insurance Enquiries and Complaints Scheme ("IEC"). By the time ASIC came to approve the IEC scheme in August 2000, it had come to be viewed as a "mature and highly regarded finance sector complaints scheme" which complied with ASIC's policy on dispute resolution schemes. Upon introducing FSRA in 2001, the Federal Government looked to the model provided by the IEC when it made it compulsory for all Australian Financial Services Licensees ("AFSLs") to have external dispute resolution. In late 2003, changes to the regulatory framework triggered the IEC to expand its jurisdiction to improve alignment with the new environment. In 2004, it changed the name to IOS.

The IOS has a number of arms, each with distinct responsibilities. The industry has been instrumental in working with IOS to create and shape each of these roles. Each role is independent from the industry, yet has the full support of the industry. The three key roles are:

1. Responding to enquiries from consumers

2. Resolving disputes

IOS has jurisdiction to handle disputes between insurers and insureds or insurers and third parties to within its financial jurisdiction, where the dispute has not been resolved through internal dispute resolution procedures.

3. Monitoring the GI Code of Practice

In monitoring the GI Code of Practice, the IOS, through the Code Compliance Committee, has the power to sanction participants through compliance audits, corrective advertising, publicity of non-compliance and specific rectification.

These multiple roles make the IOS an invaluable part of the general insurance industry.

Box 2

Case Study on Self Regulation: the General Insurance Code of Practice

The First General Insurance Code of Practice ("First GI Code") was developed by ICA in 1994 as a self-regulatory code that aimed to raise the standards of practice and service in the insurance industry. Its provisions for clear documentation, agent and employee training, fair claims handling were adopted enthusiastically and used by many companies to drive cultural change towards a greater customer focus.

The effectiveness of the First GI Code did not escape the interest and attention of the drafters of the Financial Services Reform Act 2001 (Cth) ("FSRA"). Six out of the seven sections of the industry's self-regulatory First GI Code are now embedded in the Corporations legislation, and apply across the wider financial services industry. The Government incorporated many of the minimum service standards, including training, proper dispute resolution mechanisms and standards for consumer disclosure into the FSR licensing and disclosure regime.

The industry responded to the challenge of new legislation and higher consumer expectations by developing the GI Code of Practice. This Code was developed in partnership with consumers, business and the insurance industry. There was extensive consultation with the Consumers' Federation of Australia, Australian Chamber of Commerce and Industry, Office of Small Business, the Insurance Ombudsman Service and other industry groups.

During 2004 there was a three month public consultation period on a draft GI Code of Practice to give consumers, business and government an opportunity to have their say on what they would like in a new code. David Knott, former Australian Securities and Investments Commission Chairman reviewed all the submissions received and made 36 recommendations in his Independent Review. The GI Code of Practice incorporates all 36 of Mr Knott's recommendations.

The GI Code of Practice must be adopted by all fifty six of ICA's members (which means over 90 per cent of insurance business transacted in Australia). It covers seven key areas: buying insurance, making a claim, financial hardship, catastrophes and disasters, consumer information and education, complaints and disputes and monitoring and enforcement. The general principles underlying the GI Code of Practice are:

- All customer services (including product information, sales procedures, claims handling and the management of complaints or disputes) will be conducted in a fair, transparent and timely manner.
- If an error is made in accessing applications, deciding on claims or investigating complaints, the insurer will take immediate action to correct.
- Customers will have access to any information that has been used to assess applications for insurance, claims or complaints and will have the opportunity to correct any mistakes or inaccuracies with this information.

- Insurers will make sure that not only its employees, but also its Authorised Representatives and Service Providers must meet the standards of the GI Code of Practice.

The GI Code of Practice provides that the IOS administers the GI Code of Practice and participants must use the IOS to resolve disputes externally.

From the involvement of the industry in developing the GI Code of Practice and helping to establish the IOS, ICA had gleaned the following important "learnings":

- Self Regulation can be efficient regulation

The GI Code of Practice provides a benchmark for minimum services. It establishes minimum claims handling and training standards and requires insurers to be in regular contact with clients who have made a claim. Importantly, the GI Code of Practice sets *standards* for service but does not attempt to prescribe the *method or procedure* that GI Code of Practice participants will use to achieve this standard. To ensure its standards are met or exceeded, each company who adopts the GI Code of Practice will implement its requirements in the most appropriate way for *their* business, their employees and their customers, and implementation considerations will vary from company to company.

