FINANCIAL SYSTEM INQUIRY

INTERIM REPORT

Legal Aid NSW submission

August 2014

Introduction

The Legal Aid NSW perspective

Legal Aid NSW welcomes the opportunity to provide a submission in response to the Interim Report of the Financial System Inquiry. Our comments are based on our experience in assisting disadvantaged and vulnerable clients with consumer law problems.

Consumer law matters constitute the largest category of the civil law advice and minor assistance work we undertake. In 2013, Legal Aid NSW assisted 8558 people with consumer law advice and minor assistance and consumer law matters represented a significant proportion of the legal aid civil law grants. The strong demand for our specialist consumer law service, particularly in the area of credit and insurance products, is indicative of the difficulties and barriers that consumers, particularly disadvantaged and vulnerable consumers, can face when engaging with the financial system and financial products.

Our experience in the financial service sector arises from providing a range of targeted consumer law services including:

- Natural Disaster Insurance Response Unit
- Mortgage Hardship Service
- Aboriginal Civil Law Service – Money Counts Project

This submission seeks to build upon our previous submission to the Financial System Inquiry and address particular aspects, particularly as they relate to our insurance casework practice.

Recommendations

The recommendations Legal Aid NSW makes to the Inquiry are summarised below.

Insurance

Recommendation 1: That significant regulatory gaps which continue to exist in insurance are closed by the:

i. Development of a suitability test in insurance.

ii. Introduction of unfair terms legislation in contracts to insurance.

iii. Development of better protections for consumers purchasing add-on 'linked insurance' products marketed at point of sale.

Small amount credit

Recommendation 2: That Government support is given to micro-finance initiatives in the small amount credit and consumer lease sector.

Consumer protection

Recommendation 3: That a general prohibition on unfair trading be developed in Australia.

Superannuation – Aboriginal communities

Recommendation 4: That a specialist Government appointed panel is developed to consider a range of issues relating to the ability of Aboriginal people to access their superannuation.

Interim Report – Challenges & Response

The Interim Report presents a number of interesting and ongoing challenges for consideration within the Financial Services sector. We do not seek to respond to the full set of issues outlined in the Interim Report. However, some of the matters raised in this Interim Report have been considered in some detail in our earlier (April 2014) submission to FSI, and we rely upon what has been outlined in our earlier submission as a basis for response to this Interim Report.

This submission will respond primarily to a request for a more detailed analysis into the health of the Post Global Financial Crisis (GFC) regulatory environment.

Post GFC Regulatory Environment – a snapshot

In our view, the development of regulatory architecture, including the *National Consumer Credit Protection Act 2009* (NCCP), went some considerable way to address key structural market issues around the safety and suitability of credit products sold at that time. The success of that environment has resulted in a reduction in unsuitable secured and unsecured loan products being offered in the market, including low doc and no doc loans.

However, as the new regulatory obligation lifted standards in areas such as consumer credit to properly meet market risks and challenges, the gaps in other areas of the financial system have become all the more evident.

This includes:

1. Regulatory gaps in insurance – as a response to structural concerns with insurance markets and product offerings.
2. Ongoing risks in the dynamic but high cost Small Amount Credit and consumer lease sector – which has already developed a suite of market responses to Small Amount credit reforms and NCCP.
3. Development of unfair trading provisions - to respond to unfair and unconscionable trading practices targeting vulnerable consumers.
4. Consideration of the special needs of Aboriginal communities in accessing superannuation.

1. Regulatory gaps in insurance

Current state of the market

Whilst the insurance industry is enjoying what has been described as 'peak profitability',[1] it is questionable whether the current insurance market is safe for consumers.

