

# ANNUAL REVIEW

INSURANCE  
BROKERS

CODE  
COMPLIANCE  
COMMITTEE



## Insurance Brokers Code of Practice Code Compliance Committee

# ANNUAL REVIEW 2015–16

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September 2016

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### About this review

This review assesses insurance brokers' compliance with the 2014 Insurance Brokers Code of Practice and covers the work undertaken by the Insurance Brokers Code Compliance Committee during the period 1 July 2015 to 30 June 2016. Data has been collated from monitoring the activities of the 323 insurance brokers that subscribed to the Code in 2015–16, and consists of the outcomes of an Own Motion Inquiry, the 2015 Annual Compliance Statement and investigations into alleged Code breaches.

This review also reports on the Code Compliance Committee's monitoring activities from 1 July 2015 to 30 June 2016, and shares its experience of good industry practice – as well as the initiatives of Code Subscribers – to improve standards of practice and service in the Australian insurance broking industry.

# Foreword

Communication and collaboration were major themes in the work of the Insurance Brokers Code Compliance Committee throughout 2015–16. To reach Code Subscribers, we focused on providing information that was practical, concise and easy to absorb. Our Tips of the Month highlighted industry issues, while new case studies illustrated good industry practice. We also published guidance on breach classification to support Code Subscribers' reporting efforts. By sharing these resources on the Financial Ombudsman Service (FOS) Australia website and in existing National Insurance Brokers Association (NIBA) publications, we were able to reach insurance brokers in a more time- and cost-effective way.

As well as communicating Code messages, we sought out opportunities for open dialogue with Code Subscribers. At Financial Ombudsman Service (FOS) open forums, we talked with Code Subscribers about current issues in complaints handling and Code breach allegations. This was an opportunity to clarify both the connections and differences between the two areas. We also began work on establishing an industry liaison group to provide the Committee with guidance and feedback on compliance, monitoring and investigation activities.

Consumers and consumer advocates were another target for our communication efforts. Working alongside FOS in its established outreach program, we promoted the Code at a range of public events and consumer rights conferences. We also collaborated with other ombudsman schemes to deliver a Code training day for consumer advocates.

Another focus in 2015–16 was improving our technical data collection capabilities. The introduction of a new online portal for Annual Compliance Statements and Own Motion Inquiries means that all Code Subscribers can now participate in these crucial Code monitoring activities, supporting their own Code compliance efforts and giving us a more comprehensive and nuanced view of compliance across the industry. In turn, we hope, these improvements will contribute to the overarching Code aims of building professional competence and consumer confidence in the insurance broking industry.

We would like to thank the National Insurance Brokers Association, in particular its Chief Executive Officer Dallas Booth, for his ongoing support and valuable assistance in engaging with the industry. These achievements would not have been possible without the support of our dedicated Compliance Manager staff. Under the new leadership of Sally Davis, they continued to improve the efficiency of our operations and the effectiveness of our communication and engagement with stakeholders. We look forward to continuing to work with Code Subscribers, their clients, consumer representatives and industry in 2016–17 to achieve service standards Australians can trust.



**Michael Gill**  
**Chairperson**  
**Insurance Brokers**  
**Code Compliance Committee**



**Sally Davis**  
**General Manager**  
**Code Compliance & Monitoring**  
**Financial Ombudsman Service Australia**

# Year at a glance

<p><b>323</b></p> <p>insurance brokers subscribed to the Code</p>	<p><b>11</b></p> <p>significant Code breaches were self-reported by nine Code Subscribers (page 12)</p>
<p><b>32%</b></p> <p>of insurance brokers self-reported Code breaches</p> <p><b>▼ 1%</b></p> <p>from the previous year (page 9)</p>	<p><b>862</b></p> <p>Code breaches were self-reported by insurance brokers</p> <p><b>23%</b></p> <p>of self-reported breaches related to buying insurance (page 11)</p>
<p><b>52%</b></p> <p>of insurance brokers self-reported 1,023 complaints handled in their internal dispute resolution process</p> <p><b>▼ 8%</b></p> <p>from the previous year (page 13)</p>	<p><b>79%</b></p> <p>of complaints were resolved in 21 days or less</p> <p><b>27%</b></p> <p>of complaints related to service issues (page 16)</p>

## Analysed 323 Annual Compliance Statements

See page 9 →

## Investigated six alleged Code breaches

See page 23 →

## Conducted 15 individual compliance verification audits

See page 20 →

## Gave three presentations to industry and consumer advocates on Code issues

See page 26 →

## Attended four industry conferences, including delivering two presentations

See page 26 →

## Engaged with consumer advocates by attending three consumer conferences

See page 26 →

## Hosted a consumer advocate luncheon

See page 26 →

## Issued 19 publications

See page 27 →

# About the Code

The 2014 Insurance Brokers Code of Practice sets standards of good industry practice for the 323 insurance brokers that have agreed to follow its standards when dealing with current and prospective individual and small business clients. The Code is owned and published by NIBA and forms an important part of the broader national consumer protection framework and financial services regulatory system.

## SERVICE STANDARDS

The Code contains 12 key service standards that apply to all insurance broking services delivered to individuals and small businesses by Code Subscribers across Australia.

**Table 1: The 12 key service standards**

1. We will comply with all relevant law.
2. We will transparently manage any conflicts of interest that may arise.
3. We will clearly tell you if we do not act for you.
4. We will clearly tell you about the scope of our covered services.
5. We will discharge our duties diligently, competently, fairly and with honesty and integrity.
6. We will clearly tell you how our covered services are paid for before we provide them and answer any questions you have.
7. We will handle any money received in accordance with relevant law and any agreement with you.
8. We will ensure that we and our representatives are competent and adequately trained to provide the relevant services and will maintain this competence.
9. We will respond to catastrophes and disasters in a timely, professional, practical and compassionate manner in conjunction with any industry-wide response.
10. We will ensure that we have an internal complaints and disputes handling process that meets the Code Complaints and Dispute process standards.
11. We will support NIBA in promoting the Code and make information on the Code (including how to make a complaint) and our Covered Services readily available to you.
12. We will not engage in activity or inactivity that is reasonably likely to bring the insurance broking profession into disrepute.

By subscribing to the Code, insurance brokers have committed to continuously improving their standards of practice and service in their sector; promoting informed decision-making about their services; and acting fairly and reasonably in delivering those services.

Code Subscribers as at 30 June 2016 are listed in [Appendix A](#).

## CODE COMPLIANCE COMMITTEE

The Code Compliance Committee is an independent compliance monitoring body established under section 3 of the *Insurance Brokers Code Compliance Committee Charter* and formally approved by NIBA on 5 September 2014.

The Committee's vision is to promote compliance with the Code and to help Code Subscribers meet and exceed the Code's standards of good industry practice. The Committee supports the Code's principles and commitments by promoting the Code's benefits and seeking to influence positive changes in industry behaviour. The Committee's work is based on five key principles.

**Table 2: Committee principles**

<b>1. Independence</b> in our operations, governance and decision-making.
<b>2. Accountability</b> in undertaking our functions for the benefit of the insurance broking industry and its clients.
<b>3. Transparency</b> through open management with our stakeholders.
<b>4. Fairness</b> in our deliberations and processes.
<b>5. Accessibility</b> to our Code monitoring and investigation services.

The Committee has three core functions:

- monitoring compliance with Code obligations and conducting Own Motion Inquiries
- investigating complaints that a Code Subscriber has breached the Code, which can be made by any client or as a referral, and
- engaging with stakeholders about Code compliance and advising on Code matters and Committee operations.

This approach allows the Committee to be strategic in assisting the industry to identify issues and emerging risks, while also dealing with individual instances of Code breaches.

## Committee members



### Michael Gill

#### Independent Chairperson

LLB (Sydney) FAICD

Solicitor of the Supreme Court of New South Wales, Solicitor of the High Court of Australia, Solicitor and Barrister of the Supreme Court of Victoria

**Appointed:** 1 January 2014  
**Term expires:** 31 December 2018<sup>1</sup>

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Michael has practised at DLA Piper (Phillips Fox and other predecessors) since 1968, mainly as a specialist insurance lawyer and in management roles within the firm. Since 2008 he has been a Consultant to the firm. He was Chairman of Phillips Fox and Managing Partner of its Sydney office.

He is recognised as one of the leading lawyers in the field. For many years he was the principal lawyer for NIBA and many of its members. He was instrumental in the drafting of the original Code of Practice. He has represented insurance brokers in professional indemnity, regulatory and compliance matters.

Michael is also passionate about work in the not-for-profit sector. Within the firm he assists with pro bono activities in Australia and overseas and is an Ambassador for New Perimeter, which provides long-term, high-impact pro bono legal support in less developed and post-conflict countries.

Outside the firm, Michael is a member of the North Sydney Women's Benevolent Association, which is establishing a domestic violence refuge for women and children.

Michael was President of the International Insurance Law Association, founding Chairman of the Australian Insurance Law Association, Independent Chair of the Code Compliance Committee for the General Insurance Industry, President of the Law Council of Australia and the Law Society of NSW, inaugural Chairman of the Motor Accidents Authority, and Chairman of the Solicitors Mutual Indemnity Fund.



### Julia M Davis

#### Consumer Representative

BA, JD, LLM, GradDip (Law)

**Appointed:** 1 January 2014  
**Term expires:** 31 December 2018<sup>2</sup>

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Julia is an admitted solicitor in NSW and Policy and Communication Officer at the Financial Rights Legal Centre in NSW, a community legal centre that specialises in helping consumers understand and enforce their legal rights. She has developed and managed several important initiatives for the Centre, and drafted its submissions to government inquiries and independent reviews with a particular focus on the insurance industry.

She has vocational experience in the private sector as well as experience as a consumer advocate, having worked for several law firms in Sydney and Florida (USA). She is passionate about helping disadvantaged consumers. She is also serving on the board of the NSW peak body for community legal centres as well as on the board of the Tenants' Union NSW.

Julia completed a Masters in Law with Distinction at the London School of Economics. Prior to this, she graduated with honours from the University of Florida in 2010, and was subsequently admitted as a lawyer in Florida, USA. She is currently on parental leave after the birth of her and her husband's first child.



### Stephen Lardner

#### Industry Representative

B.Comm ACA FAIM  
FAICD QPIB

**Appointed:** 1 January 2014  
**Term expires:** 31 December 2016

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Stephen is a professional business manager and leader with a strong background in insurance and accounting, with widely diversified skills and business relationships in the insurance and financial services industries. He has over 30 years' experience in executive and non-executive directorships, primarily in the insurance industry. He has held directorships for numerous client businesses, and has experience as a director or advisor for various industry associations and affinity groups.

He was a NIBA Director, completing a two-year term as President, and has chaired the Finance Committee and Conference Committee for the association.

He has established strong professional and community links and has well-established networks in the insurance industry (underwriting and broking) in Australia.



### John J T Phillips

#### Alternate Industry Representative

FAIM

**Appointed:** 1 January 2014  
**Term expires:** 31 December 2016

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John is current director of J & R Phillips Services Pty Ltd and Non-Executive Director of Resilium Insurance Broking Pty Ltd, providing consultancy services to insurance brokers, claims providers and insurance underwriters.

He has wide experience in the insurance broking industry, including having been CEO of Steadfast Group Limited for 12 years.

<sup>1</sup> Final term, not eligible for re-appointment.

<sup>2</sup> Final term, not eligible for re-appointment.

## Committee meetings

In 2015–16, the Committee formally met four times, on:

- 9 September 2015, Melbourne
- 11 November 2015, Sydney
- 2 March 2016, Sydney
- 8 June 2016, Melbourne.

It also had numerous informal meetings via telephone conference as well as meetings with NIBA.

## COMPLIANCE MANAGER

The FOS Australia (Code Administrator<sup>3</sup>) provides Code monitoring and administration services to the Committee and NIBA by agreement. FOS has appointed a dedicated team of staff (Compliance Manager<sup>4</sup>) within its office to undertake that task.

### Compliance Manager Staff



**Sally Davis**  
General Manager  
Code Compliance and Monitoring  
B.Comm, LLB, Grad Dip (Arts)

**Appointed: September 2015 – current**

Sally commenced as General Manager of Code Compliance and Monitoring at FOS on 1 September 2015. Her appointment was made on the recommendation of a selection committee comprising Mr Chris Doogan, Independent Chair of the Code Compliance Monitoring Committee (Banks), Dr Sue-Anne Wallace, Independent Chair of the Code Compliance Committee (Customer Owned Banking Institutions), and Mr Shane Tregillis, Chief Ombudsman, FOS.

Sally previously worked as Senior Manager of Systemic Issues at FOS and has worked at FOS and its predecessor schemes for over 15 years. Sally is an accredited mediator and holds a Bachelor of Commerce and a Bachelor of Laws degree from the University of Melbourne and a Graduate Diploma (Arts) from Monash University.

Sally brings to this position extensive experience in financial services, as well as good relationships with regulators, industry and consumer groups from her work as Senior Manager of Systemic Issues and other roles at FOS.



**Daniela Kirchlindé**  
Compliance Manager  
B.Comm, Grad Dip (Finance and Investment)

**Appointed: October 2009 – current**

Daniela has a background in dispute resolution and broad insurance industry experience in Australia, England and Germany.

In addition to her Compliance Management role, she manages compliance for the Customer Owned Banking Code of Practice.

Daniela holds a Bachelor of Commerce from the Cologne University (Germany) and a Graduate Diploma in Finance and Investment from the Australian Securities Institute Melbourne.

<sup>3</sup> As per *Insurance Brokers Code Compliance Committee Administration Deed and Charter (Charter)* section 1.1 (a) (iv) the Code Administrator means FOS or such other person appointed by NIBA from time to time to act on NIBA's behalf in administering the Code.

<sup>4</sup> As per *Charter* section 1.1 (a) (vii) means the person appointed by the Code Administrator to act on its behalf for the purpose of the Code Procedures.

