

Published 24 October 2022

INSURANCE BROKERS CODE OF PRACTICE



CONTENTS

9.0	When things go wrong	16
9.1	Making a complaint	16
9.2	Handling complaints	17
9.3	Responding to complaints	17
9.4	Timeframes for handling your complaint	17

10.0	Supporting clients experiencing vulnerability	18
10.1	Identifying vulnerable clients	18
10.2	Supporting vulnerable clients	18

Foreword Message from the NIBA President

This Code is an initiative of the National Insurance Brokers Association of Australia ABN 006 093 849 (**NIBA**). For 40 years, NIBA has been the respected voice of the insurance broking profession in Australia.

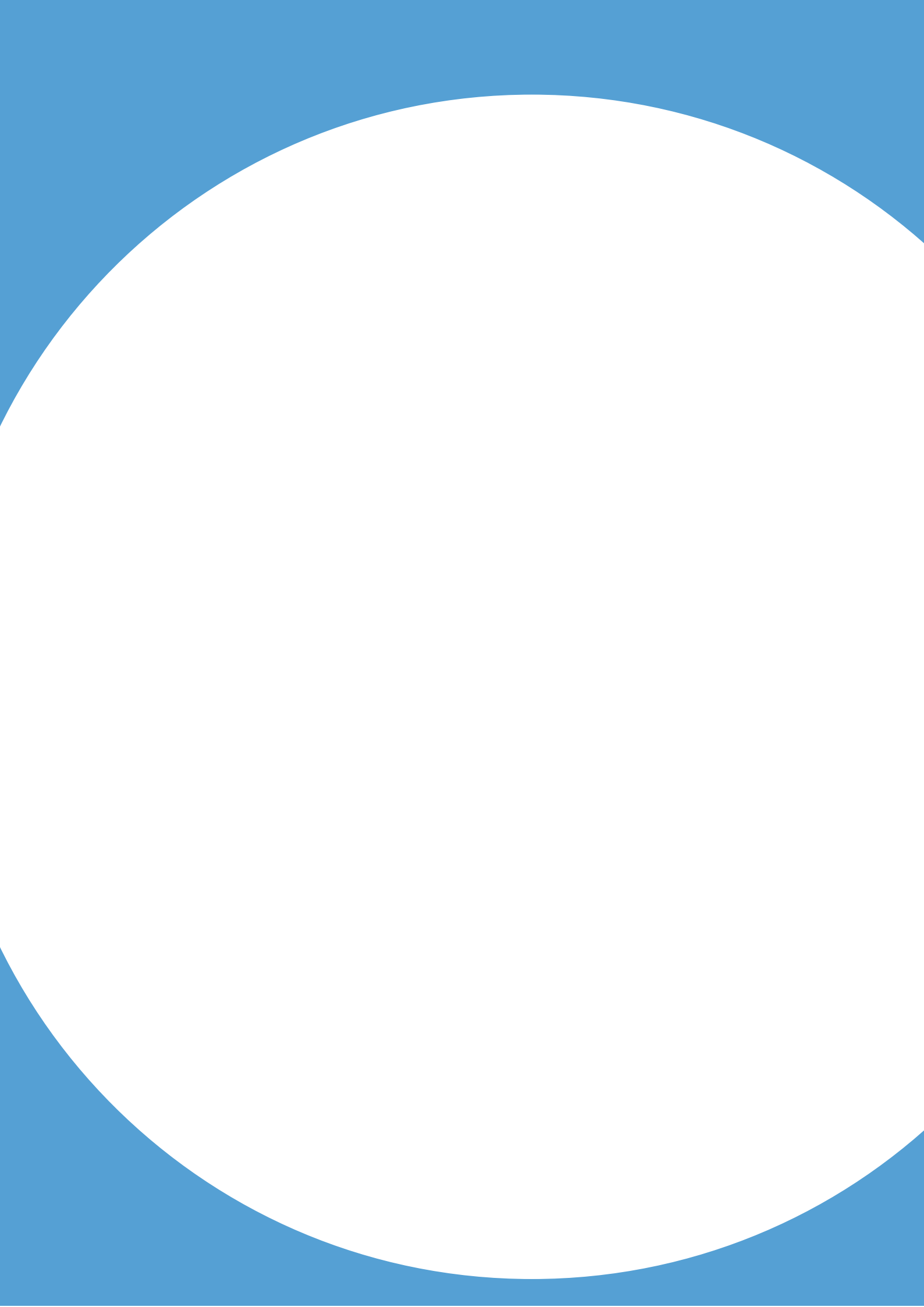
NIBA has been a driving force for change in the Australian insurance broking industry, setting higher standards for professionalism and education for insurance brokers, promoting our industry-standard Qualified Practising Insurance Broker (QPIB) and requiring Continuing Professional Development (CPD) from all members.