Our casework experience and ongoing monitoring of systemic issues in insurance have highlighted consistent concerns with the product offering in insurance. This was outlined in our April 2014 submission and includes:

[1] '*Insurers Enter Extra-Time on Peak Profits'* 11 August 2014 insurancenews.com.au

- Fundamental problems with the product offering for funeral insurance including:
  - Marketed products "tailored" to Aboriginal communities that are not fit for purpose
  - TV Marketed products to elderly people that are not fit for purpose
- Concerns with 'linked insurance' sold as an add-on product with:
  - Credit cards – CCI insurance
  - Motor Vehicles – Gap insurance, Income protection insurance
  - Mortgages – Lenders Mortgage Insurance (misconceived by customers as a consumer protection product), Income Protection Insurance
  - Rental vehicles – sold as a warranty product
  - Travel – travel insurance
- Concerns with 'rubbery terms' in insurance contracts – life and general
- Underinsurance, particularly in home and content policies
- Claims handling and claims dispute issues with general insurance and life products

Structural issues with Insurance product offerings

The Queensland floods was a seminal moment in Australia's history where concerns about the product offering in insurance were exposed nationwide. Community outrage over the failure of the market to offer suitable flood insurance, as well as the manner in which customers were treated when disputing their claims, led to a series of issue-specific reform which included the offering of flood insurance and improved claims handling.

The issue-specific reform introduced following the Queensland floods was very important. However, we are concerned that this issue-specific reform masked a range of underlying structural issues. It was in this context that, following the Queensland floods, we captured some consumer data on underlying trends in relation to the product offering in insurance.[2]

When we revisited these issues in the context of the Blue Mountains Bushfires in 2013,[3] we found consistent themes running through this work. We conducted a survey of 108 residents and found:

[2] See Legal Aid submission to the House of Representatives Inquiry into Insurer Response to Disaster Events, 2011 including Customer Survey

[3] See Legal Aid NSW submission to Productivity Commission Inquiry into Natural Disaster Funding Arrangements at http://www.legalaid.nsw.gov.au/what-we-do/law-reform (June 2014).

- Widespread underinsurance in home and contents
    - Of the 68 survey participants who were insured and had suffered a total loss of their home at the Blue Mountains, a total of 82% experienced some level of underinsurance for their home building policy and/or home contents policy[4]
    - In home building policies - on average, underinsurance amounted to $186,188 per household (totaling 28% of rebuilding costs)
    - In home content policies - on average, underinsurance amounted to $101,818 (average of 48% of estimated replacement costs)
- Information asymmetry including a lack of information about changes to the *Building Code of Australia 2010*, including the introduction and financial impact of Bushfire Attack Levels.
- Challenges for consumers in the point of sale experience including a lack of engagement at the point of renewal (which account for the vast majority of sales)
    - 61% of all customers simply relied upon the sum nominated by the insurer on the renewal notices.

These survey results highlight an underlying structural problem associated with the basic product offering in insurance despite the reforms introduced following the Queensland floods. This data is consistent with ongoing monitoring of underinsurance by ASIC research from as far back as Canberra Bushfires in 2005[5] to Cyclone Larry in 2007.[6] The full results of the survey are in our submissions to the Productivity Commission on Natural Disaster Funding Arrangements.[7] We have provided a further analysis of this survey data at **Annexure A** of this submission.

Underinsurance – further analysis of Blue Mountains data

The concerning levels of underinsurance among residents affected by the Blue Mountains Bushfires cannot be solely attributed to the nature of a one-off disaster event.

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[4] Please refer to **Annexure B** for further details of the results.

[5] ASIC Report 'Getting Home Insurance Right – A Report into Underinsurance', Report 54, 2005

[6] ASIC Report 'Making Home Insurance Better' Report 89, 2007

[7] See footnote 4 above

Earlier work from ASIC following the Canberra Bushfires and Cyclone Larry, with differing disaster dynamics,[8] highlighted similar concerns with the product offering.

These disaster events provide a useful opportunity to obtain a true insight into the trends and habits that play out on a segmented basis throughout the economy on individual claims. It is our assessment that there are a number of unhealthy habits that have developed in insurance markets. These include:

(a) A lack of useful information being made available to consumers to enable them to make informed choices at the time of purchase, especially at the time of renewal.

  (i) For example, the *Building Code of Australia (2010)* was amended following the Victorian bushfires in 2009. The criteria of building in a bushfire prone area became much more stringent, and, subject to the Bushfire Attack Level ('BAL'), it may cost residents an additional amount of approximately $100,000 to $150,000 to meet the regulation.