# Code monitoring activities

The Committee's Code monitoring program gives insurance brokers an effective mechanism for self-assessing their Code compliance, monitoring and reporting frameworks, while providing us with robust data on Code compliance among subscribers. In 2015–16, key Code monitoring activities were the 2015 Annual Compliance Statement (ACS) program and the 2014 ACS Verification Program.

## 2015 ANNUAL COMPLIANCE STATEMENT PROGRAM

The ACS is a self-assessment tool that helps Code Subscribers review their compliance with Code obligations each year. For Code Subscribers, completing the ACS is a core monitoring obligation. Collecting Code Subscribers' data via the ACS program forms part of the monitoring role of the Committee as established under section 3 of the *Code Compliance Committee Charter*.<sup>5</sup>

### Developing and improving the 2015 ACS

The 2015 ACS was developed in consultation with NIBA and a selection of Code Subscribers to achieve a consistent compliance monitoring approach. The ACS assessed:

- how effectively Code Subscribers complied with Code obligations during the reporting year
- the robustness of subscribers' Code compliance monitoring frameworks
- how effectively Code Subscribers monitored their compliance against Code obligations
- instances of non-compliance and how they were remedied
- emerging or significant risks to Code Subscribers' compliance with Code obligations, and
- areas of good industry practice that can be shared with the sector.

This year, we developed a new online portal for ACS completion. Whereas previously only 35% of Code Subscribers completed the ACS each year (selected on a three year rolling basis), the new portal allowed all Code Subscribers to participate in the 2015 program. By including all Code Subscribers, we were able to capture data that is reflective of the industry as a whole, and that allows for comparison between organisations of different sizes. The size and location of Code Subscribers can be found in [Appendix A](#).

### Self-reported Code breaches

The ACS gathers distinct data sets on 'breaches' and 'significant breaches'. A **breach** is defined as a failure to comply with the obligations of the Code regarding the provision of an insurance broking service.

Just under one-third (32%) of participating insurance brokers self-reported one or more Code breaches in 2015, a proportion consistent with the previous year (33%). Around one-quarter (26%)

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<sup>5</sup> The Insurance Brokers Code of Practice Committee Deed and Charter are available at [https://www.niba.com.au/resource/NIBA\\_CCC\\_Deed\\_300614.pdf](https://www.niba.com.au/resource/NIBA_CCC_Deed_300614.pdf)

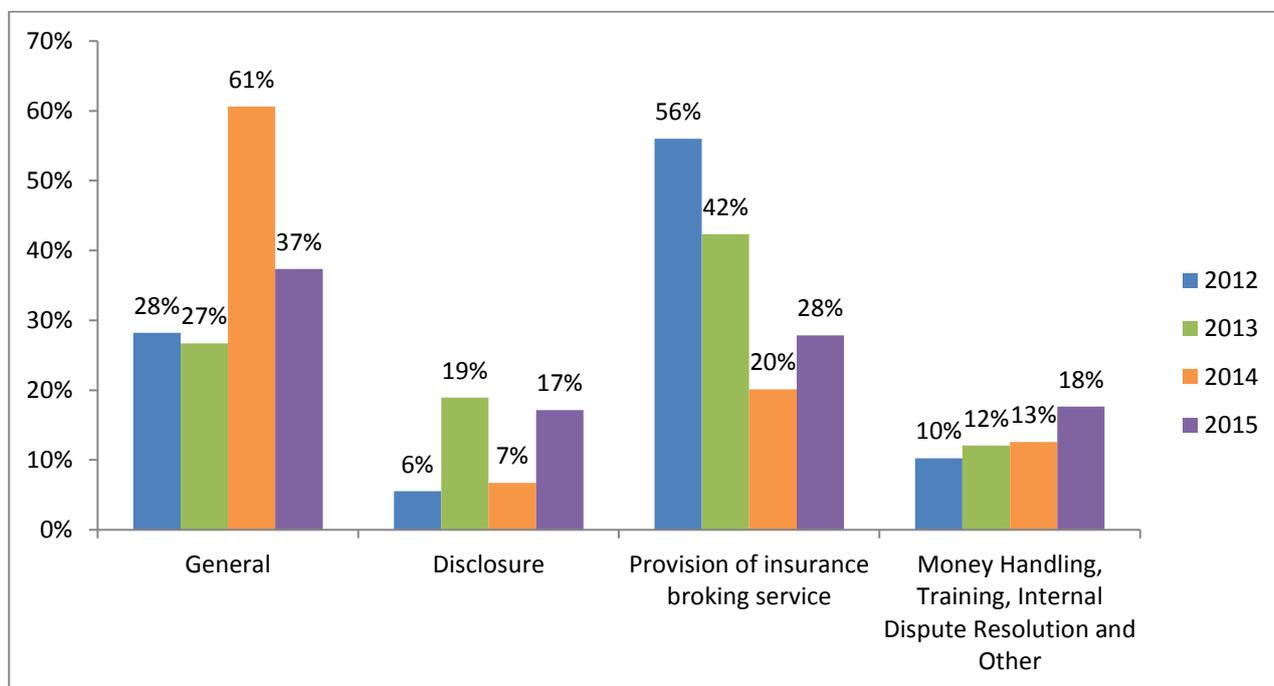
reported between one and ten Code breaches.<sup>6</sup> Among those who reported a breach, just eight Code Subscribers collectively accounted for 42% (359) of the total 862 Code breaches. One Code Subscriber reported 125 Code breaches, most of which (70%) related to compliance with all relevant law (Service Standard 1). Nine Code Subscribers each reported 11 significant Code breaches.

Most breaches reported were identified through quality assurance programs and internal audit processes. 15% of breaches were identified as a result of client complaint investigations, up from 3% in the previous year.

### Types of breach

**Chart 1** identifies the total number of self-reported Code breaches across four broad categories of Code obligation over the four years to 2015.

**Chart 1: Self-reported breaches by Code category 2012–15**



**Chart 1** shows that the largest category of non-compliance in 2015 was 'General', which comprised 37% of breaches and includes compliance with relevant laws (Service Standard 1) and not bringing the profession into disrepute (Service Standard 12). A further 28% of Code breaches were within the category of 'Provision of insurance broking service', which includes Service Standards 5 ('discharge duties diligently, competently, fairly and with honesty and integrity') and 9 ('respond to catastrophes and disasters'). Together, these two categories represented 65% of total Code breaches reported, a decrease from 81% in 2014.

**Table 3** goes into greater detail, examining areas of non-compliance by the specific Code section from 2012 to 2015.

<sup>6</sup> See **Appendix F**, table 13 on page 45.

**Table 3: Self-reported breaches by Code section 2012–15**

Category	Section	Standard	2012	2013	2014	2015
<b>General</b>	Code standards	12	25%	20%	3%	8%
	Legal standards	1	3%	7%	58%	29%
<b>Disclosure</b>	Conflict of interest	2	2%	7%	1%	2%
	Remuneration	3	1%	11%	3%	7%
	Who we act for	4	2%	0%	0%	>1%
	Scope of covered services	6	0%	1%	3%	8%
<b>Provision of insurance broking service</b>	Buying insurance	5	54%	39%	19%	24%
	Claim handling	5	2%	1%	3%	4%
	Acting for insurer	5	0%	0%	0%	>1%
	Disasters	9	0%	0%	0%	0%
<b>Money handling, Training, Internal Dispute Resolution and Other</b>	Dispute resolution	10	1%	1%	0%	4%
	Money handling	7	5%	6%	4%	6%
	Promotion of Code	11	1%	0%	0%	>1%
	Training	8	3%	5%	8%	8%

Compliance with legal obligations (Service Standard 1) was the most significant area of non-compliance in 2015, accounting for close to one-third (29%) of self-reported breaches. 35% of these breaches were reported by one Code Subscriber. Reported breaches under this standard related to promptly providing information and documents; compliance with the *Privacy Act 1988*; and compliance with the 14-day timeframe requirement in section 58(2) of the *Insurance Contracts Act 1984*.

Breaches of Service Standard 1 were nevertheless down from 58% in the previous year. This decrease was at least partly a result of changed reporting. In 2015, a number of breaches that were previously recorded under Service Standard 1 were instead reported against more specific related service standards that reinforce particular legislative requirements. Hence the decrease in self-reported breaches of Service Standard 1 is linked to the increase in breaches of both Service Standard 5 (from 22% to 28%) and Service Standard 10 (to 4% from few or no breaches in previous years).

Service Standard 5, which requires insurance brokers to discharge their duties 'diligently, competently, fairly and with honesty and integrity', also accounted for a large share of self-reported breaches (28%). This included 4% relating to claims handling.

Other key breach areas related to clear explanation of the scope of covered services (Service Standard 6), training (Service Standard 8) and not engaging in activity or inactivity likely to bring the profession into disrepute (Service Standard 12). Each of these accounted for 8% of self-reported breaches in 2015.

For a full comparative analysis table of all self-reported Code breach data from 2012 to 2015, see [Appendix B](#), and for examples of self-reported Code breaches and their remediation in 2015, see [Appendix C](#).

## Culture and framework of positive breach reporting

Most Code Subscribers (68%) reported no breaches of the Code and 48% reported no complaints in 2015 (see [Appendix F](#)). **Table 4** shows self-reported breach numbers by business size in 2015.

**Table 4: Self-reported breaches by size of Code Subscriber**

Number of self-reported Code breaches	Small business (up to 20 FTE <sup>7</sup> staff)	Medium business (21 to 30 FTE staff)	Big business (31 to 100 FTE staff)	Large business (over 100 FTE staff)	TOTAL
Nil	72%	63%	50%	41%	68%
1 to 10	23%	23%	40%	41%	26%
11 to 20	3%	10%	5%	6%	4%
21 to 50	1%	3%	5%	12%	2%
51 to 100	0%	0%	0%	0%	0%
Over 100	>1%	0%	0%	0%	>1%
	100%	100%	100%	100%	
<i>Average<sup>8</sup> number of self-reported breaches</i>	<b>2.3</b>	<b>1.9</b>	<b>4.4</b>	<b>8.8</b>	<b>2.7</b>

There appears to be no relationship between the size of the business and the culture and framework of positive breach reporting.

The Committee will continue to assist Code Subscribers with their compliance processes and encourage positive breach and complaints monitoring and reporting to ensure that it is a true reflection of their performance.

## Self-reported significant breaches

As well as providing the above breach data, Code Subscribers also report on 'significant breaches' in the ACS. A significant breach of Code obligations is determined by reference to a number of factors including:

- similar breaches of this nature that have occurred within the Code Subscriber's organisation
- the number of clients affected
- the adequacy of organisational arrangements to ensure compliance with the Code
- the extent of clients' detriment
- remedial actions and costs incurred, and
- the duration over which the breach occurred.

The Committee has been collecting significant breach data from Code Subscribers via its ACS program since 2012. The nature and extent of significant breaches is an important indicator of Code compliance as, by definition, these breaches have the most impact on clients. Often these breaches, together with remedial actions taken by Code Subscribers, have been previously

<sup>7</sup> FTE full time equivalent staff (including authorised representatives).

<sup>8</sup> Average is calculated by number of self-reported breaches divided by number of businesses.

reported to the Australian Securities and Investments Commission (ASIC). The role of the Committee is not to duplicate this regulatory action but to work with Code Subscribers to ensure they comply with relevant Code obligations.

In 2015, 11 significant breaches were reported by nine Code Subscribers. This was an increase compared to previous years, with five significant breaches reported in both 2013 and 2014. Significant breaches in 2015 were quite evenly spread among each of the four Code categories. Three significant breaches were recorded in the categories 'General', 'Provision of insurance broking service' and 'Money handling, Training, Internal Dispute Resolution and Other'. Two further significant breaches were recorded in the 'Disclosure' category.

Pleasingly, remedial actions to address all Code breaches have either been completed or are underway with a completion date being monitored by the Code Compliance Manager. [Appendix D](#) contains information on these significant breaches, including the status of remedial actions.

### Code Subscribers' compliance initiatives

Code Subscribers introduced several initiatives to improve their individual Code monitoring programs and reporting processes in 2015. These have strengthened compliance risk assessment processes and further embedded compliance requirements within their businesses and across the industry. Activities reported by Code Subscribers included:

- regular or ad hoc reviews of company's policies, procedures and systems, often by external auditors
- various mechanisms for checking individual brokers' work, such as ongoing peer review or file spot checks
- remedial actions to resolve breaches and prevent them from reoccurring
- weekly or monthly meetings to review reports and better manage and prevent Code breaches
- review, updating and display of Code and other compliance information in client materials such as websites, disclosures and templates
- frequent compliance reporting and/or declarations from broking staff
- appointment of compliance and training staff, and
- further training through staff meetings, email, process manual updates and individual counselling for brokers.

