

REAL ESTATE INSTITUTE OF AUSTRALIA

REGULATION OF CLAIMANT INTERMEDIARIES



REIA

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About the Real Estate Institute of Australia

The Real Estate Institute of Australia (REIA) is the peak national association for the real estate profession in Australia.

The REIA's members are the State and Territory Real Estate Institutes, through which around 75-80 per cent of real estate agencies are collectively represented. The Census records the Rental, Hiring and Real Estate Services Industry employment sitting at a total of 117,880. By occupation the key data recorded by ABS Census were some 65,000 business brokers, property managers, principals, real estate agents and representatives.

The REIA represents an important element of the broader property and construction sector which together makes a significant contribution to Australia's social climate and economic development. Property contributes \$300 billion annually in economic activity.

Importantly, REIA represents an integral element of the small business sector. Some 99 per cent of real estate agencies are small businesses and 11 per cent of all small businesses in Australia are involved in real estate.

REIA is committed to providing and assisting research and well-informed advice on a range of issues affecting the property market.

Overview

The REIA welcomes the opportunity to provide a submission to Treasury on the Regulation of Claimant Intermediaries.

The purpose of these Regulations is to exclude certain people, including property managers, from handling insurance claims under the Corporations Act 2001. Such people meet the claimant intermediary definition when handling insurance claims because handling such claims is typically not their core business and often they do so for no monetary benefits.

This will avoid the unnecessary regulatory burden of requiring property managers, amongst some others, to obtain an Australian Financial Services (AFS) licence.



About the Australian Real Estate Industry

Property is a part of our social and cultural fabric with 75% of Australians considering home ownership to be part of the ‘Australian way of life.’

Property also has strong economic credentials with the real estate agency sector representing:

133,360

AUSTRALIAN DIRECT JOBS

46,793

AUSTRALIAN BUSINESSES

11%

OF ALL AUSTRALIAN SMALL BUSINESSES, WITH 99% OF AGENCIES BEING CLASSIFIED AS A SMALL BUSINESS

1 in 4

INDIRECT EMPLOYMENT

\$ 182 Billion

ESTIMATED WORTH TO GDP

\$ 360 Billion/annum

AGENT SALES

(BASED ON THE MEDIAN PRICE IN JUNE 2020)

Impacts of COVID-19

The ongoing impacts of COVID-19 measures on Australia's real estate businesses had some critical impacts. The property sector was put to the test since the initial national 'lockdown' in Australia in late March 2020. Whilst REIA anticipates in 2021 a positive outlook driven primarily by strong demand and limited supply, COVID-19 health and economic policy measures have led to some critical impacts on real estate businesses and markets.



RENTAL EVICTION MORATORIUMS

The percentage of impacted tenants is now reported anecdotally by agents on the ground **to be less than 5% in major cities and less than 1% in regional parts of the country** (as of January 2021).



FIRST HOME BUYERS, OWNERS, INVESTORS

The ABS November 2020 Lending to Households and Business shows that across the property spectrum, players remain active in the market. Investors reported a 6% increase on the previous month; first home buyers saw the highest lending activity since 2009, and the number of new owner occupier loan commitments rose 23.7% over the past year.



LOCKDOWNS

Snap and longer-term lockdowns prolong listings cycles and have prevented Australians from securing housing solutions in the pandemic. Victoria's Stage 4 lockdown had an estimated initial impact of \$2 billion to the property market.



HOUSING AFFORDABILITY

Housing affordability for the June 2020 quarter for renters was the best it has been since 2007. By December 2020, first home buyers represented 40% of the market with housing affordability improving for both renters and home owners.



HIGH PANDEMIC PROPERTY PRICES

An increase in property prices have caught the eye of central banks, with New Zealand's Reserve Bank exploring putting in place loan-to-value lending criteria. **The Reserve Bank of Australia is expected to consider actively their own monetary response in 2021.**



HOUSE PRICES & VACANCY RATES

Over the 12 months to the September quarter, the weighted average capital city median house price increased by 3.6%. Vacancy rates for rentals increased substantially over the past year in Sydney and Melbourne. **The inner areas of these capital cities have been impacted the hardest with vacancy rates in Inner Sydney reaching 5.5% and Inner Melbourne reaching 5.3%.**



HOME LOAN DEFERRALS

The resumption of home loan deferrals has showed promising signs of recovery with Australian Banking Association data showing that home loan deferrals reduced from **436,139 deferred loans to 145,250 deferred loans in November 2020.**



POLICY REVIEWS & REFORM

COVID-19 has led to a broad suite of intended reforms for policy makers across Local, State and Federal Governments. There are a range of intersecting reviews and consultations that may impact outlooks for agencies and property across jurisdictions including but not limited to: **stamp duty, responsible lending obligations, occupational mobility and digital economy.**

Discussion

Prior to the Exposure Draft, there was much consternation and confusion amongst many in the real estate sector as to the intent of the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020 and, in particular, whether property managers who handle an insurance claim on behalf of their client would be required to hold an AFS licence.

Matters were not assisted by advice issued by ASIC which was not clear and hence was interpreted by many as requiring property managers to hold an AFS licence.

REIA thus welcomes and supports this much-needed clarification.

By specifically naming property managers in the Exposure Draft, the vast majority of cases, where a real estate agency makes a claim on behalf of their client in managing a property, will be covered. However, there may be some instances where a claim is made by a person in a real estate agency who is not a property manager. This may occur where an agency's rental roll is relatively small or in a small agency, where the property management is undertaken by another person in addition to their normal role such as sales. Similarly, if a property is listed for sale or has been sold but the sale has not yet been settled and an insurance claim is required, it may be the real estate salesperson who handles the claim.

To avoid the unintended consequence and possible confusion created by the Draft Regulations, REIA suggests that "real estate agent" (or principal) be included with "property managers" from regulation for insurance claims handling. By including "real estate agent" this will cover other employees that may make a claim.

The REIA recommends that under 7.1.04CAA (9) of Schedule 1 of the Financial Sector Reform (Hayne Royal Commission Response) (Claimant Intermediaries) Regulations 2020 "real estate agent" be included with "property manager".

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