



ASIC
Australian Securities &
Investments Commission

CONSULTATION PAPER 339

Implementing the Royal Commission recommendations: The deferred sales model for add-on insurance

March 2021

About this paper

This consultation paper seeks feedback on ASIC's proposed approach to implementation of the deferred sales model for add-on insurance.

We are seeking the views of interested stakeholders, including industry and consumers, on our proposals for guidance on complying with the deferred sales model, our approach to the granting of exemptions, and the content, form and manner of provision of the prescribed information that must be given to a customer before the deferral period starts.

Note: The draft regulatory guide (draft RG 000) that sets out our proposed guidance is attached to this consultation paper, and is available on our website at www.asic.gov.au/cp under Consultation Paper 339 *Implementing the Royal Commission recommendations: The deferred sales model for add-on insurance* (CP 339).

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This paper was issued on 11 March 2021 and is based on the legislation as at the date of issue.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

Contents

| | |
|--|-----------|
| The consultation process | 4 |
| A Background to our proposals | 5 |
| The deferred sales model for add-on insurance..... | 5 |
| Why is the deferred sales model being introduced? | 6 |
| Our approach to guidance | 7 |
| Our approach to the Customer Information | 8 |
| B Complying with the deferred sales model | 9 |
| Our general approach to guidance | 9 |
| Content of our proposed guidance | 10 |
| C Exemptions from the deferred sales model..... | 12 |
| Our general approach to exemptions | 12 |
| Proposed guidance on exemptions | 13 |
| D Customer Information | 15 |
| Background to the Customer Information | 15 |
| Our approach to the Customer Information | 16 |
| Content of the Customer Information | 18 |
| Form of the Customer Information..... | 21 |
| Manner of provision: How to provide the Customer Information | 23 |
| Manner of provision: When to provide the Customer Information | 25 |
| E Regulatory and financial impact | 26 |
| Appendix: Proposed content and form of Customer Information | 27 |
| Content for electronic provision | 27 |
| Content and form for hardcopy format..... | 27 |
| List of proposals and questions | 29 |

The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information. We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on the deferred sales model for add-on insurance. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section E, 'Regulatory and financial impact'.

Making a submission

You may choose to remain anonymous or use an alias when making a submission. However, if you do remain anonymous we will not be able to contact you to discuss your submission should we need to.

Please note we will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any personal or financial information) as confidential.

Please refer to our privacy policy at www.asic.gov.au/privacy for more information on how we handle personal information, your rights to seek access to and correct personal information, and your right to complain about breaches of privacy by ASIC.

Comments should be sent by **23 April 2021** to:

deferred.sales.model@asic.gov.au

What will happen next?

| | | |
|----------------|---------------|---|
| Stage 1 | 11 March 2021 | ASIC consultation paper released |
| Stage 2 | 23 April 2021 | Comments due on the consultation paper |
| Stage 3 | Mid 2021 | Final regulatory guide and legislative instrument which prescribes information that must be given to customers published. |

A Background to our proposals

Key points

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry recommended the introduction of an industry-wide deferred sales model for add-on insurance.

The Parliament has passed legislation to implement this recommendation; the new requirements will apply from 5 October 2021. The requirements in the deferred sales model mean that a four-day pause will apply between the sale of a principal product or service and the sale of add-on insurance.

This consultation paper seeks feedback on our proposed approach to implementation of the deferred sales model for add-on insurance.

We are seeking the views of interested stakeholders, including industry and consumers, on our proposals for guidance on complying with the deferred sales model, our approach to the granting of exemptions, and the content, form and manner of provision of the prescribed information that must be given to a customer before the deferral period starts.

A draft regulatory guide (draft RG 000) setting out our proposed guidance is attached to this paper.

Note: See the 'Key terms' in draft RG 000 for a list of terms and definitions used in this paper. Draft RG 000 is available on our website at www.asic.gov.au/cp under CP 339.

The deferred sales model for add-on insurance

- 1 The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission) recommended that a deferred sales model should be introduced for all add-on insurance products other than comprehensive motor vehicle insurance: Recommendation 4.3. The Productivity Commission had earlier recommended a deferred sales model as part of its inquiry into competition in the Australian financial system.

Note: See Royal Commission, [Final report](#), 2019, pp. 288–299; Productivity Commission, [Competition in the Australian financial system](#), inquiry report, 2018, pp. 426–432.

- 2 The Government accepted the Royal Commission's recommendation. The deferred sales model was implemented by inserting new Div 2, Pt 2, Subdiv DA into the *Australian Securities and Investments Commission Act 2001* (ASIC Act) by the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020* (Financial Sector Reform Act).