### Internal dispute resolution complaints

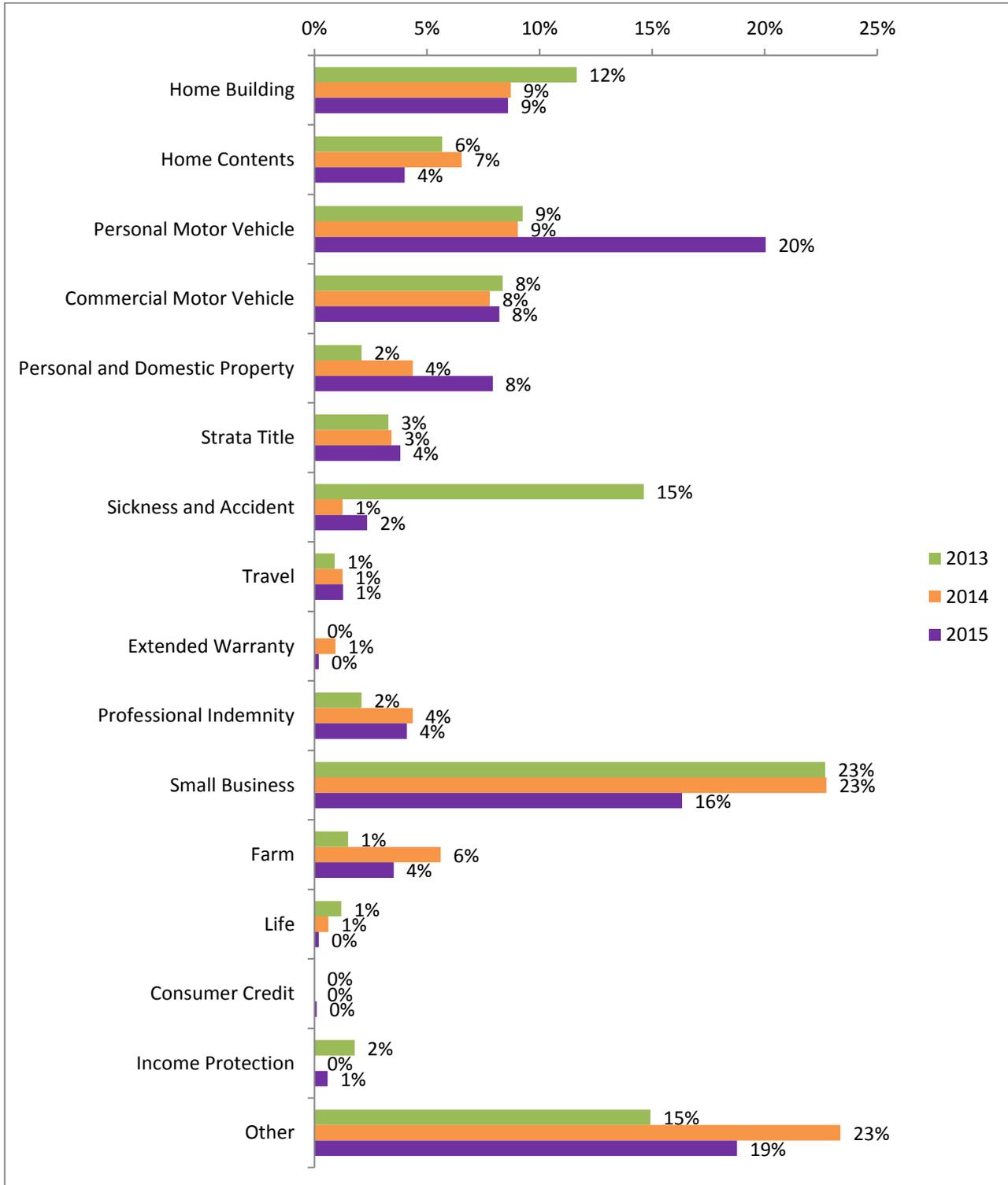
The 2015 ACS also collected data about Code Subscribers' internal dispute resolution (IDR). The Committee used this information to assess Code Subscribers' compliance with the IDR obligations set out in Service Standard 10, which requires Code Subscribers to have an internal complaints and disputes handling process that meets a number of specific standards.

Just over half (52%) of the participating insurance brokers self-reported a total of 1,023 complaints handled through their IDR process. While the *number* of complaints reported was much lower in 2014 (321), only 37% of Code Subscribers participated in the ACS program that year, with a larger percentage of them (60%) self-reporting complaints.

## Complaint service/product areas

Chart 2 shows complaints by the product or service they concerned, covering the three years to 2015.

Chart 2: Percentage of complaints by service/product involved 2013–15<sup>9</sup>



<sup>9</sup> 'Other' represents the number of complaints that were noted by the Institution in the total number of complaints, but not further identified regarding the service or products involved.

Combined, complaints relating to personal motor vehicles (20%) and commercial motor vehicles (8%) made up almost three in 10 complaints in 2015. With regard to personal motor vehicles, a number of complaints were about excesses, including dissatisfaction with the requirement to pay or the amount or number of excesses. Other complaint concerns included assessment timeframes and delays, decline or non-payment of claims, renewals not being provided, and customer service problems such as unclear correspondence, persistent follow-up calls, or a failure to obtain multiple quotes.

Complaints relating to commercial motor vehicles were diverse and included concerns about policies and coverage; dissatisfaction with premiums, excesses, broker fees and claim settlement amounts; delays in claims handling and repairs; and concerns about broker service such as staff turnover and failure to obtain multiple quotes.

Small business-related complaints decreased from 23% in 2014 to 16% in 2015. Many of these complaints had to do with customer's policy, such as coverage limitations, premium or excess costs and declined claims. Other complaints were about customer service issues such as poor record-keeping, processing delays or failures to respond to correspondence.

Home building accounted for 9% of complaints in 2015, the same as the previous year. Some complaints concerned renewal processes, including short renewal timeframes. Claim settlement and repair timeframes and delays also generated complaints, as did declined claims. Some clients complained about refund or credit amounts upon policy cancellation. Other complaints related to general customer service issues such as failure to keep the client informed of claim progress or to respond helpfully to client questions.

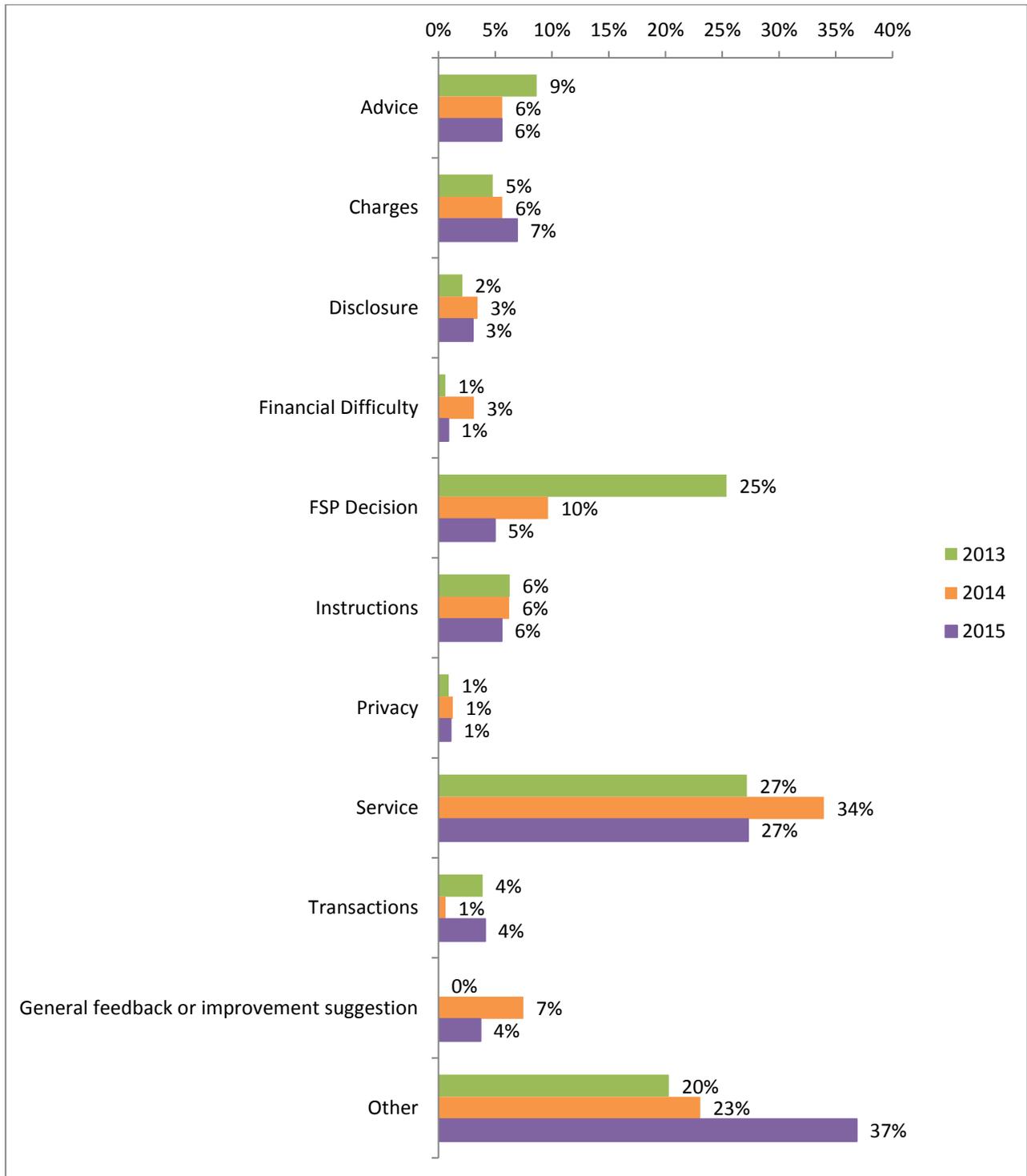
8% of complaints in 2015 were about personal and domestic property, an increase from 4% in 2014. Complaints issues included dissatisfaction with policies, including coverage; cancellation of refund amounts; and processing delays and errors.

Disappointingly, 19% of complaints were not categorised by product/service, a slight improvement compared to 23% uncategorised in 2014.

### ***Complaint issues***

**Chart 3** shows a breakdown of complaints by issues involved for 2015 and the previous two years.

**Chart 3: Percentage of complaints by issues involved 2013–15<sup>10</sup>**



Almost three in ten complaints (27%) related to service issues, reflecting the high number of Code breaches reported for Service Standard 5 on the general discharge of services. This was nevertheless a decrease from 34% in 2014.

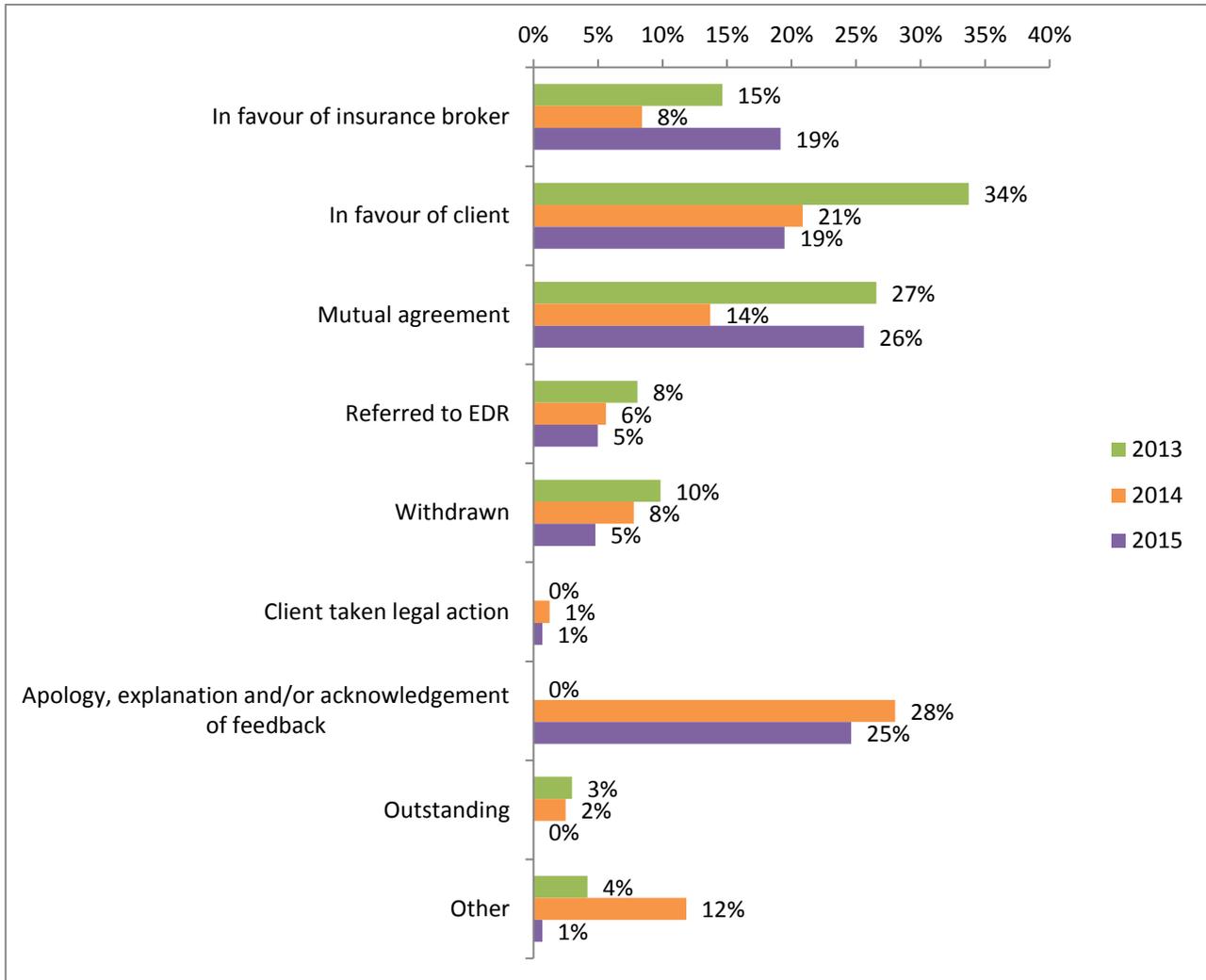
Complaint issues were not identified for 37% of complaints, up from 23% in 2014.

<sup>10</sup> 'Other' represents the number of complaints that were noted by the Institution in the total number of complaints, but not further identified regarding the issues involved.

### Complaint outcomes and resolution timeframes

The ACS also collected information about how quickly and in what way insurance brokers resolved complaints. **Chart 4** shows complaints by outcome over three years to 2015.