The GI Code of Practice differs considerably from much of the direct government regulation that the industry has received over the past five years in the form of FSR and early drafts of the APRA Stage 2 Reform prudential standards. It is *outcome based* rather than *process driven*, which allows industry the necessary flexibility to meet those standards, whilst adapting to changing market conditions.

Industry self regulation provides a benchmark standard. Once this benchmark is set, there is a strong incentive for individual companies to exceed the benchmark in order to attract customers and expand market share.

For example, many insurers used the First GI Code as a benchmark and then introduced their own consumer service charters that set standards that exceeded that benchmark, thereby raising service standards above the base level required in the First GI Code. By way of further example, at least one global insurer applied the First GI Code to its offshore operations thereby raising service standards for consumers in offshore jurisdictions.

- Self Regulation can keep direct costs low

Although the data on the relative costs of direct government regulation and self regulation is limited, the industry takes the view that generally, self regulation imposes lower compliance costs on industry.

This is partly because it is less prescriptive, so that insurers can meet the standards set by the GI Code of Practice in a way that suits their existing business systems and cultures, (as discussed above), and partly because regulation has been developed in a cost-sensitive manner. For example, the GI Code of Practice has introduced dispute resolution procedures which are simpler than those that apply in court. They are based on the principle that the dispute resolution process should start with the parties, so an insurer about which a consumer complains should have the first opportunity to address the consumer's complaint. Failing that, the dispute can be brought before the industry external disputes resolution body, the IOS. The IOS is independent from the industry and provides referees, adjudicators and panels to resolve disputes between claimants and insurers.

- Strong industry investment is essential

The self-regulation measures and bodies that the general insurance industry has did not emerge without considerable investment by the industry itself. Updating the General Insurance Code required an investment of two years by industry in drafting and consulting over 2003-2005. The transition period will involve a further twelve months. Time and other resources have been expended by the industry to develop and implement the GI Code of Practice at all levels of insurers.

In this sense, the development of the GI Code of Practice was by no means a cheap or simple option for the industry.

However, it is a long term investment in the industry. Having invested so much in the GI Code of Practice, the industry has a great deal of interest in the GI Code of Practice's reputation and proper application.

The Code Compliance Committee has considerable powers to sanction an insurer that is non-complaint. Their powers include the power to sanction participants through compliance audits, corrective advertising, publicity of non-compliance and specific rectification. A good reputation with competitors, vertically related industries and consumers is vital to success. Few companies wish to risk their reputation by failing to abide by measures adopted by their peers. This risk of condemnation by other organisations, and thus possible rejection by consumers, is a potent sanction.

- Consumer confidence is enhanced by industry involvement in regulation

The GI Code of Practice demonstrates the confidence that the industry has in its own capacity to meet minimum standards, providing a platform for enhancing consumer confidence in the industry. ICA undertook a thorough consultation process to ensure the GI Code of Practice delivered meaningful enhancements for customers. ICA investigated the experiences customers have in their various interactions with the general insurance industry and standards were developed to respond to customer expectations and needs.

ICA saw the role of the GI Code of Practice in enhancing consumer confidence as pivotal. This is demonstrated by the symbol of the GI Code of Practice, a mark of quality service standards.

ICA also worked hard to ensure that the GI Code of Practice is consumer friendly. Written in the first person, using non-technical language and spanning only 10 pages, it is easy for a consumer to pick up, to understand what they can expect from their insurer and how to go about complaining if their expectations are not met.

- Self Regulation should be forward looking

Direct regulation is often the result of an event or events, some of which involve damage to consumers. It responds to such events, often by prohibiting or limiting the conduct that led to that damage.

By comparison, self regulation takes as its starting point "what can the industry do better"? The development of the GI Code of Practice started with an analysis of what consumers want and where their wants were not met by the legislation. In the early stages of developing the GI Code of Practice, the industry analysed consumer surveys amongst other sources, to identify areas that the industry could improve in the years to come.

3 Regulatory process

3.1 Pre-regulation consultation

This section supplements the matters raised in section 4.1 of the primary submission and provides detailed example of the industry's experience with pre-regulation consultation. Recommendation 2 is that, consultation should be comprehensive focussed on ensuring the most cost-effective means to achieve the stated policy intent of any new or substantially modified financial sector regulations be undertaken at all stages of the development of the regulations i.e. when policy is designed, legislation is drafted, and the legislation is translated into specific regulations and procedures applied by the relevant regulator.

In the recent history of general insurance regulatory reform, there have been three cases of pre-regulation consultation of particular concern to the industry. The first and probably most serious case of ineffective consultation was the package of reforms commonly referred to as FSR. The second involved proposed amendments to section 54 of the Insurance Contracts Act 1984 (Cth) ("IC Act") while the third involved structured settlements. These are discussed in detail in boxes 3 – 5 respectively.