NIBA represents around 450 member firms and over 4,500 individual Qualified Practising Insurance Brokers (QPIB) operating throughout Australia.

NIBA is committed to ongoing endeavours to promote and maintain high levels of professionalism and integrity in insurance broking in Australia. The purpose of this Code of Practice, therefore, continues to be:

**BUILDING PROFESSIONAL
COMPETENCE AND CONSUMER
CONFIDENCE**

Dianne Phelan
President, 2021–2023
National Insurance Brokers Association of Australia



The Code is independently monitored and enforced by a Code Compliance Committee.

The Code provides additional safeguards for clients that are not set out in the law. In some areas, the Code sets higher standards than those required by law. No part of the Code limits, or is intended to limit, a client's rights under the law.

The Code represents the commitment of Code Subscribers to clients, prospective clients and other parties with whom Code Subscribers interact in performing services.

The Code serves to guide Code Subscribers and consumers on what to expect throughout the client journey. It sets out the principles that shape the way Code Subscribers behave, deal with people and make decisions.

This version of the Code was developed following close consultation with key stakeholders, including consumer groups, regulatory bodies and the broader intermediated insurance industry.

The Code was launched on 1 March 2022, with the Code taking effect on 1 November 2022, except Section 6.1, which comes into effect on 1 November 2023. Given the significant updates to the Code, this period allows Code Subscribers time to understand and implement the new obligations within their organisations.

The Code is accompanied by Code Subscriber and consumer information intended to provide guidance on certain topics referred to in the Code, including outlining Code Subscriber best practice, as well as helping consumers understand their rights under the Code.

Consistent with the commitment of NIBA and Code Subscribers to continuous improvement, this Code will be reviewed at least every three (3) years and whenever an urgent amendment is deemed necessary by the NIBA Board.

2.0

HOW THE CODE WORKS



- (a) The Code applies to all services and activities a Code subscriber engages in when advising on or arranging general insurance and other related products on behalf of a client including services and products provided on a stand-alone basis (**Covered Services**).

This includes but is not limited to;

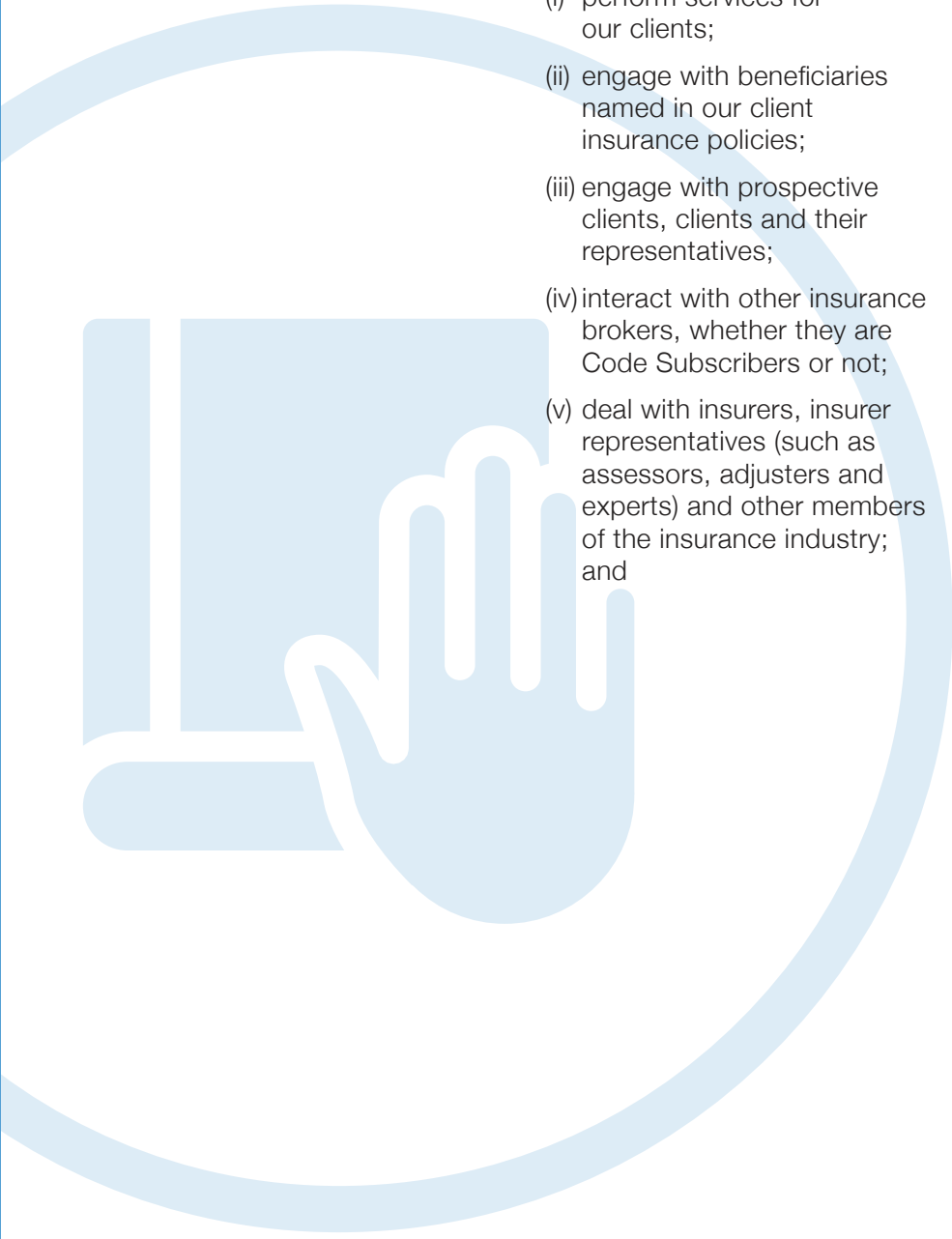
- (i) alternative risk transfer solutions such as discretionary mutual funds;
- (ii) premium funding arrangements;
- (iii) claims handling services; and
- (iv) risk management.

