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The Australian Law Reform Commission
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Australian Law Reform Commission (ALRC) Interim Report C: Financial Services Legislation

The Insurance Council of Australia (Insurance Council) welcomes the opportunity to provide feedback on the ALRC's Interim Report C: Financial Services Legislation.

As outlined in our March 2022 submission on the ALRC's Interim Report A, the Insurance Council supports reducing the complexity of the legislative framework of the financial system and the need to have a navigable and efficient framework of legislation within the context of existing policy settings.

We therefore support the ALRC's proposal to restructure and reframe Chapter 7 of the Corporations Act to promote ease of navigation, understanding and compliance.

We provide the following further feedback in relation to specific proposals and implementation timelines.

Proposal C5

Proposal C5 would amend the wording requirements for disclosure documents from the current requirement that they 'be worded and presented in a clear, concise and effective manner' to the requirement that they be worded and presented 'in a way that promotes understanding of the information' to achieve outcomes-based disclosure standards.

We note Interim Report C states proposal C5 does not involve an alternative standard of disclosure or a shift in policy settings. Nonetheless, it is the view of the Insurance Council that such a wording change would involve a change in wording requirements for disclosure documents as otherwise the proposed change would be of no impact and serve no purpose. This change could be significant and far reaching considering the number of disclosure documents across the insurance sector.

While supportive of the aims of this proposal, careful consideration and further consultation with the insurance sector on the potential impact of this change in terms of additional compliance costs and consumer benefit is required. Any substantive changes to the disclosure regime should be part of a broader policy review and involve a thorough cost-benefit analysis.

Proposals C9 and C10

Proposals C9 and C10 involve the restructuring and reframing of certain divisions within Chapter 7 of the Corporations Act and the creation of a new Financial Services Law under Schedule 1 of the Corporations Act. As part of this restructuring and reframing, it is important to reconsider the use

of the corresponding Corporations Regulations and ASIC Instruments. At present several regulations under the Corporations Regulations and several ASIC Instruments either amend or insert new provisions into the Corporations Act which only adds to complexity and confusion. If Proposals C9 and C10 are adopted, then a new mechanism should be considered to enable Schedule 1 to be directly amended as required without reliance on extraneous regulations or ASIC Instruments. In other words, Schedule 1 should be the only source of the financial services law without requiring the reader to also look at legal provisions housed in additional materials such as regulations or ASIC instruments.

Implementation

The Insurance Council welcomes the ALRC's focus on the importance of appropriate, staged and well managed implementation of the proposed restructure and reframing of Chapter 7 of the Corporations Act.

As outlined in our submission to the ALRC's Interim Report A, the general insurance sector continues to navigate a significant cumulative burden of regulation at both state and federal level. Further legislative reform impacting insurers is now in the early stages of being developed and implemented following the release of the Federal Government's Quality of Advice Review report. This comes on top of the suite of regulatory reform that was implemented in 2022 including the application of unfair contract terms regime on insurance contracts, as well as multiple new ASIC reporting and compliance requirements (as outlined in attachment A of the Insurance Council's submission to Interim Report A).

The Insurance Council agrees that reforms arising out of the ALRC's inquiry must be undertaken in a managed and staged manner. Implementation of any of the ALRC's proposed reforms should be undertaken with holistic consideration of other regulatory reforms to the financial sector and more specifically the general insurance sector. Current financial regulatory reform processes already underway should be completed and implemented before any of the proposed reforms to Chapter 7 commence.

Taskforces and Post-implementation reform review

We note Interim Report C proposal C12 as well as the ALRC's webinar on 10 July, 2023 suggests the use of dedicated taskforces to implement proposed reforms.

The Insurance Council supports the use of taskforces with membership comprising stakeholders from government, regulators and the private sector, including insurers.

Given the impact and application of reforms may vary across different industries within the financial services sector, including insurance, emphasis should be on ensuring each sector is appropriately represented across relevant taskforces. In addition to the proposals under the various reports, the Insurance Industry will need to consider the impact to other industry specific legislation such as the *Insurance Act 1973 (Cth)*, *Insurance Contracts Act 1984 (Cth)* and the *Marine Insurance Act 1909 (Cth)*.

The Insurance Council also supports a post-implementation review of any Chapter 7 reforms. Given the pace and complexity of recent financial services reforms post-implementation review is critical to ensure reforms are achieving their policy objectives and benefits and to identify and address any negative or unintended consequences.

Further consultation with insurers

The Insurance Council and our members would welcome the opportunity to meet with the ALRC to discuss our submission and the ALRC's Interim Report C and Inquiry more broadly prior to the release of their final consolidated report.

If you have any queries in relation to this submission please contact Tom Lunn, Senior Policy Manager, Regulatory Policy at [REDACTED] or on [REDACTED]

Kind regards,

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Andrew Hall

Executive Director and CEO.