Box 3

Case Study on Consultation: FSR

FSR represented a significant change in the way in which financial services were regulated in Australia.

It introduced two wide ranging reforms for financial services. First, it introduced a single licensing regime across the financial sector. Banks, general insurers, life insurers and brokers would all be required to obtain a licence ("AFSL"). The AFSL of a deposit holding institution would permit different practices from an insurance broker, but both were required to hold a licence. Second, it introduced a single disclosure regime across the financial sector. AFSLs were required to communicate to their clients through prescribed media: the Statement of Advice for personal advice, the Financial Services Guide and the Product Disclosure Statement (PDS).

The industry's concerns about the FSR method of consultation are as follows.

- A lack of consultation on FSR as a total package of reforms

What was distinctive about FSR consultation is that the whole picture was not revealed until well after the transition period ended. This is demonstrated in the timeline of consultation set out in Appendix A. Rather, regulation was being made by "drip feed", piece by piece, until 2004. "Refinements" to FSR are still underway at the date of this submission.

The picture of FSR presented to the industry in 2001 did not reflect the reality of FSR as it bedded down in 2005.

Had the industry had a sense of the complexity of FSR when it was first being developed, the industry would have been in a position to properly consult with the Government on what it was proposing.

- Consultation and implementation occurred contemporaneously

A number of aspects of FSR (such as the dollar disclosure provisions) were not finalised prior to the end of the transition period.

Continuing to make law *during the transition period* made for an unsettled and unsettling environment for companies to operate. Just as insurers were preparing for the laws to be settled and putting systems in place to ensure that they are in compliance, new, or variations on the law would emerge.

Some aspects of FSR are still not resolved or in a state in which the industry can start bedding them down, 5 years post.

- Consultation periods were not appropriate for the proposed regulation

As Appendix A demonstrates, FSR was characterised by a number of very short consultation periods.

However, this is an ongoing problem. For example, of the FSR Refinements package recently instigated by the Hon Chris Pearce MP, a number were to be implemented by ASIC. Although they were announced in May, and many did not come into effect until many months later, in September or October, industry was only permitted to review what was proposed for a matter of weeks. Short consultation periods enable industry to identify whether there are glaring drafting and similar problems, but not to assess the detail of proposed regulation.

- High expectations of the regulator

Just as ASIC was starting to mature as an organisation, it was given a voluminous and complex new chapter of the Corporations Act to implement and enforce.

On one view, this placed ASIC in a difficult position. It was changing dramatically as an organisation, at the same time as it was implementing revolutionary legislation. This undermined the consistency and knowledge base within the regulator.

These problems with the FSR consultation process have produced severe and long term consequences for the regulation of insurance FSR. Most seriously, FSR is built on the assumption that all financial services products are so alike, that "one size" of regulation can "fit all" products. This has meant that FSR was introduced without full regard for the insurance specific regulation – such as the Insurance Contracts Act 1984 (Cth) ("IC Act") and the first GI Code. Based on the assumption of like products, FSR drew an artificial distinction between "wholesale" and "retail" products, disregarding the important role of intermediaries in the retail/wholesale distinction. Crossing various financial services, FSR does not deal with a cornerstone of consumer protection in the context of insurance: high quality claims handling. FSR has demonstrated the high costs of a "drip feed" approach to consultation.

Box 4

Case Study on Consultation: Section 54 of the Insurance Contracts Act

Section 54 of the IC Act has received a judicial interpretation over the past decade which has had a significant impact on shaping professional indemnity lines of insurance. Specifically, it has reduced the affordability and, to some extent, availability of professional indemnity insurance.

In order to restore affordability and availability of professional indemnity insurance to professionals in the early 2000's, ICA encouraged the Government to review the operation of section 54 of the IC Act. A Review was announced in September 2003, comprising Ms Nancy Milne and Mr Alan Cameron, A.M. ("Review").

ICA made detailed submissions to that Review on section 54. In early 2004, the Review released its report on section 54, recommending amendments with the objective of reversing some of the impact of the judicial interpretation of that section.

ICA supported the recommendations of the Review. In April 2004, the Review released draft amendments to sections 40 and 54 of the IC Act, together with a new section.

ICA opposed the draft amendments, on the basis that they would increase uncertainty in the marketplace over how the judiciary would interpret section 54 in the future, not decrease uncertainty. ICA stated its position in a subsequent submission to the Government in response to the Review.

