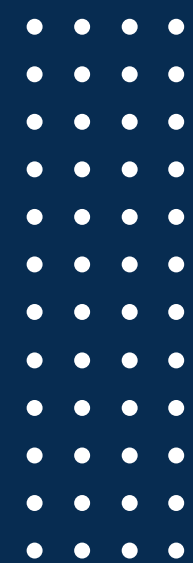


# NSW COMMISSIONS

**Substantial Progress**

**But Work Still to Be Done**

Presented by Tyrone Shandiman



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# READ THE ROOM MOMENT

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# WHAT'S CHANGED?

**Strata Managers  
Moving Away  
From Commissions**

**Reduction in  
Excessive (40%)  
Remuneration  
Models**

**Still Bad Actors  
Doing the Same  
Thing**



**GOOD  
ACTORS**

**THANK  
YOU!**

# NSW Reform Options (Productivity Commission)

## SELF REGULATION

Industry-led transition away from insurance commissions (via SCA NSW plan)

## COMMISSION BAN

Government ban on strata managers receiving insurance commissions

## EXPANDED BAN

Government ban on strata managers receiving insurance commissions.

Plus, Ban on arranging services with upstream commission links (e.g. brokers)

# LOOPHOLES



**SM/BROKER JOINT VENTURE -  
FEE FOR SERVICE MODEL**



**PROFIT SHARING ARRANGEMENT  
NOT LABELLED AS COMMISSION**



**RELABBELD SERVICE OR  
MARKETING PAYMENTS**



**THIRD-PARTY OR  
“BLACK-BOX” ARRANGEMENTS**



**ADVANCE SALE OF  
SERVICING RIGHTS**



**ARM'S LENGTH BAN**  
**FIDUCIARY DUTY TO**  
**AVOID CONFLICTS**





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# NATIONAL INSURANCE BROKERS ASSOCIATION CODE OF CONDUCT

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**COMMERCIAL  
INTEREST**



**PROFESSIONALISM**

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# Conflicts of Interest – Brokers

**Section 912A(1)(aa), Corporations Act:** Brokers must have **adequate arrangements to manage conflicts of interest.**

**Regulatory Guide 181:** ASIC guidance expects brokers to **avoid conflicts** where management isn't sufficient.

# FIDUCIARY DUTY

## THE NO CONFLICTS RULE

A fiduciary (strata managing agent) must not place themselves in a position where their personal interests conflict with their duty to the body corporate.



A screenshot of a video presentation slide. The slide has a dark grey background with a yellow header bar. The title 'What are the fiduciary duties?' is in white. Below the title is a bulleted list of three items: 'The conflicts rule', 'The purchasing rule', and 'No profit rule'. To the right of the text is a blurred video frame showing a person in a blue and white striped shirt walking in an office. In the top right corner of the video frame, there is a small inset image of a man's face. At the bottom of the video frame, there is a small text overlay that reads 'Commercial in Confidence. © Budget Open Financial Advantage'.

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**If a broker induces another party (strata manager) to breach their fiduciary duty to a client, how can that conflict ever be managed?**

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# WHAT IS ACIL CONSIDERING?

1. **Engagement with NIBA:** Seek recognition of these conflict concerns within the Code of Conduct.
2. **Regulatory Referral (ASIC):** Consider referring examples of these arrangements to ASIC for review.
3. **Regulatory Reform (RG181):** Work with consumer stakeholders to pursue updates to Regulatory Guide 181.



THANK YOU