- (b) The Code also applies to a Code Subscriber's interactions and dealings with their prospective clients and other parties with whom the Code Subscriber interacts in performing services for their clients.

- (c) The Code does not apply where a Code Subscriber is arranging or advising on:

- (i) insurance, reinsurance or alternative risk transfer solutions for an insurer or reinsurer;
- (ii) health insurance products issued by a private health insurer;
- (iii) life insurance products issued by a life insurer; and
- (iv) Excluded Services defined in section 6.4 provided to an insurer or reinsurer.



- 
- (a) We commit to act in accordance with the Code Principles when we:
- (i) perform services for our clients;
 - (ii) engage with beneficiaries named in our client insurance policies;
 - (iii) engage with prospective clients, clients and their representatives;
 - (iv) interact with other insurance brokers, whether they are Code Subscribers or not;
 - (v) deal with insurers, insurer representatives (such as assessors, adjusters and experts) and other members of the insurance industry; and

- (b) By adopting the Code, we acknowledge:
- (i) we have entered into an agreement with NIBA to comply with the Code;
 - (ii) if a Code Subscriber breaches its obligations under the Code, the Insurance Broker Code Compliance Committee may impose sanctions on it as set out in Section 11 of the Code;
 - (iii) we may be sanctioned by NIBA, subject to applicable NIBA member rules and regulations and/or Code Subscriber membership rules that apply;
 - (iv) a Code Subscriber is in breach of the Code if its employees, representatives or agents breach the Code when they are acting on the Code Subscriber's behalf;
 - (v) that the Code is designed to work with the laws that cover Code Subscriber conduct and go beyond standards required at law. The Code does not and is not intended to limit a client's rights at law;
 - (vi) that there may be other codes that apply to services provided by a Code Subscriber (for example, the General Insurance Code of Practice). When other codes apply to services being performed by us, we will comply with the higher of the Code standards that apply in performing those specific services.



4.1 Understanding our role

- (a) Before we agree to act for a prospective client, we will clearly state:
 - (i) what services we are authorised to provide;
 - (ii) who we are acting for when responding to questions from a prospective client;
 - (iii) the extent of the services we are able to provide, including any limits on the insurance products we can arrange. For example, there may be limits due to our competency, insurers we can access and timeframes available;
 - (iv) that we are bound by the Code and provide a copy upon request; and
 - (v) if we cannot advise a prospective client or act on their behalf due to a conflict of interest which cannot be managed. We will immediately notify the client upon identifying such a conflict.