From subsequent meetings with the Review, ICA came to understand that the Review had not sighted the draft amendments prior to their exposure to stakeholders and shared a number of ICA's concerns about how the draft amendments would operate if adopted. No statements were made by any party to counter this.

In ICA's view the proposed amendments to section 54 of the IC Act represents a failure of substance – and also of process. Accepting the Review statement that it had not sighted the draft amendments prior to release, this suggests a significant breakdown in the communications between the Office of Parliamentary Counsel, Treasury and the independent Review Panel commissioned by Treasury.

The costs of this type of problem with consultation are significant. They include costs of responding to a pre-exposure draft and the opportunity cost of reduced time to respond to proposals on the balance of the IC Act. The ongoing cost to the industry is the market that is lost due to uncertainty of the current position. The cost to the community is higher premiums for their professionals.

Box 5

Case study on consultation: Structured settlements

ICA identified some years ago that, unlike in offshore jurisdictions, Australian plaintiffs could not choose to structure their settlements. ICA identified two amendments to law that would encourage the use of structured settlements by plaintiffs. Firstly, an amendment to enable courts to make an award in a form other than a lump sum was necessary. Secondly, an amendment to the tax laws to make structured settlements more attractive.

In 2001-2004, the States and Territories changed their civil liability legislation to allow courts to make awards in the form of structured settlements. The Commonwealth Government also made amendments to the relevant taxation laws. However, there are stringent conditions that limit the circumstance in which beneficial tax treatment is available for a structured settlement.

ICA was consulted on the draft amendments to the taxation provisions before they were passed. ICA expressed its view that the proposed amendments to the taxation provisions were excessively restrictive and would impede the uptake of structured settlements.

Since the reforms, there are no cases that ICA is aware of that have been settled by way of structured settlement.

3.2 Post implementation reviews

This section supplements the matters raised in section 4.1 of the primary submission and provides detail as to how Recommendation 4 could be implemented. Recommendation 4 is that, for major pieces of financial sector regulation, the Government should release a statement of policy intent, initially in the form of its 2nd reading speech and thereafter conduct a post implementation review within two years to measure whether the objectives were being achieved in the most cost effective manner.

ICA believes there should be an appropriate process put in place for post-implementation reviews. Generally, these should be conducted within two years of the commencement of legislation to measure whether the objectives are being achieved in the most cost effective manner.

However, it is appropriate that a preliminary "gateway" be put in place to ascertain whether a full review at two years is necessary.

One year after commencement, a general inquiry should be made of the industry affected by regulation as to whether the regulation is operating satisfactorily.

(a) If it is found that the regulation is operating satisfactorily – that is, meeting the objectives of that legislation as set out in the 2nd reading speech – then there would be no need to conduct a review at two years post-commencement.

(b) If it is found that the regulation requires "fine tuning" – that is, that there are some small technical matters that may need amendment, or that the implementation may need some bedding down – then there would be no need to conduct a review at two years post-commencement and a mechanism would need to be put in place to "fine tune" the regulation.

(c) If it is found that the regulation is not operating satisfactorily – that is, that the regulation is not and will not within the reasonably foreseeable future, achieve those objectives – then there would be a need to conduct a review at two years post-implementation.

If the "gateway" to a post-implementation review is passed, then the review should be conducted to the highest standards of consultation.

A post implementation review should have regard to the following matters:

- Whether the regulation is meeting its objectives. A proper assessment of whether regulation has met its objectives rests on whether *measurable* objectives have been laid down at the outset. It

should also incorporate consultation with the end-users of the regulation. This could be achieved through consumer testing. If not meeting its objective, why not? Are there underlying environmental factors that may have led to this?

- Costs of compliance for industry and other stakeholders.
- Whether the costs of compliance are proportionate to the problem that the regulation seeks to address.
- Whether a further review is recommended.

4 State/State Overlap

This section supplements the matters raised in section 4.2.2 of the primary submission and provides background material for the reasons for Recommendation 14. Recommendation 14 is that the States and Territories implement a process designed to reduce inconsistencies in their statutory schemes.

Box 6

Case Study of State/State overlap: Home Warranty Insurance

A form of homebuilders warranty insurance is compulsory in every State and Territory in Australia and, in general, provides for compensation for loss or damage arising from a contractor's failure to complete work or to meet certain standards of workmanship.

The requirements of such insurance are prescribed by legislation. Various Acts in the States and Territories govern the way in which this insurance is administered and underwritten, as well as minimum benefits that are payable to the party suffering loss as a result of incomplete or defective work.

An overview of the various schemes is provided in Appendix B.