    - Our survey indicates that 91.49% of residents did not take into account the additional rebuilding cost of meeting building regulations when they decided on their building sum insured at the time they purchased (including renewed) their policy against which the October 2013 bushfire was insured.
    - A total of 79% of the survey participants had not heard of BAL before the 2013 bushfire.
    - Of the 21% that had heard of BAL, most (83%) did not know that it would impact on their cost of rebuild and so did not take it into account when setting their sum insured.

  (ii) Insufficient information provided when policies are renewed:

    - Our survey found that most policies that applied at the time of the October 2013 bushfire were purchased by way of renewal.
    - In fact, 75% of participants held a policy with the same insurer for 4 or more years, with 41.84% of participants having held their policy for 11 or more years.

[8] Given our ongoing presence in responding to natural disasters, it has become apparent to Legal Aid NSW that each disaster appears to develop its own 'personality', with its own dynamics. Some of those observations have been documented in our submission to the Productivity Commission Inquiry into Natural Disaster Funding Arrangements

- By far the most common way the building sum insured was nominated for the year covering October 2013 was a pure reliance on the amount as nominated (and increased from the previous year) by the insurer (61.2% of all insurance policies, followed by 9.4% spoke to insurer on the telephone or face to face).

(b) A low level of understanding among consumers at the point of sale (initial and renewal) about whether the insurance product is suitable.

- As discussed above, our survey found that there was a general lack of awareness about important information that significantly impacts on the level of risk the individual required in order to adequately insure their home building and content
- This led to people buying insurance products that were not suitable for their needs

(c) Markets seem to consistently favour more conservative assessments of 'price to risk' which we believe, in the home building market, exposes consumers to an inherent risk of being underinsured.

Incentivising market reforms

We consider that a suite of incentives and responses could be developed which could work in conjunction with more significant structural reforms and improve the product offering in insurance. Some initiatives that could assist to develop suitable and safe insurance products could include:

1. Encourage 'nudge economics' modelling to purchases and renewals, which could include automatic defaulting to a CPI increase – though we note that, from our data, such an approach would have been an insufficient response to account for the cost of rebuild for the Blue Mountains residents.
2. Encourage better assessment tools and information on renewal, as well as better practice by insurers including committing to a re-assessment of sum insured on renewal – noting that renewals are where the majority of insurance is transacted in general insurance.

3. Better quality aggregator search engines – noting that aggregators should seek to disclose on product features beyond price, to improve competition in the market on the quality of the product offering (eg '5 star' rating system which matched standard core provisions).
4. More informative, easy to understand self-publishing of data by industry through FOS and Industry Code Compliance Committees to assist consumers in making informed choice on issues like customer service and claims handling.
5. Development of a Code of Practice in Life Insurance – it is one of the few sectors in the financial service sector that doesn't have a Code of Practice
6. Industry commitment to seek approval by ASIC under RG 183 of Industry Codes of Practice including General Insurance Code Practice
7. Working with industry on the development on Good Industry Practice – for instance, Legal Aid NSW worked with key General Insurers after the Blue Mountains bushfires to develop a Total Loss Protocol for that event.

Approach to Insurance regulation to date

We consider that there are structural gaps in insurance regulation that have ultimately led to distortion of products and markets.

The failure to holistically consider the appropriateness, suitability and fairness of insurance *as a financial product,* since the groundbreaking work of Australian Law Reform Commission Report 20 on Insurance in 1980, has meant that reform in this area has been focused on technical and legalistic issues, rather than a more fulsome product and market perspective. Reforms to *Insurance Contracts Act* since that time have been piecemeal and segmented. The Act has been taken apart and analysed section by section, but the products that sit behind the regulation have not been properly assessed.

Resistance to supply-side market-based solutions have been consistent from within industry,[9] and have most recently culminated in successful attempts to stave off nationwide reform for unfair terms protection, laws now in place for every sector in the country, except insurance.

