



Sally Hamilton
Corporate Counsel

Marsh Pty Ltd
ABN 86 004 651 512
Darling Park Tower 3
201 Sussex Street
Sydney NSW 2000
PO Box H176
AUSTRALIA SQUARE NSW 1215
+61 2 8864 8401
Fax +61 2 8864 7626
sally.hamilton@marsh.com
www.marsh.com.au

18 November 2013

Australian Competition and Consumer Commission
By email: adjudication@accc.gov.au

Dear Sir/Madam,

FORM G - NOTIFICATION OF EXCLUSIVE DEALING

Marsh Pty Ltd (ABN 86 004 651 512, AFSL 238 983) ("Marsh") previously submitted an Exclusive Dealing Notification (third line forcing) to the ACCC with respect to its supply of broking services to insolvency practitioners (Notification N95441 dated 17 June 2011).

Marsh will transfer the relevant business to a subsidiary, Marsh Advantage Insurance Pty Ltd (ABN 31 081 358 303, AFSL 238 369) ('MAI') on 2 December 2013.

In the circumstances, please find enclosed a Form G – Notification of Exclusive Dealing (third line forcing) for MAI and a receipt for the transfer of the \$100.00 fee.

Yours faithfully,

Sally Hamilton
Corporate Counsel

Enclosure

Form G

Commonwealth of Australia
Competition and Consumer Act 2010 — subsection 93 (1)
NOTIFICATION OF EXCLUSIVE DEALING

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

1. Applicant

- (a) Name of person giving notice:
(Refer to direction 2)

N97095 Marsh Advantage Insurance Pty Ltd ('MAI')

- (b) Short description of business carried on by that person:
(Refer to direction 3)

Insurance broker and risk adviser.

- (c) Address in Australia for service of documents on that person:

The Company Secretary
Marsh Advantage Insurance Pty Ltd
Darling Park Tower 3,
201 Sussex Street,
Sydney NSW 2000

2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

The supply of insurance broking services to insolvency practitioners.

The supply of insurance cover to insolvency practitioners.

- (b) Description of the conduct or proposed conduct:
(Refer to direction 4)

MAI is offering to supply and supplying broker services to insolvency practitioners on the condition that, if the insolvency practitioner wishes to acquire insurance cover with a pre-approval or automatic approval facility through MAI, the insolvency practitioner must acquire that cover from Allianz Australia Limited ('Allianz') (***Proposed Conduct***).

3. Persons, or classes of persons, affected or likely to be affected by the notified conduct

- (a) Class or classes of persons to which the conduct relates:
(Refer to direction 5)
Insolvency practitioners
- (b) Number of those persons:
- (i) At present time:
54
- (ii) Estimated within the next year:
(Refer to direction 6)
50-60
- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:
N/A

4. Public benefit claims

- (a) Arguments in support of notification:
(Refer to direction 7)

MAI offers insurance broking services to insolvency practitioners (and eventually to the company in administration, receivership or liquidation). The insurance covers the liability of the insolvency practitioner in respect of the performance of their role as a court appointed administrator. In the ordinary course, there is a delay between the insolvency practitioner's appointment as an administrator, receiver or liquidator and the date on which the insolvency practitioner's insurance cover will commence. The delay arises by reason of the need for the insolvency practitioner to seek approval from the insurer which may take up to 7 days.

Given this, MAI has negotiated with Allianz the terms on which Allianz will offer insurance cover to MAI's insolvency practitioner clients which include a pre-approval facility (*Allianz's Pre-approved Coverage*). If the insolvency practitioner decides to acquire that cover, the practitioner will be covered from the date of its appointment as an administrator, receiver or liquidator. MAI understands that a similar pre-approval facility is offered by other insurers to competing brokers and their clients.

MAI will continue to offer its broker services to the practitioner where the practitioner does not wish to acquire Allianz's Pre-approved Coverage. In those circumstances, MAI will not arrange contracts of insurance for the insolvency practitioner which are limited to those provided by Allianz.

The Proposed Conduct is the public interest because it:

- will allow insolvency practitioners to obtain pre-approval for their insurance coverage so that they can have their insurance cover in place

from the date they are appointed by a Court as an administrator/receiver/liquidator in respect of an insolvent company;

- will allow MAI to compete with brokers who also offer this type of facility to insolvency practitioners; and
- provides insolvency practitioners with greater choice in the insurance cover available to them, that is, they can acquire Allianz's Pre-approved Coverage or any other cover MAI may be able to arrange from other insurers.

(b) Facts and evidence relied upon in support of these claims:

In relation to the public benefits claimed above, MAI submits that:

- insolvency practitioners obtaining pre-approval for their insurance cover will result in a public benefit as it will remove any gap between the appointment of the insolvency practitioner and the date on which the insolvency practitioner's insurance coverage takes effect in which the insolvency practitioner would be uninsured; and
- its arrangements with Allianz are non-exclusive and similar products are offered by other insurers.

5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):
(Refer to direction 8)

The national market for the supply of insurance brokerage services.

The national market for the supply of insurance cover to insolvency practitioners.

6. Public detriments

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:
(Refer to direction 9)

The Proposed Conduct will not result in any detriment to the public including any anti-competitive detriment because:

- MAI understands that a similar facility is offered by other insurers to competing brokers and their clients;
- MAI will continue to offer its broker services to the practitioner where the practitioner does not wish to acquire the cover and facility described above, and

- MAI does not prevent insolvency practitioners from obtaining cover (including pre-approval) from Allianz or other insurers.
- (b) Facts and evidence relevant to these detriments:
- Not applicable.

7. Further information


- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Colin Stocks, National Manager – Retail
Postal address: PO Box H176
Australia Square NSW 1215
Phone: (02) 8864 7794
Email: colin.stocks@marsh.com

Sally Hamilton, Corporate Counsel
Postal address: PO Box H176
Australia Square NSW 1215
Phone: (02) 8864 8401
Email: sally.hamilton@marsh.com

Dated.....14.11.2013.....

Signed by/on behalf of the applicant

.....
(Signature)

.....COLIN STOCKS.....
(Full Name)

.....MARSH ADVANTAGE INSURANCE.....
(Organisation)

.....NATIONAL MANAGER - RETAIL.....
(Position in Organisation)

DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of the which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Competition and Consumer Act 2010* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.