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Sent via email to: policy.submissions@asic.gov.au

Dear Mr Vermiglio

RE: Consultation paper 88: Reviewing and updating RG 126: Training of financial product advisors

MIIAA

The Medical Indemnity Industry Association of Australia (MIIAA) is an industry association representing insurers with over 70 percent of the market for professional indemnity insurance for medical practitioners.

Background

Medical Indemnity is a specialist insurance field and is subject to significant regulation. As with all general insurance products, medical indemnity insurers (MII's) must comply with relevant insurance legislation including, significantly, the Insurance Act, the Insurance Contracts Act and the requirements of the financial services provisions of the Corporations Act.

In addition medical indemnity cover may only be provided in terms of the Commonwealth's Medical Indemnity suite of legislation, including the Medical Indemnity (Prudential Supervision and Product Standards Act), and certain State legislation such as the Health Care Liability Act in New South Wales. These statutes introduce many unique requirements such as

- compulsory offers of retroactive cover;
- compulsory offers of run-off cover;
- premium limitations on certain run-off policies; and
- premium limitations for certain medical specialties.
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The medical indemnity suite of legislation also introduced a number of schemes such as the Run Off Cover Scheme and the Premium Support Scheme. These create material complexity for MII's who administer the schemes on behalf of the Federal Government as part of their client relationships. An example is the issue of "policies" under the Run Off Cover Scheme where no premium is payable and no underwriting risk is taken but where the relationship is deemed to be an insurance relationship and subject to relevant legislation.

Contracts between government and the MII's augment the legislation and the schemes. These add further concepts such as that of "universal cover" which obliges identified MII's to accept an

application for cover from doctors practising in a specified geographic region and all applications for renewal unless very limited circumstances apply. To further differentiate medical indemnity from other forms of professional indemnity it has been included by regulation as a general insurance product which when provided to an individual or small business is categorised as a financial product or financial service provided to a person as a retail client. (See Corporations Act subparagraph 761G (5) (b) (viii) and Corporations Regulations 2001 Regulation 7.1.17A).

In summary, medical indemnity is provided within a unique and complex regulatory framework. It is also the only general insurance product which has been identified as a “retail” product for the purposes of Financial Services legislation which is:

- a professional indemnity product;
- a long tail general insurance product; and
- not relevant to the personal or domestic market.

The Proposals

This submission is made only in relation to the proposals set out in Part B of the discussion paper and responds to the questions set out in that section.

Proposal B1

We could either:

(a) remove the generic knowledge requirement for all courses covering Tier 2 products. This would mean that Tier 2 product advisers would only need to satisfy the particular ‘specialist knowledge’ and ‘skill’ requirements in RG 146 that are relevant to the adviser’s activities; and/or
(b) allow licensees to self-assess courses for advisers on Tier 2 products. This would mean that advisers on Tier 2 products would no longer have to complete a training course on the ASIC Training Register to satisfy the RG 146 training requirements. Note: The approach in proposal B1(b) would be similar to that presently applying to basic deposit products and related non-cash payment products: see RG 146.83A and RG 146.83B.

Question B1Q1

Do you think that the training requirements for simpler products are too onerous?

MIIAA Response

Yes. The generic knowledge requirement is largely geared toward products with an investment component or where a decision to acquire or divest might be significantly influenced by economic conditions. The general insurance products to which tier 2 training is applicable do not fall into either of these categories. The ability of an advisor to understand and apply the generic knowledge in our view would have little bearing on their competency to advise on general insurance products. The specialist training in ASIC approved courses is also onerous for an adviser not seeking a portable qualification as it focuses on a broad range of covers which may have little application to a licensee advising in a specialist area. Within our own industry training focussing on short tail insurance and matters such as standard cover sometimes leads to confusion rather than elucidation on the nature of our product.

Question B1Q2

Which approach would you choose to address the problem? Please give reasons.

MIIAA Response

Both.

If however we were to have to select one of the proposals we would choose option (b) however we refer to our response to Question B1Q1 in relation to the value of the generic training requirements.

From a medical indemnity perspective apart from an understanding of the insurance market the two areas which must be understood by an adviser are the complex regulatory environment surrounding the product and the medical indemnity product itself. Neither of these is covered in the current accredited courses. Being in a position to self assess a training programme would enable training to be more appropriately focussed and competency achieved over a shorter training period.

Question B1Q3

What costs and benefits do you think result from your preferred approach? If possible, please quantify these costs and benefits.

MIIAA Response

As MII's from necessity already train in the two areas set out above we expect that training time and costs would reduce by removing material which does not enhance competency. All MII's have different training programmes so we are unable to quantify the potential savings. It is possible that if the MII's were not required to put their advisers through one of the generic accredited courses that the industry might consider developing a shared course.

Question B1Q4

What do you think would be the risks to consumers from your preferred approach? Do you think the benefits outweigh these risks? If so, why?

MIIAA Response

We do not see any risks to the consumers of medical indemnity insurance.

Question B1Q5

Should we consider any other changes to the training requirements to address concerns about the burdens imposed by the training requirements (e.g. removing the generic knowledge requirement for all general advice)?

MIIAA Response

We refer to our response to Question B1Q1.

Proposal B2

We could either:

(a) require that advisers receive basic training in the range of products in the current specialist knowledge category; or

(b) introduce a longer list of narrower, more focussed specialist knowledge categories so that advisers are unlikely to receive any training on products they do not advise on. For example, general insurance could be split into home insurance, car insurance and consumer credit insurance.

Question B2Q1

Which approach do you prefer? Please give reasons.

MIIAA Response

We believe that Medical Indemnity could become a separate category due to its very different nature to the other covers included in the general insurance specialist category. We express no opinion on other products. If this option is taken self assessment of training course will be necessary due to the very few participants in the market and no currently available accredited courses.

Question B2Q2

What costs and benefits do you think result from your preferred approach? If possible, please quantify these costs and benefits.

MIIAA Response

We refer to our responses to B1

Question B2Q3

What do you think would be the risks to consumers from your preferred approach?

MIIAA Response

We do not see any risks to the consumers of medical indemnity insurance.

Question B2Q4

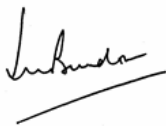
Should we consider any other changes to the training requirements to address the issue (e.g. narrowing specialist knowledge categories for Tier 2 level products only)?

MIIAA Response

We have no further comment from a medical indemnity perspective.

If you have any questions regarding this submission please contact Ellen Edmonds-Wilson, CEO of the MIIAA on 08 8113 5312 or ellen@miiaa.com.au.

Yours sincerely



Dr Jonathan Burdon
Chairman