



## FROM THE INSTITUTE PRESIDENT, MICHAEL COOKE

The past month has been busy with final arrangements for the CC13 on 1-2 August in Sydney. This year's convention is shaping up to better our previous record with over 330 registrations to date. I would like to acknowledge the work of the organising committee. Sarah Walters, Monica Davies and staff from ANZIIF, as well as AICLA CEO Tony Libke, NSW Division members Kevin McElhenny and Christine Boardman and consultant Philip Maguire. I thank them for their efforts and dedication to this task.

The programme for the convention is excellent and I encourage those of you who have not attended a Claims Convention to make an effort next year as it is not only stimulating to hear leading presenters discuss important matters but an excellent opportunity to network with loss adjusting colleagues, insurance company personnel, suppliers and others involved in the claims industry. The dinner also promises to be a major highlight with a number of academic and membership awards. I would like to thank the CC13 major sponsor Steamatic for their ongoing support for the event.

I will be able to expand more on CC13 in next month's LA News.

CC13 will be preceded on Wednesday 30 July by a Trainee Loss Adjusters' Workshop in Sydney. I am delighted to report that the workshop is fully booked. We are grateful to the AICLA presenters who have offered up their time to impart valuable knowledge to young and relatively inexperienced loss adjusters and insurance company claims staff. I believe this is a wonderful initiative and one we plan to conduct again in 2014.

Congratulations to Jaye Kumar and those AICLA members who were involved in the successful joint AICLA/Singapore College of Insurance two day workshop held in Singapore on Contractors' All Risks Claims. A report on the workshop is below.

I wish to acknowledge the retirement of James Ong from the International Division Council due to travel and family commitments. James was the first Chairman of the International Division and has been a great supporter of the

AICLA activities in Asia. I also note that Stephen Kwang the current International Division Chairman is standing down from that position but is remaining on the Council. Thank you Stephen for your efforts on behalf of members.

The NSW Division annual luncheon was held last week and from all reports was again an outstanding success. I had hoped to attend the luncheon but it clashed with a prior engagement in Tasmania. Well done to Kevin McElhenny and the NSW Committee.

I was invited to facilitate a seminar on Friday 26 July 2013 in Hobart conducted by the Tasmania Division on the Tasmania Fires of January 2013. This was very well attended by the Insurance Industry in Hobart and involved a representatives from the ICA, AICLA, an engineer and building surveyor. The presentation was a great success with many of the attendees requesting the presentation be expanded upon at a future seminar.

I was also delighted to be invited by the Tasmania Division to address the attendees at the Tasmania Fire Seminar immediately prior to the session on AICLA. This was a wonderful opportunity to elaborate on the workings of AICLA, the fact that we are an educational body and that we represent our members in a multitude of ways from within our industry as well as other organisational bodies.

In the coming months Tony Libke and I will be travelling to all Divisions across Australia to meet with our members and talk with them on AICLA projects and discuss issues that they may have concerning loss adjusting and where AICLA may be able to assist.

**Kind Regards,  
Michael Cooke**

## QUEENSLAND

The Queensland Division AGM will be held on Thursday 22 August 2013 at the Broncos Club Red Hill Brisbane. The AGM will be preceded by a presentation on Mould – What You Need To Know commencing at 7:30am.

## VICTORIA

The Victorian Division AGM is scheduled for Wednesday 7 August 2013 commencing at 6pm at The Tower Hotel 686 Burwood Rd, Hawthorne. All members are welcome to attend.

## ON-LINE CONTINUING PROFESSIONAL DEVELOPMENT (CPD)

### FLOOD — A FINANCIAL SERVICES OMBUDSMAN DETERMINATION

This month we feature at CPD052 an interesting FOS determination addressing the somewhat hoary topic of flood, and the much debated issues of the definitions of storm, inundation, stormwater or rainwater runoff, as well as flood itself. The applicant insured had the benefit of legal representation and so much of the application has overtones of legal thinking, in effect widening the area of dispute and including the contention that the insurer failed to properly inform the insured of the effect of the policy exclusion for flood.

As is common in legal matters, a number of alternative arguments (some mutually exclusive) were mounted, as well as some attempt to invoke precedent by quoting earlier FOS determinations. One of the main platforms of argument was that the distinctions between various forms of water damage are partly artificial and it was unreasonable for the insurer to expect a layperson consumer to fully understand them, so that the requirement under the Insurance Contracts Act Section 35 to clearly inform the consumer of the effect of an exclusion was not met. Another argument was that under Section 13 of the Act, the insurer was required to provide the insured with the best possible option to protect the insured from foreseeable risk which could result in substantial loss. When cover was proposed the consumer informed the insurer of her location which is near a watercourse. It was contended that thus the insurer knew of the risk and was obliged to cover it!

The insurer's position was that the claim had properly been denied on the basis of assessor's and hydrology reports, that the event was properly and clearly established and defined as flood, and further that the policy was quite clear about this definition and clearly notified the insured of the effect of the exclusion. The determination contains an interesting analysis of the actual event, and it was finally found that the event was one of flood, that the insurer was entitled to deny the claim and that the insurer's actions under the policy did not breach its duties, including that of the utmost good faith.