[9] There are at least three separate Inquiries which have specifically recommended unfair terms laws for standard form insurance contracts. This includes the Senate and Economics Committee on Trade Practices Amendment Bill (ACL Bill) 2009, The House of Representative Committee Inquiry into the Operation of the Insurance Industry during Disaster Events 2011 and National Disaster Insurance Review 2011

Extent of regulatory gaps in insurance

To assist in understanding the breadth and extent of the regulatory gap in insurance, we have attached a table outlining the regulation which is currently in place for credit and insurance products (**Annexure B**).

We consider that the Australian insurance market requires:

1. A suitability test – available in Credit, recommended by the World Bank[10] and available for insurance products in the UK
2. Unfair terms legislation – available for all standard form contracts, except insurance
3. Linked insurance regulation – available in Credit

Need for a Suitability test in Insurance

The Government should legislate to create an appropriate regulatory mix that will adequately stimulate markets to offer competitively suitable and safe products. In our view, a suitability test in insurance, unfair terms legislation and 'linked insurance' protections are important and would improve the product offering immeasurably. Insurance products are being sold without the need to determine the appropriateness, suitability or fairness of the terms of the product.

We consider that a suitability or fit for purpose test would have prevented the following situations from arising:

- An elderly client (who had a decade long loyalty to her insurer) being permitted to purchase a product which was, in the insurer's own words, "gross underinsurance". She lost her home in the Blue Mountains bushfires. The cost of rebuild for her home was $580,000 on an agreed sum insured policy of $270,000.
- An Aboriginal client on Centrelink benefits outlaying approximately $10,000 over 17 years for a funeral insurance product that the client had mistakenly thought could be used as an endowment fund with a savings component.
- A disabled pensioner from a non-English speaking background purchasing 'linked insurance' and spending over $5000 on insurance that, due to the fine print of the contract, could never cover him due to a medical condition.

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[10] The World Bank, *Good Practices for Financial Consumer Protection*, June 2012, http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Good_Practices_for_Financial_CP.pdf, accessed on 18/8/2014.

- A Samoan client purchasing 'linked credit' when she purchased a car, when she would have been better advised to spend over $9000 on income protection and shortfall insurance.

What type of suitability test should be applied to insurance?

The following factors should be considered when drafting a suitability test, including the need:

- To prohibit the sale of a product that represents gross underinsurance – as an 'in-built' product safety feature of all insurance sold
- To (at least) warn against the sale of insurance that amounts to underinsurance – particularly in home and contents policies
- Prohibit the sale of 'tailored' insurance products that amount to mis-selling (eg add-on linked insurance products)
- To develop an obligation on the sale of 'tailored' or bespoke products (eg Aboriginal funeral insurance, or many 'linked insurance' products like gap insurance on motor vehicle) to ensure they sufficiently meet the financial requirements of the insured
- To develop an obligation on the sale of standard general insurance products that ensures such products meet minimum community standards of cover and are 'not unsuitable'[11]

We note that concerns have been raised as to the effectiveness of the 'fit for purpose' test in the ASIC Act to meet community standards of fairness and suitability that are outlined in this submission. It may be that the assessment of purpose and verification requirements outlined in the 'not unsuitable' test in the *National Consumer Credit Protection Act 2009* are the type of tools necessary in insurance.[12]

[11] We consider that as a useful opportunity to revisit the issues pertaining to s 35 Insurance Contracts Act, which remain significant ideas in principle – but remain largely ineffective in practice (due to decisions like *Hams* case, NSW Supreme Court, which permit derogation from standard cover via the provision of a PDS).
[12] We note that in the area of credit, the notion that this may amount to 'personal advice' for FOFA purposes has been appropriately navigated. We expect with appropriate consideration, legislators and regulators could adequately navigate these waters.

Effect of endemic regulatory gap – a moral hazard issue?

There may be an emerging moral hazard for governments, over the longer term, in not moving to ameliorate market dysfunction. Structural issues, such as underinsurance, which have been identified within the market, but not addressed with proper regulatory response, can give the impression that governments implicitly acknowledge the market dysfunction as simply the way that particular market operates.