- 3 Under the deferred sales model, providers of add-on insurance must wait for four clear days after a customer has committed to acquire a principal product or service before selling them an add-on insurance product: s12DP(1) of the ASIC Act.
- 4 The deferred sales model applies to an ‘add-on insurance product’. The legislation specifies the type of financial product and the nature of the offer or sale for a product to be an ‘add-on insurance product’: s12DO(1).
- 5 The following conduct is an offence under the deferred sales model:
- (a) selling an add-on insurance product without waiting four days after the sale of the principal product or service (s12DQ);
 - (b) offering, requesting or inviting a customer to apply for a product during and after the deferral period other than in writing or in response to customer contact (s12DR);
 - (c) offering, requesting or inviting the customer to apply for add-on insurance if the customer has opted out of receiving such offers, requests or invitations (s12DS); and
 - (d) breaching a condition of an exemption in the Australian Securities and Investments Commission Regulations 2001 (ASIC Regulations) or made by ASIC (s12DZA).
- 6 Some products are not subject to the deferred sales model. These include:
- (a) comprehensive motor vehicle insurance (12DW);
 - (b) products sold by financial advisers in the course of providing personal advice (s12DU);
 - (c) products covered by an ASIC product intervention order which prescribes a deferred sales period (s12DV);
 - (d) classes of add-on insurance products that are exempt in the ASIC Regulations (s12DX); and
 - (e) add-on insurance products and classes of add-on insurance products sold by specified persons that are exempt by ASIC (s12DY).

Why is the deferred sales model being introduced?

- 7 The Royal Commission heard evidence of widespread problems with the sale of add-on insurance products through car dealers and major banks. It noted concerns that:
- (a) add-on insurance products represent poor value for consumers;
 - (b) insurers commonly pay more in commissions than in claims;

- (c) consumer outcomes are considerably worse than in markets where there is meaningful competition; and
- (d) consumers are at risk of unfair sales and adverse outcomes.

Note: See Royal Commission, [Final report](#), pp. 288–289.

8 As noted in the Royal Commission’s final report, ASIC has undertaken substantial work and issued multiple reports which found systemic problems with the sale of add-on insurance through car yards and lenders.

9 We found that:

- (a) in car yards, insurers paid more to product distributors in sales commissions than to policyholders in claims;
- (b) insurers did not need to compete on price or value;
- (c) insurance was sold to consumers who were ineligible to claim or unlikely to benefit from or need cover;
- (d) salespeople used pressure selling and other unfair sales practices;
- (e) consumers were given non-compliant personal advice to buy unsuitable policies; and
- (f) consumers were charged for consumer credit insurance despite not having a current loan.

Note: See [Report 256](#) *Consumer credit insurance: A review of sales practices by authorised deposit taking institutions* issued in October 2011; [Report 470](#) *Buying add-on insurance in car yards: Why it can be hard to say no*; [Report 471](#) *The sale of life insurance through car dealers: Taking consumers for a ride* issued in February 2016; [Report 492](#) *A market that is failing consumers: The sale of add-on insurance through car dealers* issued in September 2016; [Report 622](#) *Consumer credit insurance: Poor value products and harmful sales practices* issued in July 2019.

10 Between 2016 and 2020, ASIC secured remediation for consumers of more than \$160 million for add-on consumer credit insurance mis-sold through lenders, and more than \$130 million for add-on insurance mis-sold through car yards.

Note: See [Media Release 20-115MR](#) *ASIC secures over 160 million in remediation for junk consumer credit insurance* (13 May 2020); [Media Release 19-146MR](#) *ASIC announces further add-on insurance refunds bringing total to over 130 million* (19 June 2019).

11 The deferred sales model is being implemented to address the unfair sales practices and significant consumer harms in the add-on insurance market.

Our approach to guidance

12 We are proposing to issue a regulatory guide on the deferred sales model. The purpose of the guide is to set out:

- (a) the scope of the deferred sales model;

- (b) our expectations of providers of add-on insurance products in complying with the deferred sales model; and
 - (c) our interpretation of the factors ASIC must consider when deciding whether to grant an exemption from the deferred sales model, and guidance on how to apply for an exemption.
- 13 Draft Regulatory Guide 000 *The deferred sales model for add-on insurance* (draft RG 000) is attached to this consultation paper.

Note: In this paper, we refer to the entities to which the deferred sales model applies as 'providers'. A person can be a principal provider or a third-party provider of add-on insurance under the ASIC Act. Providers include Australian financial services (AFS) licensees who sell add-on insurance products and their authorised representatives. AFS licensees are generally responsible for the conduct of their authorised representatives: see s917A and 917B of the *Corporations Act 2001* (Corporations Act).