**Chart 4: Percentage of complaints by outcome 2013–15<sup>11</sup>**

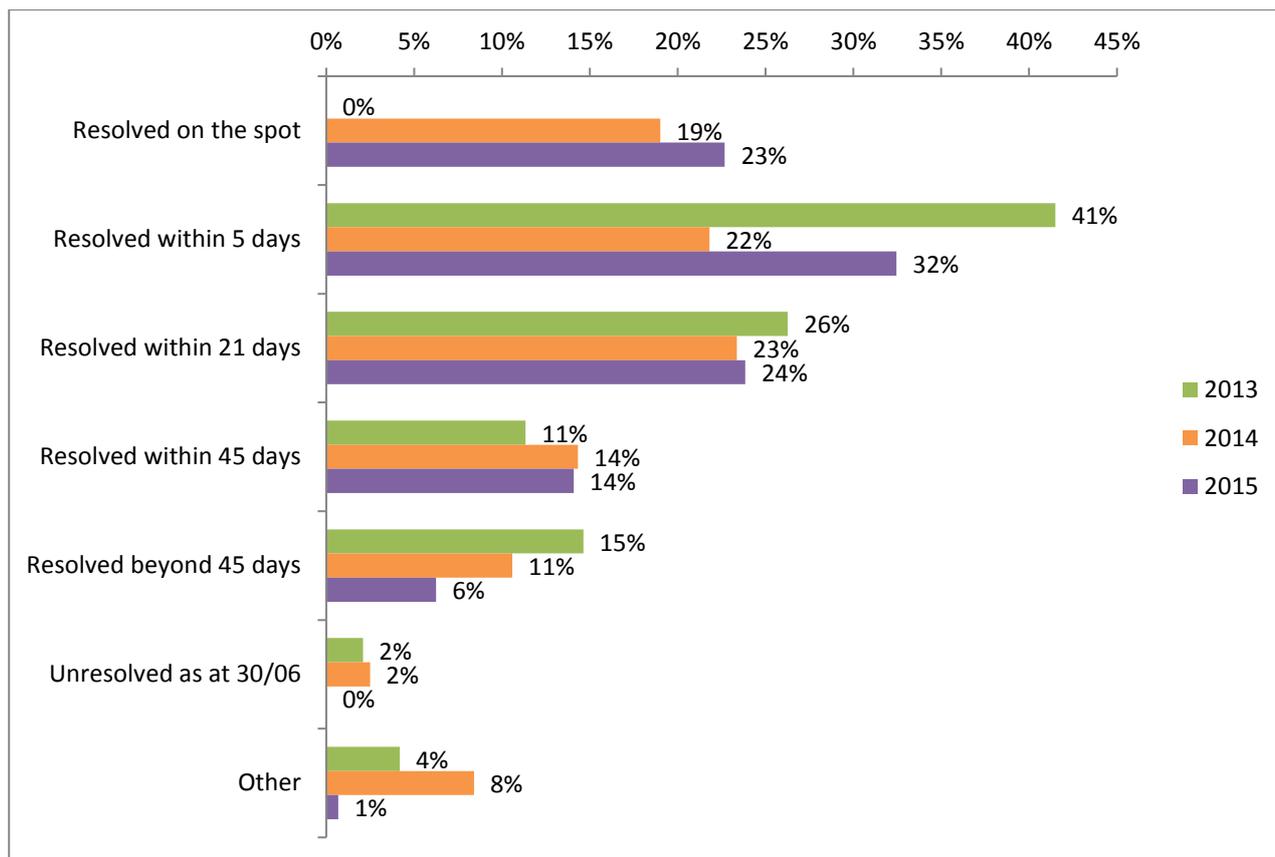


In 2015, around one in four complaints (26%) were resolved by mutual agreement, up from 14% in 2014. There was an even 19% for complaints resolved in favour of the insurance broker and in favour of the client. One-quarter of complaints (25%) were resolved as an apology, explanation and/or acknowledgement of feedback. This category was newly introduced in 2014.

**Chart 5** breaks down complaints by time taken to resolve.

<sup>11</sup> 'Other' represents the number of complaints that were noted by the Institution in the total number of complaints, but not further identified regarding the outcome.

**Chart 5: Percentage of complaints by resolution time 2013–15<sup>12</sup>**



In 2015, the large majority of complaints (79%) were resolved within 21 days, an increase from 64% in 2014. While Code Subscribers resolved most client complaints within 45 days, as required, 6% of complaints took longer than this to resolve. Code Subscribers cited a variety of reasons for slow resolution of these complaints, including:

- complainant non-response or delays in provision of information or documentation
- third party involvement and associated communication delays
- complaint complexity, and
- legal action or complaint escalation to FOS.

### **Complaints ‘resolved on the spot’**

In addition to complaints as defined in ASIC Regulatory Guide 165.81 (RG 165)<sup>13</sup>, the Committee also sought information from insurance brokers regarding complaints ‘resolved on the spot’.

It is pleasing to note that 62% of insurance brokers confirmed that they do record complaints that are resolved ‘on the spot’, which exceeds the legislative reporting requirement to record complaints that are not resolved within five business days.

<sup>12</sup> ‘Other’ represents the number of complaints that were noted by the Institution in the total number of complaints, but not further identified regarding the timeframe.

<sup>13</sup> As per RG 165.81 a complaint is an expression of dissatisfaction regarding a customer owned banking service where a response is explicitly or implicitly expected and has not been resolved to the customers satisfaction within five business days (except hardship cases where all instances are to be included).

**Table 5** shows how many business of the same size record complaints ‘resolved on the spot’. There appears to be no difference based on the size of business.

**Table 5: Recording of complaints ‘resolved on the spot’ by size of business**

<b>Size of business</b>	<b>Do you record complaints ‘resolved on the spot’?</b>	
	<b>No</b>	<b>Yes</b>
<b>Small (Up to 20 full time equivalent staff)</b>	35% <sup>14</sup>	65%
<b>Medium (21 to 30 full time equivalent staff)</b>	43%	57%
<b>Big (31 to 100 full time equivalent staff)</b>	48%	52%
<b>Large (Over 100 full time equivalent staff)</b>	41%	59%

For a full comparative analysis table of all self-reported complaints data from 2012 to 2015, see [Appendix E](#).

### **Culture and framework of positive complaints reporting**

Effectively handling clients’ complaints in a professional and timely manner – including analysing their root causes – is important to maintaining the traditional leadership role of the industry in providing insurance broking services. Most Code Subscribers provided valuable comments and information in addition to the number of complaints. However, the Committee is concerned about the high number of complaints for which the product/service (19%) or issue (37%) involved was not recorded.

**Table 6** identifies what number of complaints were self-reported by which size of business.

**Table 6: Self-reported complaints by size of Code Subscriber**

<b>Number of self-reported complaints</b>	<b>Small business (up to 20 FTE<sup>15</sup> staff)</b>	<b>Medium business (21 to 30 FTE staff)</b>	<b>Big business (31 to 100 FTE staff)</b>	<b>Large business (over 100 FTE staff)</b>	<b>Total</b>
Nil	61%	20%	17%	12%	48%
Between 1 to 10	36%	67%	71%	35%	44%
Between 11 to 20	1%	10%	7%	41%	6%
Between 21 to 50	1%	0%	5%	12%	2%
Between 51 to 100	0%	0%	0%	0%	0%
Over 100	0%	3%	0%	0%	>1%
	100%	100%	100%	100%	
<b>Average<sup>16</sup> number of self-reported complaints</b>	<b>2.2</b>	<b>3.2</b>	<b>6.4</b>	<b>14.2</b>	<b>3.2</b>

There appears to be no relationship between the size of the business and the culture and framework of positive complaints reporting.

<sup>14</sup> Percentage shown as percentage of business size category.

<sup>15</sup> FTE full-time equivalent staff (including authorised representatives).

<sup>16</sup> Average is calculated by number of self-reported complaints divided by number of business.

## ANNUAL COMPLIANCE STATEMENTS VERIFICATION PROGRAM

In addition to the ACS program, the Committee conducts an ACS Verification Program. This is designed to validate Code Subscribers' compliance programs, investigating how effectively they identify, report and remedy breaches of the Code. Participating Code Subscribers receive specific feedback on possible areas for improvement.

### ***Aims and conduct***

The aims of the 2014 ACS Verification Program were to:

- discuss any specific non-compliance issues that were reported in the 2014 ACS
- assist the Committee to understand how Code Subscribers manage and monitor their compliance with the Code, and
- share examples of good industry practice.

The program was conducted in July 2015 via 15–30 minute teleconferences with each participating Code Subscriber. Most teleconferences were attended by a Compliance Manager, a senior manager or both, and four Code Subscribers had more than one representative participating in the teleconference. All Code Subscribers were cooperative and actively engaged in discussion.

Discussions with Code Subscribers during the program covered:

- complaint and breach systems
- complaint handling
- Code breach identification and reporting
- staff training, and
- promotion of the Code.

In particular, the program assessed compliance with Code requirements on training (Service Standard 8), IDR (Service Standard 10) and Code promotion (Service Standard 11).

### ***Participants***

This year, we selected 15 Code Subscribers to participate in the Verification Program. Code Subscribers were chosen on the basis of their 2014 ACS responses, which either included a self-reported significant breach; showed signs of inconsistent or inaccurate complaints and breach data reporting; or indicated a risk of non-compliance.

Participating Code Subscribers were geographically spread and varied in size.

**Table 7: Size and location of participating Code Subscribers**

	VIC	NSW	QLD	WA	Total
Small organisations <sup>17</sup>	3	5	1	1	23
Medium organisations <sup>18</sup>	1	0	0	2	3
Large organisations <sup>19</sup>	1	0	0	1	2
<b>Total</b>	<b>5</b>	<b>5</b>	<b>1</b>	<b>4</b>	<b>15</b>

Although Code Subscribers appear to have comprehensive policies and processes for breach recording, two-thirds (10) of the participating Code Subscribers did not report any breaches. During the same period, however, four of the Code Subscribers with zero self-reported breaches did record complaints, mostly relating to service. The Committee would expect that such complaints would typically correspond with a breach the Code, which places general obligations on a broker to continuously improve customer service, promote better disclosure and act fairly and reasonably towards clients.

Conversely, in numerous instances Code Subscribers reported breaches but no complaints. In one ACS response, a Code Subscriber reported 188 breaches but zero complaints. In that particular circumstance, the broker explained that no complaints arose as the breaches were internally identified and related to the delayed provision of documents.

Breaches will not always result in a corresponding complaint. Nevertheless, where there is a significant discrepancy between complaints and breaches, the Committee expects the Code Subscriber to have compliance measures in place to cross-reference breaches or complaints against the standards set by the Code to ensure accurate reporting.

### **Complaints handling**

Code Subscribers are expected to have an IDR process that complies with ASIC Regulatory Guide 165 (RG 165).<sup>20</sup> Although Code Subscribers appear to have comprehensive policies and processes in place to handle complaints, 8 (53%) of the 15 participating Code Subscribers did not report any complaints. This does not necessarily indicate inaccurate complaints recording, and may instead reflect other factors such as organisation size; complaints that do not need to be recorded because they are resolved within five business days<sup>21</sup>; or brokers resolving issues before they progress to a complaint.

During the ACS Verification Program, however, one Code Subscriber stated that they only treat as formal complaints those raised in writing. This is contrary to RG 165, which states that IDR procedures should allow for complaints to be made by any reasonable means.<sup>22</sup> Regardless of how they are raised, the Committee expects Code Subscribers to treat all client expressions of

<sup>17</sup> Up to 30 full-time equivalent staff.

<sup>18</sup> Between 31 and 100 full-time equivalent staff.

<sup>19</sup> More than 100 full-time equivalent staff.

<sup>20</sup> ASIC RG165 'Licensing: Internal and external dispute resolution' is a guide which explains what Australian Financial Services (AFS) licensees must do to have a dispute resolution system in place that meets ASIC's requirements. Service Standard 10 of the Code mirrors the requirements of RG 165. A copy of RG 165 can be found here: <http://download.asic.gov.au/media/3285121/rg165-published-2-july-2015.pdf>.

<sup>21</sup> ASIC RG 165.80.

<sup>22</sup> Set out in Guiding Principle 4.3 of AS ISO 10002-2006, which is incorporated in ASIC RG 165 by way of RG 165.83.

dissatisfaction as complaints which must proceed through the IDR process unless they are resolved within five business days.

As a result of these observations, the Committee has developed an Own Motion Inquiry to examine compliance with IDR obligations under Service Standard 10 of the Code.

### ***Promotion of the Code***

Service Standard 11 requires Code Subscribers to promote the Code and make information about it (including how to make a complaint) readily available to clients.

The Verification Program found that of 15 participating Code Subscribers, 9 (60%) had accurate and up-to-date information about the Code, IDR and external dispute resolution (EDR) on their websites. One Code Subscriber's website contained no information about the Code, IDR or EDR. The remaining Code Subscribers either had information about IDR and EDR but not the Code or information about the Code but not about IDR and EDR. Further, two Code Subscribers only provided this information in their Financial Services Guide (FSG) and not on their websites.

In accordance with Service Standard 11, the Committee expects Code Subscribers to provide information on their websites about the Code, IDR and EDR. This information should be easily accessible and in plain English. Code Subscribers can meet their obligations by, for example:

- providing a link to the Code on their website
- making information about the Code available in customer brochures
- developing brochures on 'How to make a complaint' or including this information on their website, and
- including information about being a participant in the Code in advertising material or other customer documentation.

# Investigations

The Code empowers the Committee to investigate and determine any complaint alleging that an insurance broker has breached the Code. The Committee can also initiate its own investigations into Code breaches. These investigations aim to identify the cause of alleged Code breaches; whether the complaint indicates broader compliance issues; and the effectiveness of Code Subscribers’ remedial actions to minimise the impact of breaches on clients.