4.2 Terms of engagement

- (a) If a prospective client agrees to engage us, we will provide information in writing setting out the terms of engaging us before we begin to act on their behalf. If a prospective client wishes us to take immediate steps on their behalf, we will provide this information setting out the terms of engagement, as soon as it is practical to do so.
- (b) The terms of engagement will provide information including:
 - (i) the scope of the agreed services required;
 - (ii) whether we will provide advice based on personal circumstances or not;
 - (iii) how we intend to seek quotations from insurance companies; and
 - (iv) the remuneration we will earn by arranging insurance

6.1 Disclosing remuneration

- (a) If the client is an individual or a small business and we are acting on their behalf, we will provide them with information about any remuneration (including commissions) or other benefits we will or expect to receive as a result of providing Covered Services. See Section 2 for more information on Covered Services.
- A small business in this clause means a business employing less than:
- (i) if the business is or includes the manufacture of goods <100 people, or
 - (ii) otherwise <20 people.
- (b) This information must include:
- (i) the dollar amount of commission we will or expect to receive in providing Covered Services;
 - (ii) any non-monetary remunerations we receive from insurers as a result of providing Covered Services;
 - (iii) any fees payable by the client in relation to our services to them; and
 - (iv) whether we intend to keep any portion of the commission or service fee if the policy is cancelled before it is due to expire.
- (c) This information will be provided at the same time and by the same means as our advice to our client. Where no advice has been provided the information must be provided to the client prior to payment.
- (d) If the amount of commission is not known at the time of the provision of advice an estimate needs to be provided and the actual amount must be provided as soon as reasonably practicable.
- (e) The obligations in section 6.1 will apply whether Covered Services are provided to a client under a personal advice or a general advice model as defined under the **Corporations Act 2001 (Cth)**.

8.0

EMPLOYEES, AGENTS AND REPRESENTATIVES

8.2 Promoting the Code

- (a) We will do the following to promote compliance with the Code:
 - (i) only allow our employees, agents and representatives to provide services that match their expertise, skills, and experience;
 - (ii) require all our employees, agents and representatives to receive appropriate education and training:
 - (A) to provide their services competently; and
 - (B) on the Code at least once every year.
 - (iii) have in place policies and procedures for our organisation and embed a culture that reflects the Code in the way we provide services and deal with others;
 - (iv) include obligations in our agreements with agents and representatives:
 - (A) to comply with the Code Principles and other provisions of the Code relevant to the services they are providing;
 - (B) to report on breaches or potential breaches of the Code within five (5) days of discovery; and
 - (C) to report to us immediately upon receiving a complaint about a breach of the Code.
 - (v) At least annually review the extent to which employees, agents and representatives are complying with the Code and take reasonable steps to improve compliance within our organisation, where appropriate.

9.3 Responding to complaints

- (a) We will promptly acknowledge receipt of a complaint and provide information about our internal dispute resolution process and timeframes.
- (b) When we have completed our investigation, unless clause 9.4(a) applies, we will provide the complainant with a written response, which will include:
 - (i) the outcome of our investigation of the complaint;
 - (ii) the reasons for our decisions;
 - (iii) any right to take the complaint to AFCA; and
 - (iv) information on how the complaint can be taken to AFCA if the complainant is not satisfied with our response.
- (c) If it is identified that we have made a mistake in the handling of a complaint, we will take action to correct the mistake.

9.4 Timeframes for handling your complaint

- (a) If a complaint is resolved to the satisfaction of the complainant within five (5) business days, we will provide written confirmation to the complainant to confirm this.
- (b) We will resolve a complaint within thirty (30) calendar days from the date it is received.
- (c) If we cannot make a decision within this timeframe, we will:
 - (i) contact the complainant in writing and provide reasons for the delay;
 - (ii) inform the complainant of their right to take the complaint to AFCA (if applicable) and provide the complainant with the contact details for AFCA; and
 - (iii) inform the complainant of their right to report alleged breaches of the Code to the Insurance Brokers Code Compliance Committee – see

11.0

ENFORCEMENT OF THE CODE

NIBA has established an independent Code monitoring body, the Insurance **Brokers Code Compliance Committee (IBCCC)**, to monitor and enforce Code Subscriber compliance with this Code.

11.1 Responsibilities of the IBCCC

- (a) The IBCCC's constitution, functions and powers are set out in its Charter.
- (b) In addition to its powers to enforce the Code, the IBCCC is responsible for:
 - (i) providing guidance to the insurance broking industry about how to comply with the Code;
 - (ii) identifying areas for improvement of insurance broking practices;
 - (iii) monitoring the efficacy of the Code through investigations, collection and analysis of data and stakeholder engagement;
 - (iv) providing reports to the NIBA Board and the public regarding industry data and consolidated analysis on Code compliance;
 - (v) publishing breach decisions on a de-identified basis; and
 - (vi) advising the Australian Securities and Investments Commission (ASIC) of decisions it deems appropriate or of the behaviour of a Code Subscriber that may be warranted.