In our view, to some degree, business models in insurance are predicated around this notion that underinsurance is just part of the way insurance markets operate. Over time, if markets are trending toward higher levels of underinsurance, the risk is that in the event of a significant disaster, product failure can be a real issue. We would suggest the Queensland flood experience evidenced these factors at play.

In the UK, issues relating to the wide scale sale of inappropriate and unsuitable Payment Protection insurance is one example of the staggering effect that product failure can have across a whole economy.[13] In seeking to future-proof insurance markets from wholesale market failure, we believe some type of suitability test is needed.

2. Small amount credit & consumer leases: Micro- finance initiatives

As outlined in our April 2014 submission, we consider that microfinance initiatives are critical if low income and vulnerable consumers are to have access to safe small amount credit.

In circumstances where low income consumers are excluded from mainstream credit products, our experience is that consumers are forced into unsafe, expensive short term lending and consumer leases if no micro finance alternatives are available to assist with unexpected essential expenses such as car repairs, white goods and electrical items.

In the area of small amount credit, lenders are entitled to charge above the 48% per annum. In the area of consumer leases there is simply no cap on the cost of leases. In short, those members of society who can least afford high cost credit are forced into purchasing it.

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[13] See for instance, FOS UK website which states that 'millions of people have already complained about PPI mis-selling. And billions of pounds have already been paid out in compensation' financial-ombudsman.org.uk

Micro finance provides a safe, empowering alternative for these vulnerable consumers who need to pay for unexpected essential expenses.

Case study - John

John is an Aboriginal elder who lives on the Aged Pension in a remote Aboriginal community. During a period when John had the temporary care of his grandchildren, he found it difficult to make ends meet. His daughter assisted him to access online payday lenders to pay for car registration and other living expenses. When Legal Aid NSW started assisting John he had paid almost $6,500 for $3,500 in credit over a number of loans in an 18 month period with the same credit provider. John was struggling financially and obtained repeat loans to make ends meet. He was paying $130 per fortnight out of his pension and still had $2,500 owing on the most recent contract. After reviewing the contract documents it appeared that the lender had breached a number of consumer protections. We successfully negotiated to waive the amount owing and obtained a refund of $1,500. John will use the money to repair and register his car. He has been linked in with the local No Interest Loan provider so that if in future if he has difficulty meeting registration payments he can apply for a NILS loan. He has told Legal Aid “I will never go those lenders again, they were just so expensive.” Had John been able to access a NILS loan at the outset he would not have ended up in the debt spiral we found him in. He would also have saved $3,000 in fees and interest that could have been spent on goods and services contributing the Australian economy.

3. Unfair trading provisions – assisting vulnerable consumers

A key aspect of Legal Aid NSW’s casework experience in recent times has been targeted project work, focusing on the particular issues that vulnerable communities face. This has included the highly successful Money Counts Project, where Legal Aid NSW worked closely with five Aboriginal communities in NSW on money-related issues. A theme identified through that project was particular businesses targeting vulnerable consumers with unfair trading practices. Some of these case studies are documented in our April 2014 submission. This includes the aggressive and unfair sale of products relating to:

- Small amount credit
- Consumer leases
- Funeral products
- Energy

In our view current laws do not adequately address the 'whole of concept' approach taken by particular businesses to vulnerable communities. This includes:

- Aggressive sale and marketing practices
- Poor quality products and service
- Exploitative pricing

We submit that without such provisions, vulnerable communities are more likely to continue to be subject to what are essentially bad faith business practices. Current provisions such as unconscionable conduct and misleading and deceptive conduct do not permit the regulator from taking a holistic approach to regulation.

The UK has already successfully enacted unfair trading provisions. Similar provisions apply in the US. The prohibition should incorporate the concept that conduct or practices are unfair if they unreasonably or unfairly distort consumer decisions, based on the models operating in the United States, European Union and the United Kingdom. The prohibition should be supported by examples of specific unfair practices.

One key benefit of enacting whole-of-sector provisions in the UK was that it enabled legislators to repeal piecemeal issue-specific legislation.