In some States, the insurance is a prerequisite for the commencement of work. In others it is not. With the exception of Queensland and the Northern Territory, home warranty insurance schemes are privately underwritten by insurers approved under the relevant legislation. Some jurisdictions also set out particular provisions for developers, owner builders and kit home suppliers. The States and Territories differ dramatically.

5 Tax

This section supplements the matters raised in section 4.2.4 of the primary submission and provides background material in support of the following recommendations:

Recommendation 16: That state and territory governments abolish stamp duty on general insurance products.

Recommendation 17: That those states that have not already done so abolish fire services levies on insurers.

Recommendation 18: That state and territory governments exclude the cost of the GST for the purposes of calculating stamp duties on any other state or territory levies that are imposed on insurance premiums.

Recommendation 19: That governments avoid imposing on insurers levies and other taxes that cannot be passed on to policyholders (i.e., NSW Insurance Protection Tax).

Australia's taxation treatment of general insurance products is in the same vein as the "sin" taxes that apply to cigarettes and alcohol and has resulted in our maintaining the highest level of insurance taxes in the world.

ICA recently commissioned the Centre for International Economics (CIE) to conduct a study on the contribution of the insurance industry to the Australian economy. As part of this study, CIE reviewed insurance taxation levels in Australia compared with other countries.

By international standards, taxes on general insurance in Australia are high.

Taxes on property insurance in most Australian States and Territories are higher than in the majority of the comparator countries. International taxes as a proportion of premiums are as low as 2 per cent in Ireland and Singapore and 2.4 per cent in the USA (California).

Australian taxes on property insurance are particularly high compared with international competitors in the area of business insurance. Premium taxes on commercial insurance in country Victoria are more than 16 times greater than those imposed in the United Kingdom. Taxes in both Tasmania and New South Wales are more than 10 times higher.

The level of taxes on household premiums in many Australian States and Territories is above those in countries such as South Africa, Germany and Switzerland. In contrast to the approach in Australia, household premiums in Japan are tax-deductible.

In addition to the direct cost of taxation for policyholders, taxation also has a high indirect cost. This is the cost of collecting taxes. The costs of tax collection and complying with a different collection regime in each State and Territory are inevitably passed on to the consumer. Box 7 contains a case study of a hypothetical insurer's taxation compliance burden.

Box 7

Case Study of taxation compliance burden on XYZ Insurance

Insurer XYZ is authorised by APRA and holds an AFSL. It sells a variety of insurance lines, including retail products that attract the fire services levy in those states that still charge it. During any financial year it is required to prepare and submit numerous returns.

To the Australian Taxation Office ("ATO"), XYZ Insurance must submit a Goods and Services Taxation – Business Activity Statement Lodgement 21 days after the end of the month and an Instalment Activity Statement on a quarterly basis. On different days throughout the year, it must also lodge Non Admitted Reinsurers Tax Return, Income Tax Return and Fringe Benefits Tax Return.

XYZ Insurance must also submit returns to those States that continue to charge a Fire Services Levy. In Victoria, this includes the Metropolitan Fire Emergency Services Board and Country Fire Association on an annual basis. In NSW, this includes the NSW Fire Board and NSW Regional Fire Services on an annual basis. Tasmania also requires a return on an annual basis.

To the Offices of State Revenue in each State and Territory, XYZ Insurance must meet differing deadlines and comply with different methods of stamp duty calculation. ACT, NSW, Victoria, Western Australia, South Australia, Northern Territory, Queensland and Tasmania each require a return for collected duties. Many States also require a further return for Unclaimed Monies.

These taxes place a heavy burden on consumers. When XYZ Insurance sells home or business insurance, the consumer collects a number of taxes on top of the policy.

Appendix C sets out two ICA tables showing the impact of State and Federal taxes on both household and business insurance. In each table a hypothetical basic premium of $100 is used to demonstrate the point about the huge taxation impost on these policies.

For example for a home insurance premium in NSW, a $100 premium charged by XYZ Insurance will attract a $16 fire service levy (based on ICA's advisory levy percentage), $11.60 in Goods and Services Tax and $11.48 in stamp duty. This brings the price of the policy for the consumer to $139.08.

