Compliance Advocacy Solutions

March UAC Compliance Newsletter

SECTION 1 – REGULATORY UPDATES

1. AFS Licensee ordered to pay $2.5m over cybersecurity failures

1. **Brief Summary:** An AFS licensee, FIIG Securities, was fined $2.5 million after the Federal Court found it had serious and prolonged cybersecurity failures. These gaps allowed a cyber-attack to go undetected, resulting in sensitive client data being stolen and exposed online. ASIC argued the company failed to meet its obligations around adequate systems, controls, and risk management. The case highlights that cybersecurity is now a core compliance responsibility for financial services firms.

2. **Impact for UAC Members:**

Members should ensure that they (and any authorised representatives)

- allocate the necessary financial resources to have suitably qualified and experienced people available, or implement adequate technological resources to manage cyber security;
- implement adequate cyber security measures, including multi-factor authentication for remote access users, strong passwords and access controls for privileged accounts, appropriate configuration of firewalls and security software, regular penetration testing and vulnerability scanning;
- have a structured plan to ensure key software systems are being updated to address security vulnerabilities;
- have qualified IT personnel monitoring threat alerts to identify and respond to cyber-attacks;
- provide mandatory cyber security awareness training to staff, and
- have an appropriate cyber incident response plan that is tested at least annually with severe but plausible scenarios.

2. ASIC cancels AFS Licence for serious and sustained breaches of duties - lessons for general insurance

1. **Brief Summary:** ASIC cancelled the AFS licence of Pulse Markets after identifying **serious and sustained breaches of its legal obligations**. The company failed to properly supervise its authorised representatives, maintain adequate compliance systems, and meet key financial and reporting requirements. These failures increased the risk of misconduct and potential client harm, showing a breakdown in governance and oversight. The case reinforces that AFS licensees must have strong supervision, resources, and compliance frameworks in place.

2. **Impact for UAC Members:**

This case demonstrates that while firms operating in general insurance providing services to Wholesale Clients (typically Underwriting Agencies offering casualty or specialist general insurance products), do not have some of the more onerous disclosure or other obligations of firms providing services to Retail Clients, they still have obligations that must be documented and managed.

3. ASIC - key issues outlook 2026 - insurance

1. **Brief Summary:** ASIC's 2026 outlook for the insurance sector highlights growing risks driven by **economic pressure, rapid technology adoption, and evolving regulation**. Key concerns include the impact of AI and automated decision-making on consumers, rising cyber threats, and weaknesses in operational resilience. It also points to ongoing issues with **claims handling, particularly during major weather events**, and increasing scrutiny on emerging areas like digital assets and unregulated services.

2. **Impact for UAC Members:**

   Overall, the message is that Agencies must continue to strengthen governance, risk management, compliance, and resilience frameworks as regulatory expectations continue to rise.

4. AFCA publishes updated EDR Response Guide for Claim Delay complaints

1. **Brief Summary:** AFCA has released an updated guide to help insurers respond more effectively to **claim delay complaints** at the external dispute resolution stage. The update sets clearer expectations around the **quality of information, documentation, and timelines** insurers must provide when explaining delays. It places a strong focus on **transparency, communication, and evidencing how a claim was handled**, with the aim of resolving disputes earlier and reducing unnecessary escalation.

2. **Impact for UAC Members:**

   Members with an AFS Licence should consider the EDR Response Guide and update their IDR procedures accordingly. Where the Agency outsources complaints management, they need to ensure that the provider updates their practices.

5. ICA - Insurers back laws to crack down on dodgy claims complaints

1. **Brief Summary:** The Insurance Council of Australia has backed new laws aimed at cracking down on **"dodgy" claims and accident management**

companies that engage in unfair or misleading practices. The proposed legislation would strengthen consumer protections by giving regulators greater power to target operators who mislead customers or exploit claims processes. These companies often present themselves as acting on behalf of insurers, but can expose consumers to hidden costs, legal risks, and poor outcomes.

2. **Impact for UAC Members:**

   Information only

6. ICA welcomes Emergency Services Levy reform

1. **Brief Summary:** The Insurance Council of Australia has welcomed proposed reforms to the Emergency Services Levy, which is currently added to insurance premiums. The levy is seen as unfair, particularly for those in high-risk areas who already face higher costs. The reform aims to create a more equitable funding model for emergency services and improve overall insurance affordability.