This is a case that many adjusters would consider fairly clean cut and might even suppose (rightly or wrongly) that the insured was encouraged by the solicitor to apply through the Financial Ombudsman's Office for a determination when the circumstances made a positive outcome unlikely. Nevertheless, this right is available to an insured, and as in all FOS cases it was apparent that neither the adjuster nor the insurer's ID mechanism failed to persuade the insured that the matter had been resolved correctly.

You can access our on-line CPD facility on a 24/7 basis. Simply click on the hotlink below, or navigate through 'Professional Development' on the AICLA website Home Page. Members should use the User Name **cpduser** and the password **aiclacpd**. Your web browser may offer the option: 'Remember this password'. We look forward to seeing you there! [Go to on-line CPD now...](#)

## ICA DISASTER BRIEFINGS

ICA will be conducting disaster briefings during August with AICLA members able to participate via webinar. ICA will have a webinar room open until 6 July between 1-2pm to test access to the faculty.

The process to test the facility is as follows:

1. Open a web browser on your desktop or tablet – Browsers that work are Internet Explorer 9 or later, or the latest versions of Chrome, Firefox and Safari.
2. Navigate to [http://api.mightyhd.com/go/Insurance\\_Council\\_3](http://api.mightyhd.com/go/Insurance_Council_3)
3. When prompted, enter your name.
4. If you see a slide, like the one below (or attached image), you have been successful in gaining entry to the webinar and can then exit the browser.
5. Please note: No additional software is required to be downloaded – You do not need a camera or speakers for your computer.
6. Please note: The audio component of live webinar is provided by dialling into an ICA teleconference line – This is not being tested during these sessions.
7. If you experience difficulty please make contact with Denise Katsenos on (02) 9253 5154 or via email at [dkatsenos@insurancecouncil.com.au](mailto:dkatsenos@insurancecouncil.com.au)

The dates for the webinar briefing sessions are as follows:

**8 August 2013, 11:15 – 12:15 and 5 August 2013 11:15 – 12:15**

# DEALING WITH CONTRACTORS' ALL RISKS CLAIMS - A PRACTICAL APPROACH

Another well attended workshop seminar was organised by AICLA and the Singapore College of Insurance (SCI) in Singapore on the 24th and 25th June 2013.



The two day session was attended by delegates from Thailand, Philippines, Malaysia, Australia and Singapore. This was the second workshop conducted by AICLA and SCI and forms part of the organisations' commitment to provide practical and intensive specialist claims handling training programs for the insurance industry in the region.

The aim of the two day workshop was to provide participants with practical and useful insights of the claims management and broader policy issues in dealing with Contractors' All Risks (CAR) claims, including Advanced Loss of Profits/ Delayed Start-Up.

The workshop facilitators were Leon Briggs of Cunningham Lindsey (New Zealand), Ian McWalter of FT Adjusting (Australia) and Pooba Mahalingham of Crawford (Singapore).

The first day's morning session set the scene for the Material Damage and Liability, including Professional Indemnity aspects of Contract Works claims with an overview of current and mega projects in the region, typical issues and practical examples and case studies. Following the morning's review and understanding of the Contract Works policy coverage, exclusions and conditions, the participants were presented in the afternoon with a number of case study exercises to work through in groups.

The second day commenced with an examination of the financial aspects of the CAR claims, Advance Loss Profits/ Delayed Start-Up claims and a review of the accounting

fundamentals of such claims. Building on this foundation, the peculiarities of the financial aspects of CAR claims were explored in the afternoon via a series of case study exercises.

AICLA's International Development Director, Jaye Kumar, worked with Jeffery Yeo and the dedicated team at SCI to organise this program. He said, "AICLA is pleased that our members and high calibre loss adjusters who facilitated this program took time off from their busy work commitments to participate in this program and make it such a success". He went on to say, "AICLA and SCI have worked out a winning formula and expect to run other similar programs, annually. The next one will be an Engineering Claims Workshop in early 2014".

## NEW AND ELEVATED MEMBERS

Congratulations to the following recently admitted and elevated members:

### NEW MEMBERS

Name	Class	Division
Wahyu Sumantri	Provisional	International
Daniel Kurniawan	Provisional	International
Marcel Suwardi	Provisional	International
Tata Gunawan	Affiliate	International
Aditya Hamdani	Provisional	International
Ivony Maria	Provisional	International
Susandi	Provisional	International
Reinhard Puspito	Provisional	International
Samantha Moros	Provisional	South Australia
David Buksinski	Affiliate	South Australia
George Bejjani	Affiliate	New South Wales

### ELEVATIONS

Name	Class	Division
Lo Kin Wing Thomas	Fellow	International
Andrew Khoo	Affiliate	International
Nick Warhurst	Associate	New South Wales
Stewart Lench	Associate	New Zealand
Joanna Elias	Associate	New South Wales
Andrew Thomson	Fellow	Victoria
Paul Fair	Associate	International