11.2 Reporting breaches of the Code

- (a)

12.1 Promoting the Code

- (a) We will work with NIBA to promote the Code to clients, prospective clients and to insurance brokers that have not yet adopted the Code.
- (b) We will promote the Code to our clients and prospective clients by:
 - (i) providing every client with a copy of the Code, either hard copy or electronically prior to or at the point we are engaged by the client; and
 - (ii) referring to the Code on our company website and in other promotional material.
- (c) We will promote the Code within our organisation by:
 - (i) including Code training materials as part of new employee induction materials;
 - (ii) endeavouring to embed the Code Principles in our organisational goals and objectives, and decision making;
 - (iii) having a governance process in place to report to our Board or Executive Management on our compliance with the Code; and
 - (iv) supporting NIBA initiatives aimed at improving insurance broker competency, professionalism and embedding the Code in the industry.

12.2 Reviewing and improving

- (a) NIBA will:
 - (i) arrange for the Code to be independently reviewed at least every three (3) years from the date the Code comes into effect;
 - (ii) without delay, review and amend any provision of the Code where it becomes apparent that an amendment is necessary to achieve the intended operation of the Code;
 - (ii) develop guides to improve consumer understanding about the Code; and
 - (iii) develop non-binding best practice guides to help

Definitions

Code Principles	The set of guiding principles that underpin the Code. See section 3.1.
“Code Subscriber”, “we”, “our”, “us”	Anyone who has entered into a formal agreement with NIBA to be bound by the Code.
Complaint	A complaint is an expression of dissatisfaction made to or about an organisation, related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.
Covered Services	All services and activities a Code Subscriber engages in when arranging or advising on general insurance products or alternative risk transfer solutions on behalf of a client. This includes services and advice relating to claims handling, premium funding and risk management. See section 2.3.
Excluded Services	Arrangements with insurers and others to provide services and support in order to promote the efficient operation of the insurance market. See section 6.4.
Retail Client	As defined in the Corporations Act 2001 (Cth) . A Retail Client is an individual or small business (less than 20 employees or less than 100 employees if a manufacturer) who purchases a prescribed retail insurance product. The small business must purchase the insurance for use in connection with the business. A Retail Client is distinct from a Wholesale Client in the Corporations Act 2001 (Cth) .

Glossary

AFCA	The Australian Financial Complaints Authority. For information, visit www.afca.org.au
AFCA rules	The rules under which AFCA operates. For information see www.afca.org.au/about-afca/rules-and-guidelines
Alternative risk transfer solution	Risk financing solutions which serve as an alternative to or enhancement of conventional commercial insurance.
ASIC	Australian Securities and Investments Commission. For information visit www.asic.gov.au
Binder arrangement	An arrangement between an insurer and a third party (such as an insurance broker) which authorises the third party to perform certain functions for, and on behalf of, the insurer in connection with insurance policies issued by the insurer.
Contingent remuneration	Remuneration or other benefits paid by insurers that is contingent upon achieving certain criteria, such as: <ul style="list-style-type: none"> • the number of insurance contracts arranged; • the total amount of premium payable; • the total amount of sums insured; • the profitability of the portfolio.
Insurance Broker Code Compliance Committee (IBCCC)	The independent committee operating under the Code Procedures and Charter to monitor compliance with the Code that can, amongst other things, make binding determinations for a breach of the Code. For information, visit www.insurancebrokerscode.com.au
Override commission	Extra commissions paid by participating insurers for placement of a type of insurance, or for premium volume produced in a given geographic area, risk class, industry or category.
Personal advice	Under the Corporations Act 2001 , ‘personal advice’ considers the Retail Client’s objectives, financial situation and needs. Alternatively, it is advice where a ‘reasonable person’ might expect the adviser to have considered one or more of those things. ‘General advice’ is advice that is not personal advice.
Third-party beneficiary	A person or business that benefits from the terms of a contract made between two other parties. In law, a third-party beneficiary may have certain rights that can be enforced if the contract is not fulfilled.
Wholesale Client	A client who is not a Retail Client as defined in the Corporations Act 2001 (Cth) .

National Insurance Brokers Association (NIBA)

NIBA sets out to develop and promote high standards of professional practice for insurance brokers in Australia.

General enquiries (02) 9459 4300

If calling from overseas +61 2 9964 9400

Fax (02) 9964 9332

Email niba@niba.com.au