While the Committee cannot consider claims for compensation and loss, we can initiate Code investigations without needing a complaint to act as a trigger. These investigations are mainly used to identify and assess:

- the presence of non-compliant behaviour that may not have been identified by the Code Subscriber’s internal compliance monitoring systems or ACS
- whether non-compliant behaviour identified through complaint investigations is systemic, either within a Code Subscriber or across the sector in general, and
- emerging Code compliance risks that may affect a number of Code Subscribers and their clients.

Following a review of an alleged Code breach, the Committee expects Code Subscribers to:

- positively engage with the Committee
- thoroughly review the incident to assess if it constitutes a breach of the Code
- report the breach in their breach register (if a breach of the Code has occurred)
- report the breach to executive management
- identify all clients potentially affected by the events
- assess if the breach is systemic and/or significant
- take remedial action to address the cause of non-compliance
- review and enhance processes and procedures, and
- train staff.

## Case work

In 2015–16 the Committee received six new referrals, four from FOS EDR, one from NIBA and one from a consumer advocate. The subsequent investigations are summarised below according to the relevant service standards.

**Table 8: Investigations registered in 2015–16**

<p><b>Service Standard 10 – Complaints handling</b></p>	<p><b>Issue:</b> The insurance broker’s claim denial letter and final decision letter were signed by the same person, raising potential concerns about the independence and transparency of the final decision.</p> <p><b>Outcome:</b> The insurance broker acknowledged and reported the Code breach and reviewed its complaints handling procedures and processes. The matter was also referred to the General Insurance Code Governance Committee as</p>
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	<p>the insurance broker was acting as an authorised representative of the insurer involved.</p> <p><b>Status:</b> Closed – Code breach.</p>
<p><b>Service Standard 5 – Claims handling</b></p> <p><b>Service Standard 10 – Complaints handling</b></p>	<p><b>Issue:</b> The EDR dispute involved a claim that the insurance broker misrepresented actions she had taken in relation to an insurance claim under a builders warranty policy. The insurance broker said she would assist the client in claim negotiations, and also informed the client that she had lodged a FOS dispute on his behalf. She told the client that he had been successful in the FOS dispute and FOS had awarded him compensation. None of this information was true.</p> <p><b>Outcome:</b> The insurance broker acknowledged and reported the Code breach. The staff involved has since resigned. Following a file review, the insurance broker confirmed that this was an isolated incident, but reviewed its procedures and processes and provided refreshed training relating to complaints handling to all staff.</p> <p><b>Status:</b> Closed – Code breach.</p>
<p><b>Service Standard 5 – Buying insurance</b></p>	<p><b>Issue:</b> The EDR dispute concerned a claim for damage to an unregistered motor vehicle that was being test driven by an employee of the applicant. The vehicle was a special replica built by the applicant's company. The insurance broker denied the claim on the grounds that the policy did not cover the circumstances of the loss and that the applicant failed to disclose that their business included the manufacture and testing of purpose-built vehicles. The insurance broker arranged the policy and the applicants alleged that the broker was negligent in that it did not arrange appropriate cover to meet their needs.</p> <p><b>Outcome:</b> This matter is still under investigation.</p> <p><b>Status:</b> Open.</p>
<p><b>Service Standard 5 – Claims handling</b></p> <p><b>Service Standard 10 – Complaints handling</b></p>	<p><b>Issue:</b> The applicant lodged a claim for a lost mobile phone. The insurance broker denied the claim on the basis the loss was excluded under the policy as it could not be attributed to a known or identifiable event. After the applicant lodged a dispute with FOS, the insurance broker accepted the claim via its IDR process and offered an ex-gratia payment to replace the phone. The insurance broker then chose not to renew the policy or offer the applicant other insurance now or in future on the basis that they are a 'high risk'.</p> <p><b>Outcome:</b> This matter is on hold pending the FOS EDR investigations.</p> <p><b>Status:</b> On hold.</p>
<p><b>Service Standard 1 – Comply with the law</b></p>	<p><b>Issue:</b> The insurance broker was alleged to not have a responsible officer after the departure of a previous responsible officer who had been a member of NIBA.</p> <p><b>Outcome:</b> The insurance broker was not a Code Subscriber so the matter was outside the jurisdiction of the Committee.</p> <p><b>Status:</b> Closed – outside jurisdiction.</p>
<p><b>Service Standard 1 – Comply with the law</b></p>	<p><b>Issue:</b> It was alleged that the insurance broker acted as a debt collector for the insurer in respect of money owed to it for a claim covered under a customer's policy. Concerns were raised that the insurance broker or its debt collection</p>

	<p>agent did not comply with the Australian Competition and Consumer Commission (ACCC) and ASIC Debt Collection Guidelines.<sup>23</sup></p> <p><b>Outcome:</b> This matter is outside the Code's Terms of Reference as the applicant (the third party) is not a client of the insurance broker and the insurance broker was acting on behalf of the insurer. The matter has been brought to the attention of the General Insurance Code Governance Committee<sup>24</sup> which independently monitors the General Insurance Code of Practice. The General Insurance Code of Practice includes specific obligations regarding debt collection.<sup>25</sup></p> <p><b>Status:</b> Closed – outside jurisdiction.</p>
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In 2015–16 the Committee finalised two investigations that were received in the previous 2014–15 period, but that remained open as at 30 June 2015. These are summarised below according to the relevant service standards.

**Table 9: Earlier investigations finalised in 2015–16**

<p><b>Service Standard 5 – Buying insurance</b></p>	<p><b>Issue:</b> An insurance broker arranged insurance for a Strata Title Body Corporate. When the policy was due for renewal, the broker sought several quotes and placed the insurance with another insurer. The broker claims that it sent the necessary documentation to the Body Corporate, which paid the premium, thereby accepting cover.</p> <p>When the Body Corporate lodged a claim, it realised that the excess was higher under the new insurer. It complained that the broker changed insurers without its knowledge and did not discuss the difference in cover before placing the new insurance.</p> <p>FOS EDR conciliated the complaint in favour of the client with full settlement of the excess by the insurance broker, and referred the matter to the Committee.</p> <p><b>Outcome:</b> The insurance broker acknowledged and reported the Code breach and confirmed that it has since reviewed its renewal procedures and processes.</p> <p><b>Status:</b> Closed – Code breach.</p>
<p><b>Service Standard 5 – Claims handling</b></p>	<p><b>Issue:</b> An authorised representative, acting as an insurance broker for their owners corporation in relation to strata insurance, arranged a claim settlement for an insured unit owner despite the corporation's explicit request to investigate the claim.</p> <p>FOS referred the matter to the Committee.</p> <p><b>Outcome:</b> The Committee determined that the concerns raised were not covered by the Code and, as such, the matter was outside its investigative powers and procedures. The claim was legitimately lodged by an individual unit under the strata policy. Although the applicant and the owners corporation were also policyholders as defined under the policy, only the individual unit holder was considered a claimant in respect of the claim.</p> <p><b>Status:</b> Closed – outside jurisdiction.</p>

<sup>23</sup> See [https://www.accc.gov.au/system/files/776\\_Debt%20collection%20guideline\\_February%202016\\_FA.PDF](https://www.accc.gov.au/system/files/776_Debt%20collection%20guideline_February%202016_FA.PDF)

<sup>24</sup> See <http://codeofpractice.com.au/>

<sup>25</sup> See Subsections 8.10 to 8.13 of the General Insurance Code of Practice (<http://codeofpractice.com.au/assets/documents/Code%20of%20Practice.pdf> )

# Engaging with stakeholders

In 2015–16, the Committee continued to engage with stakeholders to influence positive changes in industry behaviour, share our experience of Code compliance and highlight areas of good industry practice.

## STAKEHOLDER LIAISON

Throughout 2015, the Committee and the Compliance Manager attended stakeholder liaison meetings with regulators, Code Subscribers, consumer and small business representatives, NIBA and other insurance broking cluster groups. Issues discussed included obligations under the Code, training and Code monitoring and compliance.

### Industry

The Committee supported Code awareness by presenting at NIBA's Tier 1 workshops and attending its September 2015 Conference and May 2016 Victorian Industry Expo and Luncheon. The Committee also had various meetings with NIBA on development of an industry liaison group to share Committee updates and gather industry feedback. The Committee also presented at the FOS General Insurance forum.

The Compliance Manager had various meetings with the Insurance Council of Australia (ICA) following publication of the ICA Effective Disclosure Taskforce report *Too Long; Didn't Read – Enhancing General Insurance Disclosure*.

The Compliance Manager also liaised with small business by presenting at the Small Business Development Conference in Melbourne on 13 October 2015 and participating in a panel discussion at the Risk Culture and Regulation Conference in Sydney on 20 October 2015.

### Consumer advocates

The Committee, via its Compliance Manager, strengthened its relationship with consumer advocates by attending or presenting at the following events:

- Financial and Consumer Rights Council (FCRC) Conference in Torquay on 10 September 2015
- Code Training day for financial counsellors in Melbourne on 18 November 2015
- new premises launch for consumer community legal centres, the Consumer Action Law Centre, the FCRC and Financial Counselling Australia (FCA) in Melbourne on 8 December 2015
- Financial Counsellors' Association of Queensland Conference in Brisbane on 8 March 2016
- financial legal rights centres meeting in Sydney on 5 May 2016, and
- FCA Conference in Adelaide on 17 May 2016.

## Other

The Committee and Compliance Manager kept up to date with regulatory matters by attending the ASIC Forums and ICA Forums. The Compliance Manager attended the Governance Risk & Compliance Institute Conference in Melbourne on 28 October 2015.

The Committee brought together the committees responsible for all four codes administered by FOS (insurance brokers, general insurance, banking and customer owned banking), arranging separate meetings of the consumer representatives, industry representatives and independent chairs to discuss and compare compliance monitoring issues among the various financial service industry sectors.

## PUBLICATIONS

The NIBA website ([www.niba.com.au/codeofpractice/overview.cfm](http://www.niba.com.au/codeofpractice/overview.cfm)) and the FOS website ([www.fos.org.au/about-us/codes-of-practice/](http://www.fos.org.au/about-us/codes-of-practice/)) detail Code obligations and the Committee's role, functions and work program.

During 2015–16, the Committee published:

- an updated *Code Toolkit*, a handy pocket-sized reference guide for financial counsellors
- articles in *The Circular*, FOS's online magazine (editions 22, 23, 24 and 25)
- articles and case studies in the former *NIBA Gazette* and *The Insurance & Risk Professional* ('Communication breakdown', 'Lack of communication causes excess angst', 'Brokers disclose Code breaches', 'Interview with Sally Davis', 'ACS Verification Program Recommendations') and in the new NIBA publication *Insurance Adviser* ('Transparency of documentation', 'Service Standard 10')
- *Guidance Note 1 – Classification, Reporting and Remediation of Code breaches*, and
- various Tips of the Month, including 'Promoting Code awareness', 'Staff training', 'Positive breach and complaints reporting and monitoring', 'Disclosure obligations', 'Compliance as company culture' and 'Perfect your communication'.

## 2016–17: Future outlook

Throughout 2015–16 we reviewed our approach to Code Subscribers, considering how we can communicate effectively, raise awareness of the Code and share experiences of Code compliance. We will now seek feedback from the industry and work together to identify any areas of improvement.

In 2016–17, we will continue to improve Code monitoring. We will further refine the ACS process with the online portal and use the ACS Verification process to talk to and assist individual Code Subscribers. To guide good industry practice, we will continue to provide case studies as examples.

In the investigations space, we will conduct an Own Motion Inquiry into compliance with the Code's complaint handling requirements. This was initially scheduled for 2015–16, but the Committee agreed to postpone the inquiry in order to avoid a double-up with the ACS, which was scheduled for Code Subscriber completion at the same time.

In the coming year we will also maintain a focus on our communication and engagement strategy. We will work closely with NIBA to develop an industry liaison group. We will also develop an online e-learning module on Code issues and, working with FOS EDR, contribute to any insurance broking training activities.

# Appendix A: Code Subscribers as at 30 June 2016<sup>26</sup>

AB Phillips Pty Ltd	Austcover Pty Ltd
Abico Insurance Brokers Pty Ltd	Austgroup Insurance Brokers
ACE-IRM Insurance Broking Group	Austral Anglo Pty Ltd
ACME Insurance Brokers	Austral Insurance Brokers Pty Ltd
ACN 054 261 371 Pty Ltd	Australasia Insurance Brokers Pty Ltd (AAIB)
Action Insurance Brokers Pty Ltd	Ausure Pty Ltd
Adroit Insurance Group Pty Ltd	Aviation Insurance Brokers of Australia
AFA Insurance Brokers	AWIB Pty Ltd
Affinity Risk Partners (Brokers) Pty Ltd	Ballarat Insurance Brokers Pty Ltd
Agririsk Services Pty Ltd	Barrenjoey Lifestyle Pty Ltd
AHL Insurance Brokers Pty Ltd	Bayside Brokers Pty Ltd
AIIB Pty Ltd	Bellrock Broking Pty Limited
AIS Insurance Brokers Pty Ltd	Berkrey Insurance Consultants Pty Ltd
Allegiant Irs Pty Ltd	Bestmark Pty Ltd
Alliance Insurance Broking Services Pty Ltd	BJS Body Corporate Insurance Brokers Pty Ltd
Allsafe Insurance Brokers Pty Ltd	BJS Insurance Broker (Gippsland) Pty Ltd
AMACIS Pty Ltd	BJS Insurance Brokers Pty Ltd
Andrews Insurance Services Pty Ltd	Blackburn (Insurance Brokers) Pty Ltd
Aon Risk Services Australia Limited	BMG Aviation Pty Ltd
Apollo Risk Services Pty Ltd	Body Corporate Brokers Pty Ltd
Ardrossan Insurance Brokers Pty Ltd	Bolderston & Associates Insurance Brokers
Arena Underwriting Pty Ltd	Bourchier Nominees Pty Ltd ATF The Coastal Unit Trust
Ambro Insurance Brokers Pty Ltd	Bovill Risk & Insurance Consultants Pty Ltd
Arrowsmith & Petruccelli Insurance Brokers Pty Ltd	Brecknock Insurance Brokers (VIC) Pty Ltd
Arthur J. Gallagher & Co (Aus) Limited	Brecknock Insurance Brokers Pty Ltd
Asset Insurance Brokers Pty Ltd	Breeze Underwriting Pty Ltd
ATC Insurance Solutions Pty Ltd	Brett Grant & Associates Pty Ltd
Atia Insurance Services Limited	Bricher Insurance Brokers
Atlantic Insurance Brokers Pty Ltd	Brokers National
Aughtersons Insurance Brokers Pty Ltd	Brookvale Insurance Brokers Pty Ltd
Austbrokers AEI Pty Ltd	Bruce Chiene Pty Ltd
Austbrokers Canberra Pty Limited	Bruce Park Pty Ltd
Austbrokers CE McDonald Pty Ltd	Caip Services Pty Ltd
Austbrokers Central Coast Pty Ltd	Cambridge Insurance Brokers
Austbrokers City State	Camneldo Pty Ltd

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<sup>26</sup> The decrease in the number of Code Subscribers from 342 to 323 (as at 30 June 2016) follows a series of mergers and acquisitions within the industry over the last 12 months. For information about Code subscription please contact NIBA directly at [niba@niba.com.au](mailto:niba@niba.com.au) or telephone (02) 9964 9400.