Our approach to the Customer Information

- 14 As well as consulting on our proposed guidance in draft RG 000, we are consulting on the content, form and manner of provision of the information that must be given to a customer before the deferral period starts (Customer Information).
- 15 Under s12DP(4), ASIC is empowered to determine the information that must be given to a customer at the start of the deferral period, and the form and manner of provision of that information.
- 16 In Section D of this paper, we outline our proposal for the Customer Information. Our proposal is informed by consumer testing of a set of sample information statements. The proposed content and form of the Customer Information is in the appendix to this paper.

B Complying with the deferred sales model

Key points

This section seeks feedback on the approach and content of our proposed guidance, including:

- our general approach to guidance on the deferred sales model;
- the scope of the deferred sales model (i.e. the products and persons covered); and
- what we expect providers will need to do to comply with the deferred sales model.

Our general approach to guidance

Proposal

- B1** As the deferred sales model is prescriptive, and there are significant consequences of breaching the requirements, we propose to publish a detailed regulatory guide.

Your feedback

- B1Q1** Do you agree with our approach of providing detailed guidance on the deferred sales model? Please explain your view.
- B1Q2** Do you consider that ASIC could provide less guidance? If so, what parts of our proposed guidance should be deleted?

Rationale

- 17 We are seeking views on our approach to providing detailed regulatory guidance as set out in draft RG 000 attached to this consultation paper.
- 18 The deferred sales model is a prescriptive regime, rather than principles based. To help providers comply with the model, and to help ensure good consumer outcomes, we propose to provide reasonably detailed guidance.
- 19 On the other hand, we note that:
- ASIC's guidance cannot account for all individual circumstances; and
 - responsibility for compliance with the requirements in the deferred sales model rests with providers of add-on insurance products.

Content of our proposed guidance

Proposal

- B2** We propose to publish a regulatory guide on the deferred sales model, which covers:
- (a) a description of the scope of the deferred sales model;
 - (b) what we expect providers will need to do to comply with the deferred sales model; and
 - (c) how we will approach applications for exemption (see Section C of this paper) from the deferred sales model.

Your feedback

- B2Q1** Do you agree with the proposed guidance in draft RG 000? Please explain your view.
- B2Q2** Do you agree with the proposed examples in draft RG 000? Are there additional examples that would be useful?
- B2Q3** What guidance should we include about the provision of the prescribed customer information (see our proposal for the Customer Information in Section D of this paper)?
- B2Q4** Are there other matters we should consider providing guidance on?

Rationale

Scope of the deferred sales model

- 20 The deferred sales model applies to an ‘add-on insurance product’ as defined in s12DO of the ASIC Act. We propose to provide detailed guidance on how the definition applies and whether an add-on insurance product may fall within one of the exclusions under the ASIC Act.

Complying with the deferred sales model

- 21 We consider that the deferred sales model has three distinct periods:
- (a) the pre-deferral period;
 - (b) the four-day deferral period; and
 - (c) the post-deferral period, which runs until six weeks after the start of the deferral period.
- 22 For each period, we have provided guidance on:
- (a) when the period starts and ends;
 - (b) what a provider must not do during the period (prohibited conduct); and
 - (c) what a provider may do during the period (permitted conduct).

- 23 The proposed guidance details the prohibited and permissible conduct during each of these periods, because the consequences of breaching the prohibitions are significant.

Note: A breach of a prohibition under the deferred sales model carries a maximum of 2,000 penalty units for individuals and 20,000 penalty units for a body corporate.

- 24 Before the pre-deferral period starts, and after the post-deferral period ends, providers are subject to the hawking prohibitions. [Regulatory Guide 38](#) *The hawking prohibitions* (RG 38) sets out our guidance on unsolicited selling, and should be read alongside our proposed guidance on the deferred sales model.

Note: We expect to consult shortly on updates to RG 38 in line with the changes to the hawking prohibition introduced by Sch 5 of the Financial Sector Reform Act.

Customer opt-out and customer right of return

- 25 We propose to provide guidance on how providers should:
- (a) comply with the prohibition on making offers, requests or invitations to a customer who has ‘opted out’ (s12DS); and
 - (b) comply with and administer the customer’s right of return (s12DT), including when we consider the customer can exercise their right to a refund.

Record keeping

- 26 We propose to provide guidance on record keeping under the deferred sales model because the Explanatory Memorandum to the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020 (Explanatory Memorandum) states that:
- (a) where a defendant has the evidential burden in relation to a matter, they must present or point to evidence to establish that the matter exists or does not exist; and
 - (b) as a matter of good business practice, and to comply with general business record-keeping obligations, providers should keep certain records.

Note: See [Explanatory Memorandum](#), paragraphs 3.53–3.54.

- 27 We also propose to provide guidance on several other matters where we consider it is important for providers to collect and retain information, such as whether and when the customer opted out of offers of add-on insurance.

C Exemptions from the deferred sales model

Key points

We propose to provide detailed guidance on:

- our approach to applications for exemption on an individual basis from the deferred sales model;
- our interpretation of the factors we must consider when deciding whether to grant an exemption; and
- the effect of and potential conditions of an exemption.

