

General insurance pricing

Heightened scrutiny on pricing practices in the general insurance industry

In June 2023, ASIC released Report 765, "When the price is not right: Making good on insurance pricing promises" (Report).

The Report, which follows a series of clear signals from the regulator including in its 2023 Enforcement Priorities and Corporate Plan for 2022-26 and through the instigation of an increasing number of civil proceedings against insurers, identifies significant failures to deliver on pricing discounts of A\$815 million across more than 6.5 million insurance policies.

Background

The correlation between pricing misconduct and consumer harm has been well known for many years, both in Australia and international insurance markets.

In 2013, ASIC delivered a public announcement to insurers in relation to pricing risks, which was followed by the publication of a detailed report in 2015 and a subsequent additional public reminder in 2017.

In October 2021, following an increasing number of pricing-related breach reports, ASIC called upon all general insurers to undertake an urgent review of their pricing systems and controls to address industry-wide failures. Later that month ASIC directed a cohort of insurers, representing over two thirds of the market, to undertake a thorough pricing review in relation to promised discounts and rewards.

Key findings of the Report

The Report identifies three primary causes for these systemic pricing failures, namely:

- unnecessary complexity in pricing promises and pricing practices;
- persistent underinvestment in systems, controls and data; and
- ongoing inaction in the insurance industry despite being on notice for years about the inherent risks of poor pricing practices.

The Report also underlines ASIC's expectations that insurers are mindful of their general obligations under Section 912A of the *Corporations Act 2001* (Cth) to provide financial services "efficiently, honestly and fairly" and the consumer protection legislation in particular, along with certain key requirements including in relation to:

- product governance;
- the design and delivery of pricing promises;
- the use of loyalty promises; and
- systems and controls to facilitate effective monitoring and supervision.

Next steps

In addition to the commencement of a series of investigations into suspected pricing failures, ASIC has launched a number of Federal Court actions against insurers for, amongst other matters, breach of their obligations under consumer protection laws.

While pricing practices in the general insurance market remains a regulatory focus, it should be expected that ASIC will continue to undertake market surveillance and enforcement through 2024 and beyond in the general insurance sectors.

As a further indicator as to the level of scrutiny in this area, life insurance companies are increasingly coming into the spotlight alongside their general insurance counterparts. In December 2023, APRA and ASIC released a joint letter to the life insurance market with a clear direction to ensure that pricing decisions deliver better consumer outcomes and reinforcing the message that appropriate enforcement action will follow if expectations are not met.

Recommendations

It is clear from the conclusions of the Report, developments in the prudential marketplace as a whole and the nature of ASIC enforcement action in 2023 that there will be a continued focus on pricing misconduct, including failures to deliver on pricing promises.

ASIC Deputy Chair Karen Chester has expressly called upon the Boards of general insurers "to ensure the prompt and full repayment of the \$815 million owed to their 5.6 million customers, implement the fixes needed and rebuild consumer trust".

It will therefore be imperative that insurers commence immediate reviews of pricing systems and controls and develop clear remediation plans in relation to any identified pricing malpractice.