Appendix A – FSR Timeline of Events

2005	
24 November	ASIC updates FSR licensing kit (version 7) to reduce the amount of paperwork required to be submitted as part of an application for an AFS licence
17 June	FSR regulations on 'common fund' disclosure (released in draft on 19 May 2005) receive Royal Assent
2 May	Government releases proposals paper, *Refinements to Financial Services Regulation*, which contains 25 proposed refinements to improve the operation of the financial services regulation framework
10 March	FSR regulations on fee disclosure (released in draft on 23 December 2004) receive Royal Assent
11 January	ASIC updates policy statement on licensing discretionary powers and transition matters to take account of licensing relief offered to securitisation special purpose vehicles (amendments to PS 167)
2004	
15 December	ASIC releases policy statement on dollar disclosure (PS182)
13 December	ASIC updates FSR licensing kit (version 6) and Small Business Guide for information that new licence applicants will be required to provide to ASIC regarding their main agreement of conflicts of interest obligation (which commences on 1 January 2005)
30 September	ASIC updates FSR licensing kit (version 6)
30 August	ASIC releases policy statement in relation to conflicts management (PS 181)
25 June	Fee disclosure regulations (batch 8) receive Royal Assent
2 June	Parliamentary Joint Committee on Corporations and Financial Services' Report on FSR regulations 7.1.29A, 7.1.35A and 7.1.40(h) released. (This report follows on from the Committee's report released on 25 March 2004.)
31 May	ASIC releases policy statement on foreign collective investment schemes (PS 178) (which replaces PS 65)
13 May	Disallowance of superannuation fee disclosure regulations by the Senate (on 24 March) rescinded
24 March	Parliamentary Joint Committee on Corporations and Financial Services' Report on *Corporations Amendment Regulations 2003* (Batch 6), *Corporations Amendment Regulations 2003/04* (Batch 7) and *Draft Regulations - Corporations Amendment Regulations 2004* (Batch 8) released.
24 March	Superannuation fee disclosure regulations disallowed by the Senate

15 March	ASIC releases policy statement in relation to regulation of managed discretionary account services (PS 179)
11 March	ASIC updates FSR licensing kit (version 5)
10 March	Transition period (which commenced on 11 March 2002) ends
26 February	FSR regulations (released in draft on 24 December 2003) receive Royal Assent
2003	
23 December	Further FSR regulations receive Royal Assent
17 December	*Financial Services Reform Amendment Act 2003* receives Royal Assent
13 November	Further FSR regulations receive Royal Assent
23 October	Government releases final version of proposed amendments to the Financial Services Reform Amendment Bill 2003 (introduced on 26 June) to be debated by Parliament
21 October	ASIC updates FSR licensing kit (version 4)
26 September	Government announces that it will move amendments to the Financial Services Reform Amendment Bill 2003 (introduced on 26 June) when it is debated by Parliament
12 September	ASIC releases policy statement in relation to wholesale foreign services providers (PS176 - reissued 17 May 2005)
26 June	Government introduces Financial Services Reform Amendment Bill 2003
26 June	ASIC releases policy statement on conduct and disclosure obligations for financial product advisers (PS175 - reissued 13 May 2005)
12 June	Regulations (based on draft regulations released on 12 March and 28 March) receive Royal Assent
1 May	Regulations (including many of the draft regulations released on 12 March and part of the draft regulations released on 17 December 2002) receive Royal Assent
29 April	ASIC updates FSR licensing kit (version 3)
8 April	Regulations (to address issues associated with making unsolicited offers to retail investors) receive Royal Assent
11 March	Regulations (released in draft on 13 December 2002) receive Royal Assent
11 March	Transition period expires in one year's time (10 March 2004)
2002	
6 November	Regulations (released in draft on 24 September) receive Royal Assent

23 October	Senate Joint Committee report on Corporations and Financial Services Regulations and ASIC Policy Statements made under the FSR Act released
15 October	ASIC updates FSR licensing kit (version 2)
16 September	Superannuation disclosure regulations disallowed by Federal Opposition
14 August	ASIC updates FSR licensing kit (addendum to version 1)
30 June	Due date by which licensees must have in place training and supervision regime in accordance with requirements under ASIC PS 146 for many who advise retail clients
27 June	Regulations (released in draft on 24 May) receive Royal Assent
18 June	Notice of Disallowance of superannuation product disclosure statement and anti-hawking regulations given by Federal Opposition in Senate
14 June	Further regulations (released in draft on 16 April and 2 May) receive Royal Assent
5 April	*Financial Services Reform (Consequential Provisions) Act 2002* receives Royal Assent
11 March	**FSR begins**
5 March	Further regulations under second stage of FSR regulations receive Royal Assent
21 February	Second stage FSR regulations receive Royal Assent
14 February	Government introduces Financial Services Reform (Consequential Provisions) Bill 2002
1 February	ASIC releases FSR licensing kit (version 1)
2001	
20 December	ASIC releases policy statement on financial licensing requirements under FSR (PS166 - updated 8 November 2002; reissued 13 May 2005)
28 November	ASIC releases 6 policy statements and a guidance paper on implementation of licensing and product disclosure requirements under FSR (PS146 - updated 22 January 2003; PS164 - updated 8 November 2002; PS165 updated 8 November 2002 and 2 October 2003; PS167- updated 8 November 2002 and 2 October 2003 and reissued 13 May 2005; PS168 and PS169 - updated 8 November 2002 and 2 October 2003 and reissued 13 May 2005)
27 September	FSR receives Royal Assent, and some parts commence
15 July	Commonwealth's *Corporations Act* 2001commences
5 April	Joe Hockey* introduces FSR Bill to parliament
4 April	Joe Hockey introduces the Corporations Bill 2001 into parliament