4. Superannuation issues in Aboriginal communities

Our Money Counts project has identified a number of ongoing issues for Aboriginal people accessing their superannuation. This includes:

- The inability of Aboriginal people to locate their superannuation and superannuation of deceased family members (including the details of former employer superannuation funds)
- Difficulty in accessing Total Permanent Disability or death benefit funds
- Difficulty in meeting the requirements in the superannuation legislation on 'financial dependency' due to a broader definition of 'family' within Aboriginal communities Failure of employers to properly contribute to superannuation
- The proof of identity requirements for establishing a fund, accessing information and making claims – which are culturally inappropriate and practically extremely difficult to satisfy. Many Aboriginal people have difficulty reproducing identity information due to multiple names, incorrect recording, low birth registrations as well as difficulties accessing the required documents.

- The preservation age is problematic for Aboriginal people who have a much lower life expectancy than non-Aboriginal people
- The disclosure requirements are irrelevant for many Aboriginal people – for example, Product Disclosure Statements, annual statements and telephone services not being accessed
- Low financial literacy amongst Aboriginal people resulting in limited understanding of the nature of superannuation and life products that benefit them

These issues present significant challenges. To date, ASIC has been instrumental in bringing together stakeholders, including Legal Aid NSW, to attempt to grapple with some of these issues. However, given the complexity of these issues we recommend that a specialist Government-appointed panel is established to consider and respond to these issues.

Conclusion

Consumer protection and regulation that focuses on improving market asymmetry and market failure, such as unfair trading protection and product safety protection in insurance, would encourage and promote greater competition and improve the product offering for all Australians.

Thank you for the opportunity to make these submissions. If you would like further information, please contact David Coorey, Solicitor, Civil Law at David.Coorey@legalaid.nsw.gov.au or 9219 5824 or Dara Read, Solicitor, Legal Policy at Dara.Read@legalaid.nsw.gov.au or 9219 5714.

Annexure A - Further Analysis of Blue Mountains Survey Data 2013

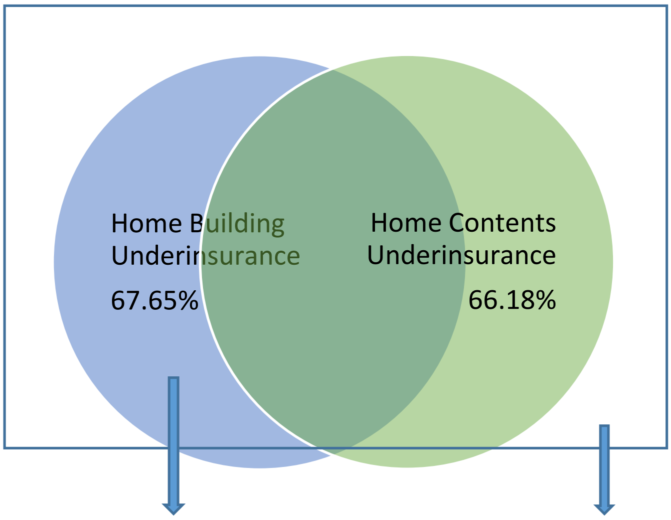
The extent of the problem: evidence and data about our level of underinsurance

If we look at the situation from the perspective of insured survey participants who had suffered a total loss of their home in the Blue Mountains:[14]

(a) 82.35% of this group (i.e. 56 out of 68 people) experienced the problem of underinsurance for their home building policy, for their home content policy, or for both

(b) 67.65% (46 people) experienced underinsurance for their home building policy

(c) 66.18% (45 people) experienced underinsurance for their home content policy



ALL SHADED AREA

Participants who had experienced underinsurance issues (**82.35%)**

ALL WHITE AREA

Participants who had experienced no underinsurance issues (**17.65%**)

Further data analysis provides findings of the extent of underinsurance experienced by our survey participants. The two tables below provide the results of these analysis, and the following is a summary of the extent of underinsurance:

(a) For home building underinsurance, 16 people knew the amount by which they were underinsured at the time the survey was conducted:
- Range of underinsurance = $20,000 – $500,000 (equivalent to 9.1% - 62.5% of their estimated rebuilding cost)
- Average = $186,188 (average of 27.6% of estimated rebuilding cost)

(b) For home content underinsurance, 11 people knew the amount by which they were underinsured at the time the survey was conducted:
- Range of underinsurance= $30,000 – $200,000 (equivalent to 24.1% - 92.3% of their estimated replacement cost)
- Average = $101,818 (average of 47.8% of estimated replacement cost)

[14] Note: 68 survey participants fall within this category

Table 1: Summary of home building underinsurance findings

Population	Criteria	Rate of underinsurance	Amount of underinsurance[15]	Amount of underinsurance by % of rebuilding cost (Underinsured amount / rebuilding cost)
All participants (95 answered)	Insurer-identified home building underinsurance	27.37% (26 pax)	\$20,000[16] – 500,000 (7 pax) *(insurers told them the amount)* Mean = \$243,857 Median = \$237,000	
Total loss with policy participants (68 participants)	Self-identified home building underinsurance	67.65% (46 pax)	\$46,000 – 261,000 (9 pax) *(worked out the amount of underinsurance themselves)* Mean = \$141,333 Median = \$100,000	

[15] Note not all participants knew of the extent (in dollar terms) of their underinsurance as of the time of the survey.
[16] Error in PC sub where it says \$100,000 - \$500,000. The lowest insurer identified underinsured amount was in fact \$20,000 (discovered error on 11/8/2014). Statistical analysis on this summary page takes into account the error.

TOTAL extent of home building underinsurance *(all those who knew the amount of underinsurance)*	\$20,000[17] – 500,000 (16 pax) Mean = \$186,188 Median = \$147,500	9.1% - 62.5% (16 pax) Mean = 27.6% Median = 26.3%

Table 2: Summary of home content underinsurance findings

Population	**Criteria**	**Rate of underinsurance**	**Extent of underinsurance[18]**	**Amount of underinsurance by % of replacement cost (underinsured amount / replacement cost)**
All participants (95 answered)	Insurer-identified home content underinsurance	31.58% (30 out of 95)	\$40,000 – 200,000 (7 pax) *(insurers told them the amount)* Mean = \$112,857 Median = \$100,000	

[17] Error in PC sub where it says \$100,000 - \$500,000. The lowest insurer identified underinsured amount was in fact \$20,000 (discovered error on 11/8/2014). Statistical analysis on this summary page takes into account the error.

[18] Note not all participants knew of the extent (in dollar terms) of their underinsurance as of the time of the survey.

Total loss with policy participants (68 participants)	Self-identified home content underinsurance	66.18% (45 out of 68)	$30,000 – 120,000 (4 pax) *(worked out the amount of underinsurance themselves)* Mean = $82,500 Median = $90,000	
TOTAL extent of home content underinsurance			$30,000 – 200,000 (11 pax) *(those who knew the amount of underinsurance)* Mean = $101,818 Median = $100,000	24.1% - 92.3% (11 pax) *(those who knew the amount of underinsurance)* Mean = 47.8% Median = 50.0%

Annexure B

Financial Service regulation – Credit and Insurance

Suitability of Product offering

Credit	NCCP 'Not unsuitable' test Responsible lending conduct Chapter 3 NCCP Act	Financial services – 'Fit for purpose' test Section 12ED *ASIC Act 2001* (ASIC Act)
Insurance	No No suitability test in *Insurance Contracts Act 1984* (IC Act)	No Exemption for insurance under s 12ED(3) ASIC Act

Fairness of terms – Financial products

Credit	Financial services - Unfair terms test S 12BF ASIC Act
Insurance	No Exemption under s 15 IC Act

Unconscionable conduct

Credit	ASIC Act S 12CB ASIC Act
Insurance	No S 15 IC Act prohibition

Point of sale - Financial service products

Credit	Linked credit provisions in NCCP Part 7 and Part 11 Division 9 National Credit Code
Insurance	No ‘linked insurance’ provisions IC Act