Austbrokers Dalby Pty Ltd  
 Austbrokers HCI  
 Austbrokers Premier Pty Ltd  
 Austbrokers Ris Pty Ltd  
 Austbrokers SPT Pty Ltd  
 Austbrokers Sydney Pty Ltd  
 Central Insurance Brokers  
 Centrewest Insurance Brokers  
 Cerberos Brokers Pty Ltd  
 City Rural Insurance Brokers Pty Ltd  
 Citycover (Aust) Pty Ltd  
 CKA Risk Solutions Pty Ltd  
 CN Botting & Associates (Broking) Pty Ltd  
 Commercial Reality Insurance Brokers Pty Ltd  
 Compass Insurance Brokers (Tas) Pty Ltd  
 Comsure Insurance Brokers Pty Ltd  
 Core Insurance Pty Ltd  
 Corporate Insurance Brokers Pty Ltd  
 Country Mile Insurance Brokers  
 Countrywide Tolstrup Financial Services Group  
 Coverforce Pty Ltd  
 Coversafe Insurance Brokers Pty Ltd  
 Cowden (NSW) Pty Ltd  
 Cowden (SA) Pty Ltd  
 Cowden (VIC) Pty Ltd  
 Cowden Limited  
 Darling Downs Insurance Brokers Pty Ltd  
 Davelcorp Insurance Brokers Pty Ltd  
 De Conno & Blanco Insurance Brokers  
 Delaney Kelly Golding Pty Ltd  
 Dennis Foster Insurance Brokers Pty Ltd  
 DIB Insurance Brokers Pty Ltd  
 Direct Insurance Brokers Pty Ltd  
 Domina General Insurance Brokers Pty Ltd  
 Don Hutton Insurance Brokers Pty Ltd  
 Donnelly Insurance Brokers Pty Ltd  
 Dove Insurance Brokers Pty Ltd  
 Drakco Insurance Brokers Pty Ltd  
 Driessen Insurance Brokers Pty Ltd  
 East West Insurance Brokers Pty Ltd  
 Edgewise Insurance Brokers Pty Ltd  
 EIB Insurance Brokers Pty Ltd  
 Elite General Insurance Services Pty Ltd  
 Elkington Bishop Molineaux Insurance Brokers  
 Emjay Insurance Brokers Pty Ltd  
 Endeavour Insurance Broking Group Pty Ltd  
 Enrizen Pty Ltd  
 Capital Innovation Insurance Group Pty Ltd  
 Capital Insurance (Broking) Group Pty Ltd  
 Capital Insurance Brokers Pty Ltd  
 Capricorn Insurance Services Pty Ltd  
 Carriers Insurance Brokers Pty Ltd  
 Cartwright Insurance Brokers Pty Ltd  
 FD Beck & Sons Pty Ltd  
 Finance And Insurance (Brokers) Australia  
 Finn Foster & Associates Pty Ltd  
 Finsura Insurance Broking (Australia) Pty Ltd  
 Fitzpatrick & Company Insurance Brokers  
 FP Insurance Brokers  
 Fraser and Associates Insurance Brokers Pty Ltd  
 G.W.S. Pty Ltd  
 Gale Insurance Brokers Pty Ltd  
 Gardian Group Pty Ltd  
 Gary Morton Insurance Brokers Pty Ltd  
 Ginn & Penny Pty Ltd  
 Glenowar Pty Ltd  
 Goulburn Insurance Brokers Pty Limited  
 Gow-Gates Ins Brokers (Australasia) Pty Ltd  
 Gow-Gates Insurance Brokers Pty Ltd  
 Grampians Insurance Brokers Pty Ltd  
 Grange Insurance Solutions Pty Ltd  
 Great Wall Insurance Services Pty Ltd  
 Greater National Limited  
 Griffiths Goodall Insurance Brokers Pty Ltd  
 GSA Insurance Brokers Pty Ltd  
 Guardian Insurance Brokers Pty Ltd  
 Hann Insurance Brokers Pty Ltd  
 Hawksford Insurance Brokers  
 HIB Insurance Brokers Pty Ltd  
 Hiscock Insurance Brokers Pty Ltd  
 HK Insurance Brokers Pty Ltd  
 Holland Insurance Brokers (Qld) Pty Ltd  
 Honan Insurance Group Pty Ltd  
 HQ Insurance Pty Limited  
 HW Wood Australia Pty Ltd  
 Ian Bell Insurance Brokers Pty Ltd  
 IBL Limited  
 IC Frith & Associates (SA) Pty Ltd  
 IC Frith & Associates (WA)  
 ICF (Australia) Pty Ltd  
 IJD Insurance Brokers Pty Ltd  
 IMC Insurance Brokers  
 Insurance Advisernet Australia Pty Limited  
 Insurance Aid General Brokers Partnership Pty Ltd

Insurance Brokers of NSW Pty Ltd  
 Insurance House Pty Ltd  
 Insurance Logic Pty Ltd  
 Insurance Marketing Group of Aust Pty Ltd (IMGA)  
 Insurance Solutions Corporation Pty Ltd  
 Insurance Solutions Tasmania Pty Ltd  
 Insure That Insurance Broking Pty Limited  
 Insurex Pty Ltd  
 Insurics Pty Ltd  
 Integrated Life Insurance Solutions Pty Ltd  
 Intercharge Pty Ltd  
 Interlink Insurance Brokers  
 Interpacific Insurance Brokers Pty Ltd  
 Interrisk Australia Pty Ltd  
 Intersure Pty Ltd  
 IPS Insurance Brokers Pty Ltd  
 IRT Insurance Pty Ltd  
 IUG Services Pty Ltd  
 Jardine Lloyd Thompson Pty Ltd  
 JHR Corporate Risk Services Pty Ltd  
 JMD Ross Insurance Brokers Pty Ltd  
 Joe Vella Insurance Brokers Pty Ltd  
 Johansen Insurance Brokers Pty Ltd  
 Johnson Pacific Pty Ltd  
 KE Skilton & Associates Pty Ltd  
 Kelly & Coe Insurance Brokers Pty Ltd  
 Ken Tame & Associates Pty Ltd  
 Kinnane Insurance Brokers Pty Ltd  
 KJ Risk Group Pty Ltd  
 Knightcorp Insurance Brokers  
 Knights Guard Pty Ltd  
 Lanyon Partners Insurance Brokers Pty Ltd  
 LEA Insurance Brokers Pty Ltd  
 Leed Insurance Group Pty Ltd  
 Link Insurance Brokers  
 Lockton Companies Australia Pty Ltd  
 Logan Insurance Brokers Pty Ltd  
 Logan Livestock Insurance Agency Pty Ltd  
 LTM Group Pty Ltd  
 M & S Insurance (Brokers) Services Pty Ltd  
 Macey Insurance Brokers Pty Ltd  
 Oxley Insurance Brokers Pty Ltd  
 P. I. Direct Insurance Brokers Pty Ltd  
 Paul Donnelly Insurance Brokers Pty Ltd  
 Perryman O'Grady Philpott Pty Ltd  
 Peter L Brown & Associates Pty Ltd  
 Philp Newby & Owen Pty Ltd  
 Mackellar Insurance Brokers Pty Ltd  
 Macquarie Insurance Brokers (Australia) Pty Ltd  
 Made Easy Financial Group Pty Ltd  
 Magic Millions Insurance Brokers Pty Limited  
 Malcolm Hutson & Associates Pty Ltd  
 Management & Risk Insurance Brokers  
 Mandurah Insurance Brokers Pty Ltd  
 Markey Group Pty Ltd  
 Marsh and McLennan Agency Pty Ltd  
 Marsh Pty Ltd  
 Masfield Holdings Pty Ltd  
 Maxton Insurance Brokers  
 MCA Insurance Brokers Pty Ltd  
 McCormick Harris & Associates Pty Ltd  
 McKenzie Ross & Co Pty Ltd  
 McKillop Insurance Brokers Pty Ltd  
 McNair Hurle Latrobe Insurance Brokers Pty Ltd  
 McNaughton Gardiner Insurance Brokers Pty Ltd  
 MD Insurance Brokers Pty Ltd  
 MFP Insurance Brokers  
 MGA Insurance Brokers Pty Ltd  
 Midas Insurance Brokers Pty Ltd  
 Midland Insurance Brokers Australia Pty Ltd  
 Milne Alexander Pty Ltd  
 Moran Insurance Brokers Pty Ltd  
 Multi Secure Insurance Solutions Pty Ltd  
 Mutual Brokers Pty Ltd  
 NAS Insurance Brokers  
 National Corporate Broking Pty Ltd  
 National Credit Insurance Brokers of Australia Pty Ltd  
 Nationwide Insurance Brokers Pty Ltd  
 Nexus (Aust) Pty Ltd  
 North Coast Insurance Brokers Pty Ltd  
 North Queensland Insurance Brokers Pty Ltd  
 Northern Tablelands Insurance Brokers Pty Limited  
 Northlake Holdings Pty Ltd  
 NSP Insurance Brokers Pty Ltd  
 Oceanic Marine Risks Pty. Ltd  
 O'Regan Group Pty Ltd  
 O'Sullivan Insurance Brokers Pty Ltd  
 Ovens Valley Insurance Brokers Pty Ltd  
 SRG Group Pty Ltd  
 Steadfast Eastern Insurance Brokers Pty Ltd  
 Steadfast IRS Pty Limited  
 Steadfast Taswide Insurance Brokers Pty Ltd  
 Steel Pacific Insurance Brokers  
 Stening Simpson (International) Pty Ltd

Piranha Insurance Brokers Pty Ltd  
 Pollard Insurance Brokers  
 Poole & Partners Investment Services Pty Ltd  
 Professional Insurance Brokers (McKinnon)  
 Professional Insurance Brokers (NSW) Pty Ltd  
 Professional Insurance Brokers (Vic) Pty Ltd  
 Professional Services Corporation Pty Ltd  
 PSB Insurance Brokers Pty Ltd  
 PSC Coast Wide Insurance Brokers Pty Ltd  
 PSC Connect Pty Ltd  
 PSC Insurance Brokers (Aust) Pty Ltd  
 Regional Insurance Brokers  
 Reliance Insurance Brokers Pty Ltd  
 Resilium Insurance Broking Pty Ltd  
 Richard Oliver Underwriting Managers Pty Ltd  
 Richard Ray & Associates Pty Ltd  
 Risk Insure Pty Ltd  
 Risk Solutions International Pty Ltd  
 Rivers Insurance Brokers Pty Ltd  
 RJ Vaughan and Monaghan Pty Ltd  
 Roderick Insurance Brokers Pty Ltd  
 RSM Group Pty Ltd  
 Safeguard Insurance Brokers Pty Ltd  
 Safeguard Insurance Solutions Pty Ltd  
 Sarre Insurance Broking Services  
 SBS Insurance Brokers  
 Scope Insurance Brokers Pty Ltd  
 Scott & Broad Pty Ltd  
 Scott Winton Nominees Pty Ltd  
 Sear & Associates Insurance Brokers Pty Ltd  
 Shadforth Insurance Brokers Pty Ltd  
 Shortland Insurance Brokers Pty Ltd  
 Simplex Insurance Solutions Pty Ltd  
 SMS Insurance Pty Ltd  
 South Coast Insurance Brokers WA Pty Ltd  
 Sterling Insurance Pty Ltd  
 Stewards' Insurance Services Pty Ltd  
 Strathearn Insurance Brokers  
 Teamcare Pty Ltd  
 Terrace Insurance Brokers Pty Ltd  
 Thomas Insurance Brokers Pty Ltd  
 Trans-West Insurance Brokers Pty Ltd  
 Trident Insurance Group Pty Ltd  
 Tucker McNeil Pty Limited  
 Tudor Insurance Australia (Insurance Brokers)  
 Tymar (WA) Pty Ltd  
 United Insurance Group Pty Ltd  
 Unity Insurance Brokers  
 Warren Saunders Insurance Brokers (Aust)  
 Watkins Insurance Brokers  
 Webmere Pty Ltd  
 Webster Hyde Heath Insurance Brokers Pty Ltd  
 Westcourt General Insurance Brokers Pty Ltd  
 Western United Financial Services Pty Ltd  
 Westlawn Insurance Brokers Pty Ltd  
 Westminster Broking House Pty Ltd  
 Whitbread Associates Pty Ltd  
 Wilkinson Insurance Brokers Pty Ltd  
 William Inglis & Son Limited  
 Willis Australia Limited  
 Willis Temby Insurance Brokers (WA) Pty Ltd  
 WRI Insurance Brokers Pty Ltd  
 Wymark Sirius Insurance Brokers Pty Ltd  
 Your Insurance Broker

**Table 10: Code Subscribers by State (head office) and size of operation<sup>27</sup>**

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total	In %
<b>large organisation (more than 100 FTE<sup>28</sup> staff)</b>		5		2			3	3	<b>13</b>	<b>4%</b>
<b>big organisation (31 to 100 FTE staff)</b>		8		2	2	1	9	4	<b>26</b>	<b>8%</b>
<b>medium organisation (21 to 30 FTE staff)</b>		12		6	1	1	11	4	<b>35</b>	<b>11%</b>
<b>small organisation (up to 20 FTE staff)</b>	2	82	1	36	21	5	67	35	<b>249</b>	<b>77%</b>
<b>Total</b>	<b>2</b>	<b>107</b>	<b>1</b>	<b>46</b>	<b>24</b>	<b>7</b>	<b>90</b>	<b>46</b>	<b>323</b>	
<b>In %</b>	<b>&gt;1%</b>	<b>33%</b>	<b>&gt;1%</b>	<b>14%</b>	<b>7%</b>	<b>2%</b>	<b>28%</b>	<b>16%</b>		

**Note:** Following consultation with NIBA in 2015, we split the smallest category (previously defined as up to 30 FTE staff) into two separate categories (e.g. up to 20 FTE staff and 21 to 30 FTE staff) to align with the small business definition.<sup>29</sup>

<sup>27</sup> Organisations are counted by AFS Licence.