29 March	NSW passes referral legislation
2 February	Joe Hockey threatens to press ahead with FSR, without the backing of all the states, if necessary
2000	
22 December	The Commonwealth, NSW & Victoria agree on the referral powers; WA says no to the deal
29 November	Joe Hockey announces FSR on hold until the Corporations Law problem is solved
6 October	Joe Hockey (Commonwealth Minister for Financial Services & Regulation) announces FSR delayed until 1 July 2001
14 August	Parliamentary Joint Statutory Committee's Report on the Draft FSR Bill released
July	Public hearings into the Draft FSR Bill held in Sydney, Melbourne and Canberra
11 March	Parliamentary Joint Statutory Committee invites submissions to its inquiry into the Draft FSR Bill. A total of 67 submissions are received (tabled in the 14 August report above)
8 March	Parliamentary Joint Statutory Committee on Corporations and Securities resolves to hold an inquiry into the draft Bill
February	Draft Financial Services Reform Bill released

Source: Allens Arthur Robinson www.aar.com.au

* Former Commonwealth Minister for Financial Services and Regulation

Appendix B – Comparison of Home Warranty Regimes

	VICTORIA	NEW SOUTH WALES	QUEENSLAND	SOUTH AUSTRALIA	WESTERN AUSTRALIA	TASMANIA	ACT	NORTHERN TERRITORY
Regulator/Government agency	Minister for Consumer and Business Affairs	Department of Fair Trading	Building Services Authority	Commissioner for Business and Consumer Affairs	Ministry of Fair Trading	Attorney-General, Justice and Industrial Relations Department	Dept of Urban Services	Dept of Lands, Planning & Environment
Governing Legislation	Domestic Building Contracts and Tribunal Act 1995	Home Building Act 1989	Queensland Building Services Authority Act 1992	Building Work Contractors Act 1995	Home Building Contracts Act 1991 Builders Registration Act 1939	Housing Indemnity Act 1992	Building Act 1972	NT Building Act
Date of introduction of current scheme	1996	1997	1992	1995	1997	1993	1986	1995
Complaints resolution mechanism	Victorian Civil and Administrative Tribunal	Dept of Fair Trading Tribunal	Building Services Authority dispute resolution service	Direct to insurers	Builders Registration Board and Fair Trading	Office of Consumer Affairs & Fair Trading	Direct to insurers	Consumer Affairs

Appendix C – Impact of Australian Government Taxes on Home Insurance Premium

METROPOLITAN AREA

STATE	VIC	%	NSW	%	SA	%	WA	%	QLD	%	TAS	%	ACT	%
Basic Premium	**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**	
Plus **Fire Levy**	$ 18.00	18%	$ 16.00	16%	$ -	0%	$ -	0%	$ -	0	$ -	0	-	0%
	$ 118.00		$ 116.00		$ 100.00		$ 100.00	#	$ 100.00		$ 100.00		$ 100.00	
Plus **GST**	$ 11.80	10%	$ 11.60	10%	$ 10.00	10%	$ 10.00	10%	$ 10.00	10%	$ 10.00	10%	$ 10.00	10%
	$ 129.80		$ 127.60		$ 110.00		$ 110.00		$ 110.00		$ 110.00		$ 110.00	
Plus **Stamp Duty**	$ 12.98	10%	$ 11.48	9%	$ 12.10	11%	$ 11.00	10%	$ 8.25	7.5%	$ 8.80	8%	$ 11.00	10%
	$ 142.78		**$ 139.08**		**$ 122.10**		**$ 121.00**	*	**$ 118.25**	*	**$ 118.80**		**$ 121.00**	