2. **Impact for UAC Members:**

   Information only

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SECTION 2 – MONTHLY ARTICLE

Retail or Wholesale clients? A step-by-step guide

Retail or Wholesale? It is the most common compliance question asked.

Why is this important?

Additional requirements under the Corporations Act (**Act**) apply when general insurance products are provided to Retail clients, namely, you must:

- if you provide financial product advice to a retail client, meet the training requirements of RG 146 (s912A(1)(f) Act);
- if you provide general financial product advice, a general advice warning must be provided at the same time and in the same form as the general advice (s949A Act);
- have an IDR system that complies with RG 271 and be a member of AFCA (s912A(1)(g) & (2) Act);
- have PI insurance that meets the requirements of RG 126 (s912B Act and reg 7.6.02AAA);
- not engage in hawking (s992A Act and ASIC RG 38);
- provide a FSG before providing financial services (s942B Act and ASIC RG 168);
- provide a PDS at the time of offer or sale (s1012B Act and RG 168)
- meet the requirements of the design and distribution obligations (Part 7.8A Act and refer to RG 274); and
- if claims handling and settling services are provided to retail clients:
    - provide a cash settlement fact sheet before making any payment where the PDS provides for repair or replacement and a cash payment is offered to settle a claim in part or in full ss948B-948F and 952A-953C Act; unless
        - there is an immediate financial need due to the claimed event and the payment is less than $5,000. *ASIC Corporations (Cash Settlement Fact Sheet) Instrument 2022/59*; or
        - there is a risk of family violence (*ASIC Corporations (Cash Settlement Fact Sheet and Confirming Transactions) Instrument 2022/809*).
    - provide a confirmation of transaction (or advise the customer of a facility to contact) s1017F Act and regulation 7.9.62, unless
        - there is a risk of family violence (*ASIC Corporations (Cash Settlement Fact Sheet and Confirming Transactions) Instrument 2022/809*).

Penalties and other enforcement action may apply if the obligations to a Retail Client are not met.

It is useful to adopt a step-by-step approach to determine whether the general insurance product(s) will be, or will likely be, provided to a retail client.

Step 1

Is the financial product being provided to a person who is:

- an individual; or
- a small business, with less than 100 employees, if manufacturing, otherwise less than 20, and the insurance product is or would be for use in connection with a small business?

If the answer is:
'no.' - the client is a Wholesale client and there is no need to progress any further; or if 'yes' - proceed to step 2

Step 2

Is the general insurance product:

- a **motor vehicle insurance product** that is not powered by horse or human, travels on a road, carries passengers (includes a motor cycle) but is not an omnibus or tram or a motor vehicle with a carrying capacity exceeding two tonnes (regulation 7.1.11).
- a **home building insurance product** that is a place of residence but does not include a hotel, motel, boarding house, a building under construction being constructed by the insured in the course of a construction business, a temporary or demountable building or a caravan (regulation 7.1.12); or a **home contents insurance product** as defined by the list in regulation 7.1.13(3) or is not part of the exclusions for a home building insurance product (regulation 7.1.13); or
- a **sickness and accident insurance product** (regulation 7.1.14); or
- a **consumer credit insurance product** (regulation 7.1.15); or
- a **travel insurance product** (regulation 7.1.16); or
- a **personal and domestic property insurance product** and includes moveable's; valuables; a caravan or mobile home; an on-site mobile home; a trailer; a marine pleasure craft; a horse; a domestic pet; a mobile phone that is wholly or predominantly used for personal, domestic, or household purposes by the insured or a relative (as defined) or any person with whom the insured resides. (regulation 7.1.17)
- **medical indemnity insurance for doctors** (regulation 7.1.17A)

Note - statutory insurances such as CTP and workers compensation are excluded from each of the definitions for the general insurance products.

If the answer is:
'no' - the client is a Wholesale client and there is no need to progress any further; or if 'yes' - go to step 3

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Step 3

The last step is to consider whether the ASIC instrument for incidental retail cover applies.

The *ASIC Corporations (Incidental Retail Cover) Instrument 2022/716*, provides that the retail client obligations do not apply to business insurance products that incidentally include retail cover.

'Incidental retail cover' refers to retail insurance cover provided to a wholesale client that forms a minor, incidental and inseparable part of an otherwise wholesale insurance product. For example, retail cover for the loss or damage of personal effects within wholesale business property insurance products that benefit a business's employees.

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