<sup>28</sup> FTE = full-time equivalent.

<sup>29</sup> The Australian Bureau of Statistics (ABS) defines a 'small business' as one that employs fewer than 20 people or 100 if it involves manufacturing.

# Appendix B: Comparative table of self-reported Code breaches

Category	Breaches 2012	Breaches 2013	Breaches 2014	Breaches 2015	
<i>reporting period</i>	01/07/2011-30/06/2012	01/07/2012-30/06/2013	01/01/2014-31/12/2014	01/01/2015-31/12/2015	
<i>2014 Code</i>	<i>2007 Code</i>	<i>2007 Code</i>	<i>2014 Code</i>	<i>2014 Code</i>	
				<i>in %</i>	<i>total</i>
<b>General</b>	<b>28%</b>	<b>27%</b>	<b>61%</b>	<b>37%</b>	<b>322</b>
Code standards, Standard 12	25%	20%	3%	8%	69
Legal standards, Standard 1	3%	7%	58%	29%	253
<b>Disclosure</b>	<b>6%</b>	<b>19%</b>	<b>7%</b>	<b>17%</b>	<b>148</b>
Conflict of interest, Standard 2	2%	7%	1%	2%	14
Who we act for, Standard 3	2%	0%	0%	>1%	2
Scope of covered services, Standard 4	0%	1%	3%	8%	71
Remuneration, Standard 6	1%	11%	3%	7%	61
<b>Provision of insurance broking service</b>	<b>54%</b>	<b>42%</b>	<b>20%</b>	<b>28%</b>	<b>240</b>
Buying insurance, Standard 5	54%	39%	19%	24%	208
Claim handling, Standard 5	2%	3%	1%	4%	31
Acting for insurer, Standard 5	0%	0%	0%	0%	0
Disasters, Standard 9	0%	0%	0%	>1%	1
<b>Money handling, Training, IDR and Other</b>	<b>10%</b>	<b>12%</b>	<b>12%</b>	<b>18%</b>	<b>152</b>
Money Handling, Standard 7	5%	6%	4%	6%	49
Training, Standard 8	3%	5%	8%	8%	69
Dispute resolution, Standard 10	1%	1%	0%	4%	33
Promotion of Code, Standard 11	1%	0%	0%	>1%	1
<b>Total of self-reported breaches</b>	<b>1,686</b>	<b>423</b>	<b>466</b>	<b>862</b>	
<b>Percentage of brokers self-reporting breaches</b>	<b>34%</b>	<b>36%</b>	<b>33%</b>	<b>32%</b>	
<b>Number of brokers participating in the ACS program</b>	<b>438<sup>30</sup></b>	<b>91<sup>31</sup></b>	<b>126<sup>32</sup></b>	<b>323<sup>33</sup></b>	

<sup>30</sup> In 2012, all Code Subscribers were requested to complete the ACS.

<sup>31</sup> In 2013, 91 Code Subscribers, representing 25% of total Code Subscribers, were selected to participate in the ACS program. The selection process was weighted according to business size and location to generate breach data percentages that are indicative of the overall industry position.

<sup>32</sup> In 2014, 126 Code Subscribers, representing 37% of total Code Subscribers, were selected to participate in the ACS program. The selection process was weighted according to business size and location to generate breach data percentages that are indicative of the overall industry position.

<sup>33</sup> In 2014, all Code Subscribers were asked to complete the ACS.

# Appendix C: Examples of self-reported Code breaches in 2015

<i>Breach details</i>	<i>Remediation actions</i>
<b>Standard 1– Legal Standards</b>	
Auditor lodged incorrect FS76 <sup>34</sup> with the ASIC stating insurance broker had a limited licence.	This was rectified by the Auditor notifying ASIC and lodging correct documentation.
Cash Forecasting for RG166 <sup>35</sup> not properly completed.	Completed correctly now.
<p>Breaching the Privacy Act 1988:</p> <p>Sent email to client with incorrect attachments (intended for another client).</p> <p>Client had written their credit card details on their signed Acceptance of Cover for their insurance. The Acceptance of Cover was inadvertently emailed to the insurer with the credit card details still included.</p> <p>Account Managers accidentally sent a client business email from their private mobile phone account rather than the company's system. The client was concerned that their details may not have been securely protected.</p> <p>Account Manager communicated via email to all participants in a scheme policy but failed to follow protocols to ensure that all email addresses were not able to be viewed by recipients.</p>	<p>All parties were contacted and apologies sent.</p> <p>Immediately contacted the insurer and asked them to destroy the document, emailing them a second copy with the credit card details removed.</p> <p>Company confirmed that no client information or personal details were retained in the phone and removed access to prevent this from re-occurring.</p> <p>An apology was made and steps were taken to ensure this could not reoccur.</p>
<p>Breaching S941<sup>36</sup> of the Corporations Act 2001 where a number of policy holders did not receive a FSG.</p> <p>Failure to provide FSG within 5 days of initial contact. An automated email had previously been established for ease of sending the FSG as soon as first contact was made, but it appeared this was not used. On most occasions initial contact had been made by one team member with another team member then taking over and creating the client records.</p>	<p>Policy holders were identified and issued a FSG.</p> <p>All breaches were immediately addressed once they were identified either through the weekly compliance checks or internal peer audits. The system required FSG to be ticked as sent and dated. The internal procedure for the creation of new accounts was amended to note FSG record on the system is to be reflective of actual record. The entire team was verbally advised of updated procedure in staff meeting. This was also minuted and emailed to everyone. Revised procedure issued to all individual team members and saved to internal procedures drive on local intranet.</p>

<sup>34</sup> Limited AFS licensee annual compliance certificate.

<sup>35</sup> Regulatory Guide 166 'Licensing: Financial requirements'.

<sup>36</sup> Obligation on financial services licensee to give an FSG if financial service provided to person as a retail client.

<b>Breach details</b>	<b>Remediation actions</b>
<b>Standard 2 – Conflict of interest</b>	
Permanent breach as noted by the internal compliance auditor where staff have a relationship with a third party in the community who may do work for the insurance broker or its clients only. For example, a staff member who handle claims has a friend who works at one of the local smash repairers.	The staff member was advised to not give recommendations on repairers, however, a relationship exists.
Audit showed some staff have forgotten to include the company's clause to note relationship with Related Bodies Corporate.	Email sent to all staff with current list of company's 'partner' underwriting agencies and wholesale brokers and regular audits undertaken.
Failure to enter into conflicts of interest register details of over-riding commission from certain insurers.	This was identified via quarterly compliance program meetings with an external compliance consultant. Register was amended.
<b>Standard 3 – Who we act for</b>	
Method of disclosing that insurance broker had a relationship with an insurer was inadequate, and may have left clients unaware of who the insurance broker was acting for in the event of a claim.	The situation is no longer relevant as circumstances have changed and insurance broker is no longer having the same relationship with the insurer.
<b>Standard 5 – Buying insurance</b>	
Insurance broker at end of term cancelled a home policy that was supposed to be renewed.	This was human error of a previous employee. As soon as identified, cover was re-instated and the employee in question has since resigned.
Minor errors in insurance arranged compared to insurance requested by insured.	Individual coaching and training regarding errors were identified so that any errors are not repeated.
Minor errors in insurance cover advised to insured compared to cover advised by insurer.	Any changes to the renewal cover (eg. changes in excesses etc.) are now outlined in the covering letter to the client, not just mentioned in the Statement of Advice.
Failing to follow up return of proposals/application forms from client or to pass them to the underwriter.	Went through procedure with each staff member involved and then again at staff meeting to all staff.
Failure to pass insurance policy documents to clients.	Went through procedure with each staff member involved and then again at staff meeting to all staff.
Old version of product disclosure statement (PDS) sent to insureds. Employees picked up old version from intranet system and had not followed company policy in checking PDSs were current.	Went through procedure with each staff member involved and then again at staff meeting to all staff.
Did not recorded on client files that FSG and Privacy Policy (PP) were sent. FSG and PP to go immediately to potential/new clients.	Emailed company documents or correct PD to clients.
In some instances they were handed to the client and no file note made. In other instances, employee had no record of the email with FSG and PP to clients even though letters referred to when they were emailed.	

<b>Breach details</b>	<b>Remediation actions</b>
Breaching S 58(2) of the <i>Insurance Contracts Act 1984</i> where renewal terms were not supplied to the client with 14 days of renewal date.	<p>Breaches were rectified as soon as they were discovered.</p> <p>Identified reporting problem and backup reports are now in place. Training has taken place to ensure this does not happen.</p> <p>All staff members are notified about breaches that have occurred to ensure the correct process is clear so it does not become a continual issue.</p> <p>Internal audits are carried out on a monthly basis to monitor this also.</p> <p>Renewal process has been reviewed to ensure handling of renewals is managed in the appropriate timeframes.</p>
Insurer contacted the insurance broker's office querying money received for a cancelled business policy. The policy had been cancelled due to non-payment by the client. The money was received in the insurance broker's office after the policy had been cancelled but the staff in the office had not reinstated the cover.	Forwarded the renewal closing to the insurer and the cover was reinstated from inception.
Client had received his business renewal notice and called with details of alterations to be made. The client called three weeks later when he had not received the amended renewal notice.	The alterations were made immediately and the amended notice was sent to the client.
Staff member set up an online placement/payment system for a liability scheme and was to email a report to the insurer to provide cover for all the clients who had submitted online each day. It was not until the Servicer went on holidays that their replacement found they had not been sending the report.	The insurer was contacted and cover was placed for all the clients.
Client called to see where the endorsement for the additional Public Liability cover he requested was. The staff member had left for holidays and the person minding the portfolio found the request in the relevant staff member's daybook.	The cover was placed immediately.
General Advice Warning not being provided to the client when an unauthorised foreign insurer (UFI) was used.	Updated procedures manual and conducted refresher training on the correct procedures when using UFIs.
<p>Proposals/application forms were not provided to the insurer in a timely manner.</p> <p>Lengthy delay in passing policy documents to clients after placing the insurance.</p>	Updated procedures manual and trained staff on timing requirements for passing documents to underwriters and to clients.
Whilst cover instructions were taken from insured and actioned with instructions and replies received from the insurer, the endorsement documents were not forwarded to the insured.	Error in not forwarding documents to insured was identified by internal office procedures for review of outstanding accounts. Insured was contacted and advised of Endorsement with extended payment terms confirmed.
Renewal templates for domestic policies not used correctly (cut & pasted from other policies used in error, rather than blank template).	This procedure has since been updated within the office, with reinforced staff training and monitoring.

<b>Breach details</b>	<b>Remediation actions</b>
	Review of insurance schedule documents by Account Executives prior to signing of processing sheets.
<b>Standard 5 – Claims handling</b>	
The insurance broker failed to advise the client of an increased excess due to claims. A claim occurred and additional \$2,000 excess was required.	Caused by human error of a previous employee who resigned since the incident. The insurance broker funded the shortfall of this excess.
<b>Standard 6 – Remuneration</b>	
Instances of processing error by a new staff member whereby commission and/or broker fee not noted on invoice.	Additional training was immediately undertaken.
Incident of a broker fee not being disclosed to client.	Explanation provided to client and fee waived. No repeat breaches have been identified.
Broker fee not being provided to the client at quote stage.	Conducted training for all staff to emphasise this requirement. Insurance manual templates have a section for disclosing the broker fee and all staff have been instructed to use these templates. Staff have been re-trained in the need to advise of the broker fee when providing quotes and the procedures manual was updated to clarify this.
<b>Standard 7 – Money handling</b>	
Trust money was inadvertently transferred to the Operating Account.	The error was not identified until the month end reports were reconciled, and the funds were immediately transferred correctly.
Outstanding premium report was not sent to underwriters when the compliance officer was on annual leave.	Staff meeting and backup staff arranged.
Money not banked until next day.	Staff meeting and backup staff arranged if usual person who does banking is away.
Monies refunded by underwriters into trust account not allocated within seven days.	Confirmed that all breaches have been actioned with preventative measures taken.
Refunds processed twice.	All affected clients contacted and funds returned in a timely manner. A review of banking procedure conducted to prevent reoccurrence.
Refund provided to client prior to receiving funds from the insurer.	A review of refund procedure and additional training provided to processing staff.
Most breaches are due to paying insurers within 90 days and client refunds with seven days.  This may be due to delay in client paying within the insurance broker's credit terms. In regards to client refunds within seven days this may be due to underwriter delaying processing from their end if not able to take back the refund in underwriter payments.	In each incident there is correspondence on file to the insured and to the insurer requesting extended credit terms and confirmation of hold cover pending settlement of Premium Funding Agreements &/or payment from the insureds.  Payments of outstanding premiums had been paid to Insurer as soon as practical when payments had been received from the Insured's and/or Premium Funder.
Client monies were held in unallocated cash for over 30 days.	This was human error in that the Account Manager involved was trying to contact the client to obtain bank account details but failed to follow up in a timely manner.