COUNTRY AREA

STATE	VIC	%	NSW	%	SA	%	WA	%	QLD	%	TAS	%	ACT	%
Basic Premium	**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**	
Plus **Fire Levy**	$19.00	19%	$ 15.00	15%	$ -	0%	$ -	0%	$ -	0	$ -	0	-	0%
	$ 119.00		$ 115.00		$ 100.00		$ 100.00	#	$ 100.00		$ 100.00		$ 100.00	
Plus **GST**	$ 11.90	10%	$ 11.50	10%	$ 10.00	10%	$ 10.00	10%	$ 10.00	10%	$ 10.00	10%	$ 10.00	10%
	$ 130.90		$ 126.50		$ 110.00		$ 110.00		$ 110.00		$ 110.00		$ 110.00	
Plus **Stamp Duty**	$ 13.09	10%	$ 11.39	9%	$ 12.10	11%	$ 11.00	10%	$ 8.25	7.5%	$ 8.80	8%	$ 11.00	10%
	$ 143.99		**$ 137.89**		**$ 122.10**		**$ 121.00**	*	**$ 118.25**	*	**$ 118.80**		**$ 121.00**	

\# WA FSL phasing out from 1 January 2003. Ceased 1 January 2004. * QLD Stamp Duty reduced from 8.5% to 7.5% from 1 August 2004
\# NSW Stamp Duty increased from 5% to 9% from 1 September 2005

It is illegal under the Trade Practices Act for members and/or the ICA to reach agreements or understanding with respect to prices/premiums.
It is a matter for individual insurers as to how to price their product and the matters taken into account in setting a premium.
Insurers are encouraged to set their own premiums for the insurance products provided by them.

Appendix C (Cont) – Impact of Australian Government Taxes on Business Insurance Premium

METROPOLITAN AREA

STATE	VIC	%	NSW	%	SA	%	WA	%	QLD	%	TAS	%	ACT	%
Basic Premium	**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**	
Plus **Fire Levy**	$ 40.00	40%	$ 30.00	30%	$ -	0%	$ -	0%	$ -	0	$ 28.00	28%	-	0%
	$ 140.00		$ 130.00		$ 100.00		$ 100.00	#	$ 100.00		$ 128.00		$ 100.00	
Plus **GST**	$ 14.00	10%	$ 13.00	10%	$ 10.00	10%	$ 10.00	10%	$ 10.00	10%	$ 12.80	10%	$ 10.00	10%
	$ 154.00		$ 143.00		$ 110.00		$ 110.00		$ 110.00		$ 140.80		$ 110.00	
Plus **Stamp Duty**	$ 15.40	10%	$ 12.87	9%	$ 12.10	11%	$ 11.00	10%	$ 8.25	7.5%	$ 11.26	8%	$ 11.00	10%
	$ 169.40		**$ 155.87**		**$ 122.10**		**$ 121.00**		**$ 118.25**	*	**$ 152.06**		**$ 121.00**	

COUNTRY AREA

STATE	VIC	%	NSW	%	SA	%	WA	%	QLD	%	TAS	%	ACT	%
Basic Premium	**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**		**$ 100.00**	
Plus **Fire Levy**	$50.00	50%	$ 30.00	30%	$ -	0%	$ -	0%	$ -	0	$ 28.00	28%	-	0%
	$ 150.00		$ 130.00		$ 100.00		$ 100.00	#	$ 100.00		$ 128.00		$ 100.00	
Plus **GST**	$ 15.00	10%	$ 13.00	10%	$ 10.00	10%	$ 10.00	10%	$ 10.00	10%	$ 12.80	10%	$ 10.00	10%
	$ 165.00		$ 143.00		$ 110.00		$ 110.00		$ 110.00		$ 140.80		$ 110.00	
Plus **Stamp Duty**	$ 16.50	10%	$ 12.87	9%	$ 12.10	11%	$ 11.00	10%	$ 8.25	7.5%	$ 11.26	8%	$ 11.00	10%
	$ 181.50		**$ 155.87**		**$ 122.10**		**$ 121.00**		**$ 118.25**	*	**$ 152.06**		**$ 121.00**	

\# WA FSL phased out from 1 January 2003. Ceased 1 January 2004. * QLD Stamp Duty reduced from 8.5% to 7.5% from 1 August 2004

\# NSW Stamp Duty increased from 5% to 9% from 1 September 2005

It is illegal under the Trade Practices Act for members and/or the ICA to reach agreements or understanding with respect to prices/premiums.
It is a matter for individual insurers as to how to price their product and the matters taken into account in setting a premium.
Insurers are encouraged to set their own premiums for the insurance products provided by them.