<i>Breach details</i>	<i>Remediation actions</i>
<b>Standard 8 – Training</b>	
Specific broking staff and authorised representatives were unable to demonstrate sufficient ongoing professional development.	Staff were counselled and will be closely monitored and assisted in 2016.
<b>Standard 10 – Dispute resolution</b>	
Client alleged that insurance broker did not assist him with the dispute resolution.	Client would not supply the required information about what he was disputing so insurance broker was unable to assist. Eventually the client accepted the insurer's initial settlement.
Client complaint that the assessor was taking too long to assess the damage to the client's vehicle. The assessor did complete the assessment and the claim was processed but the client was not happy about the delay in arranging the assessment.	The client's dissatisfaction was communicated to the insurer. The client withdrew the complaint on settlement of the claim but maintained their dissatisfaction with the settlement service standard.
<b>Standard 11 – Promotion of Code</b>	
Insurance broker was not promoting the Code in the FSG or on its website.	Website and FSG has been reviewed and updated.

# Appendix D: Significant self-reported Code breaches in 2015

<b>Code</b>	<b>Issue</b>	<b>Exposure</b>	<b>Outcome</b>
<b>Service Standard 1</b> <i>'We will comply with all relevant law'</i>	The broker failed to place a client's workers compensation cover required by legislation. This left the client vulnerable to potential regulatory fines. The issue was caused by the lack of workload management by an Authorised Representative of the broker and deliberate attempts to prevent the matter from being detected.	The issue concerned one single client. Potential fines would be in the tens of thousands of dollars.	The broker reinstated the cover and the client was not subject to fines. The Authorised Representative was dismissed and reported to ASIC. The individual has now been banned for life.
<b>Service Standard 4</b> <i>'We will clearly tell you about our covered service'</i>  <b>Service Standard 1</b> <i>'We will comply with all relevant law'</i>	Client having an unrealistic expectation of the extent of the policy coverage.	Currently with Professional Indemnity insurer.	All staff involved in training, including webinars, on additional exposures such as management liability, cyber and trade credit. Compliance breaches are raised at weekly staff meetings and staff are encouraged to have active input into issues that may arise.
<b>Service Standard 5</b> <i>'We will discharge our duties diligently, competently, fairly and with honesty and integrity'</i>	The broker provided a retail client with renewal terms seven days prior to end of the policy term, rather than giving the required 14 days minimum notice. The delay in posting renewal terms was due to staff absence on sick leave.	There was no financial impact. One client was affected.	The broker provided the client with a late notice advice and terms were extended to allow 14 days consideration of the renewal offer.
<b>Service Standard 5</b> <i>'We will discharge our duties diligently, competently, fairly and with honesty and integrity'</i>	Policy set up with incorrect underwriter. Incorrect underwriter received payment of premium and queried what payment was for.	There was no financial impact. One client was affected.	The broker spoke to the correct underwriter who was holding cover pending return of funds from the incorrect underwriter. A new invoice was posted to insured. The process was reviewed and amended.
<b>Service Standard 1</b> <i>'We will comply with all relevant law'</i>	One staff of the broker (who now no longer is an employee) failed to act on the client's instructions to bind cover.	The broker did confirm with the client that no uninsured loss had been suffered during the period from which cover was requested	Upon discovery, the broker immediately bound cover for the client and was transparent in their findings to the client.

<b>Code</b>	<b>Issue</b>	<b>Exposure</b>	<b>Outcome</b>
<b>Service Standard 5</b> <i>'We will discharge our duties diligently, competently, fairly and with honesty and integrity'</i>	<p>The issue was caused by human failure. The staff member had all necessary instructions to bind cover and did not do so, and could not give a reason for not binding cover.</p>	<p>to when cover was placed. Only one client was exposed to potential loss.</p>	<p>The broker revisited their procedures and issued a new procedure manual and a centralised area for all new business quotes within their broking administration system for that type of product.</p> <p>The broker also introduced a daily check and clearance on all new business.</p>
<b>Service Standard 6</b> <i>'We will clearly tell you how our covered services are paid for before we provide them and answer any questions you have'</i>	<p>A former employee charged potentially hidden or undisclosed inflated fees to a number of corporate clients.</p> <p>The former employee created non-system generated invoices with the purpose of misleading and deceiving clients as to the amount of fees being charged.</p>	<p>The issue was confined to one employee in one branch.</p> <p>The amount was \$5.9 million and involved 17 clients.</p> <p>The decision was made to compensate clients for the full fees paid plus interest.</p>	<p>The broker reviewed of all clients serviced by offending employee.</p> <p>An internal review was undertaken by the Risk and Compliance Team of the relevant branch.</p> <p>The review identified any other unusual fees and commissions, settlement payments to clients affected.</p> <p>All pre-printed invoice stationery was removed from branches.</p> <p>A directive was issued prohibiting the creation of non-system generated invoices.</p> <p>The review also addressed the improvement in filing structures to manage all documentation for clients, improved training on key compliance requirements and risks associated with poor documentation and introduction of a new Short Term Incentive plan for employees which aimed to support, reward and drive both business performance and professional people/client performance standards (not solely based on sales budget achievement).</p>
<b>Service Standard 7</b> <i>'We will handle any money received in accordance with relevant law and any agreement with you.'</i>	<p>Authorised Representative requested that a refund be issued to the client.</p> <p>The refund was processed by underwriter but not sent to the insured.</p>	<p>One client affected.</p>	<p>When the outstanding refund was followed up by Authorised Representative, the broker corrected the error and processed a refund to the insured.</p>

<b>Code</b>	<b>Issue</b>	<b>Exposure</b>	<b>Outcome</b>
<b>Service Standard 8</b> <i>'We will ensure that we and our representatives are competent and adequately trained to provide the relevant services and will maintain this competence'</i>	One Authorised Representative was employed without having first completed Tier 1 training. The employee came from an underwriting background and the broker had many years of dealing with him. He had only just starting the broking training.	No financial amounts involved or clients affected.	The Authorised Representative is continuing his studies and is nearing completion.  Additional support was provided by the broker's senior staff as mentor and assistance.
<b>Service Standard 11</b> <i>'We will support NIBA in promoting the Code and make information on the Code (including how to make a complaint and our Covered Services) readily available to you'</i>	The broker not promoting the Code in the FSG or on the website.	None.	This has been identified and will be rectified.
<b>Service Standard 12</b> <i>'We will not engage in activity or inactivity that is reasonably likely to bring the insurance broking profession into disrepute'</i>	An authorised representative working under the broker's licence was not responding to his clients. One client did not have the appropriate cover in place. The Authorised Representative would not respond to emails, phone calls. This was caused by personal issues.	One client was affected, having outstanding amounts due to the underwriter. The underwriters extended that cover for them.	The Authorised Representative was dismissed. He has since been investigated and permanently banned by ASIC.

# Appendix E: Comparative table of self-reported complaints

	Category	Complaints 2013 <sup>37</sup>		Complaints 2014 <sup>38</sup>		Complaints 2015 <sup>39</sup>	
		01/07/2012-30/06/2013		01/01/2014-31/12/2014		01/01/2015-31/12/2015	
<b>Products involved in complaint</b>	Home Building	39	12%	28	9%	88	9%
	Home Contents	19	6%	21	7%	41	4%
	Personal Motor Vehicle	31	9%	29	9%	205	20%
	Commercial Motor Vehicle	28	8%	25	8%	84	8%
	Personal and Domestic Property	7	2%	14	4%	81	8%
	Strata Title	11	3%	11	3%	39	4%
	Sickness and Accident	49	15%	4	1%	24	2%
	Travel	3	1%	4	1%	13	1%
	Extended Warranty	0	0%	3	1%	2	>1%
	Professional Indemnity	7	2%	14	4%	42	4%
	Small Business	76	23%	73	23%	167	16%
	Farm	5	1%	18	6%	36	4%
	Life	4	1%	2	1%	2	>1%
	Consumer Credit	0	0%	0	0%	1	>1%
	Income Protection	6	2%	0	0%	6	1%
	Other <sup>40</sup>	50	15%	75	23%	192	19%
<b>Issues involved in complaint</b>	Advice	29	9%	18	6%	57	6%
	Charges	16	5%	18	6%	71	7%
	Disclosure	7	2%	11	3%	31	3%
	Financial Difficulty	2	1%	10	3%	9	1%
	Financial Service Provider Decision	85	25%	31	10%	51	5%
	Instructions	21	6%	20	6%	57	6%
	Privacy	3	1%	4	1%	11	1%
	Service	91	27%	109	34%	279	27%

<sup>37</sup> In 2013, 91 Code Subscribers, representing 25% of total Code Subscribers, were selected to participate in the ACS program. The selection process was weighted according to business size and location to generate breach data percentages that are indicative of the overall industry position.

<sup>38</sup> In 2014, 126 Code Subscribers, representing 37% of total Code Subscribers, were selected to participate in the ACS program. The selection process was weighted according to business size and location to generate breach data percentages that are indicative of the overall industry position.

<sup>39</sup> In 2015, all Code Subscribers were asked to participate in the ACS Program.

<sup>40</sup> 'Other' represents the number of complaints that were identified by the Code Subscriber in the total number of complaints, but not specified further.

	Transactions	13	4%	2	1%	42	4%
	General feedback or improved suggestion <sup>41</sup>	n/a	n/a	24	7%	38	4%
	Other	68	20%	74	23%	377	37%
<b>Outcome of complaint</b>							
	In favour of insurance broker	49	15%	27	8%	196	19%
	In favour of client	113	34%	67	21%	199	19%
	Mutual agreement	89	27%	44	14%	262	26%
	Referred to External Dispute Resolution	27	8%	18	6%	51	5%
	Withdrawn	33	10%	25	8%	49	5%
	Client taken legal action	0	0%	4	1%	7	1%
	Apology, explanation and/or acknowledgement of feedback <sup>42</sup>	n/a	n/a	90	28%	252	25%
	Outstanding	10	3%	8	2%	0	0%
	Other	14	4%	38	12%	7	1%
<b>Resolution timeframe</b>							
	On the spot <sup>43</sup>	n/a	n/a	61	19%	232	23%
	Within 5 days	139	41%	70	22%	332	32%
	Within 21 days	88	26%	75	23%	244	24%
	Within 45 days	38	11%	46	14%	144	14%
	Beyond 45 days	49	15%	34	11%	64	6%
	Other	21	6%	35	10%	7	1%
<b>Total number of self-reported complaints</b>		335		321		1,023	
Total number of self-reported complaints involving breaches of the Code		54	17%	13	4%	132	13%
Number of Code Subscribers participating in the ACS program that self-reported complaints		51	56%	76	60%	162	50%

<sup>41</sup> New category introduced in the 2014 ACS.

<sup>42</sup> New category introduced in the 2014 ACS.

<sup>43</sup> New category introduced in the 2014 ACS.

# Appendix F: Additional tables – complaints and breach data

**Table 11: Complaints and breaches by size of Code Subscriber**

In % of total	Complaints				Breaches			
	2012 <sup>44</sup>	2013 <sup>45</sup>	2014 <sup>46</sup>	2015 <sup>47</sup>	2012	2013	2014	2015
Self-reported by Code subscribers with								
• more than 100 employees FTE	16%	34%	16%	5%	15%	17%	4%	5%
• 31–100 employees FTE	18%	13%	24%	14%	3%	17%	7%	13%
• 21 to 30 employees FTE	66%	34%	60%	10%	82%	66%	89%	10%
• up to 20 employees FTE <sup>48</sup>				71%				72%

**Table 12: Number of Code Subscribers self-reporting complaints for 2012–2015**

Number of self-reported complaints	Code Subscribers completing ACS			
	2012	2013	2014	2015
Nil	64%	44%	40%	48%
Between 1 to 10	33%	48%	48%	44%
Between 11 to 20	1%	4%	4%	6%
Between 21 to 50	1%	3%	2%	2%
Between 51 to 100	0%	1%	0%	0%
Over 100	0%	0%	0%	>1%

**Table 13: Number of Code Subscribers self-reporting Code breaches for 2012–2015**

Number of self-reported breaches	Code Subscribers completing ACS			
	2012	2013	2014	2015
Nil	65%	64%	67%	68%
Between 1 to 10	28%	24%	24%	26%
Between 11 to 20	4%	6%	1%	4%
Between 21 to 50	2%	4%	2%	2%
Between 51 to 100	0%	2%	1%	0%
Over 100	1%	0%	1%	>1%

<sup>44</sup> In 2012, all Code Subscribers participated in the ACS program.

<sup>45</sup> In 2013, 91 selected Code members, representing 25% of all Code Subscribers, were asked to participate in the ACS program. The selection process was weighted according to business size and location to generate breach data percentages that are indicative of the overall industry position.

<sup>46</sup> In 2014, 126 Code Subscribers, representing 37% of all Code Subscribers, were selected to participate in the ACS program. The selection process was weighted according to business size and location to generate breach data percentages that are indicative of the overall industry position.

<sup>47</sup> In 2015, all Code Subscribers participated in the ACS program.

<sup>48</sup> This category was newly introduced in 2015 to better specify the various business sizes and align with the 'small business' definition of 20 employees.