Our general approach to exemptions

28 When considering whether to exempt a product or class of products from the deferred sales model, ASIC must have regard to the following five ‘exemption factors’ set out in s12DY(2) of the ASIC Act:

- (a) any evidence as to whether the add-on insurance product, or the class of add-on insurance products, has historically been good value for money (s12DY(2)(a));
- (b) whether, without an exemption, there is a high risk of underinsurance or non-insurance (s12DY(2)(b));
- (c) any evidence as to whether the add-on insurance product, or the class of add-on insurance products, is well understood by consumers (s12DY(2)(c));
- (d) any differences between the add-on insurance product, or class of add-on insurance products, and financial products of a similar kind that are not sold as add-on insurance products (s12DY(2)(d)); and
- (e) any other matters that ASIC considers relevant (s12DY(2)(e)).

29 Draft RG 000 includes examples of ‘other matters that ASIC considers relevant’ under s12DY(2)(e). We consider that a relevant matter under s12DY(2)(e) is the Government’s expressed intention in the Explanatory Memorandum that exemptions for a class of products be granted in the ASIC Regulations only in ‘exceptional circumstances’.

Note: See [Explanatory Memorandum](#), paragraph 3.98.

30 We also take the fact that ASIC does not have a general class exemption power to indicate that Parliament intended that ASIC only make exemptions in specific, limited circumstances.

- 31 The proposed guidance in draft RG 000 confirms that, in relation to exemptions from the deferred sales model, we will apply our general approach to relief applications in [Regulatory Guide 51 Applications for relief](#) (RG 51). Draft guide 000 also sets out the specific principles we will apply to applications for exemption from the deferred sales model.
- 32 We will exercise our discretionary powers to grant exemptions on an individual basis in a way that promotes the objectives of the requirements in the deferred sales model and its consumer protection purpose. This approach is in line with RG 51: see RG 51.69 and RG 51.71.

Proposed guidance on exemptions

Proposal

- c1 We propose to provide guidance on:
- (a) how to apply for an exemption;
 - (b) how we will apply each of the factors that we must have regard to when considering whether to grant an exemption; and
 - (c) the types of product data and other information that will assist us in determining an exemption application.

Your feedback

- C1Q1 Is there further guidance we should provide on our interpretation of the exemption factors in s12DY(2)?
- C1Q2 Are there any other matters that we should consider under s12DY(2)(e)?
- C1Q3 Are there any additional data and indicators that would be useful to include in Appendices 2 and 3 of draft RG 000?
- C1Q4 Are there additional matters relevant to exemptions on which we should consider providing guidance?

Rationale

- 33 The proposed guidance sets out:
- (a) our powers to grant exemptions and our approach to applications;
 - (b) how to apply for an exemption;
 - (c) conditions that an exemption may be subject to; and
 - (d) the effect of an exemption.

- 34 Due to the detailed and prescriptive nature of the exemption factors, we have included as appendices to the proposed guidance:
- (a) our interpretation of the exemption factors in s12DY(2), and the data and other indicators that we consider are relevant to each exemption factor (see Appendix 2 of draft RG 000); and
 - (b) a template that applicants may use or adapt to collate data to attach to an exemption application (see Appendix 3 of draft RG 000).
- 35 We intend that the guidance on exemptions will help providers to:
- (a) understand if a product or class of products may be eligible for an exemption;
 - (b) if they consider that a product may be eligible—prepare a complete application which addresses the exemption factors; and
 - (c) if an exemption is granted—understand the effect of the exemption on the conduct they may and may not engage in.
- 36 The proposed guidance contains detailed guidance on exemptions because:
- (a) we are likely to deal with initial applications for exemption under s12DY as novel applications for relief, which are subject to more detailed scrutiny;
 - (b) the exemption power requires ASIC to have regard to the specific factors in s12DY when considering whether to grant an exemption, and applicants will need to provide detailed information, such as product data;
 - (c) we will grant an exemption only in circumstances where it is consistent with the legislative intention of an industry-wide deferred sales model; and
 - (d) we have discretion to grant an exemption with any conditions, subject to the legislative intention of the deferred sales model.
- 37 We propose to include high-level guidance on the prohibitions that do not apply if an exemption is granted, and the person or persons an exemption may apply to.
- 38 As we have the power to impose conditions on an exemption, to assist entities who are considering applying for an exemption, we have included examples of conditions an exemption may be subject to.

D Customer Information

Key points

Under the deferred sales model, in order for the deferral period to start, information prescribed by ASIC (Customer Information) must be given to the customer in the form and manner determined by ASIC.

We propose to prescribe:

- the specific wording for the content of the Customer Information; and
- that the Customer Information must be provided electronically by default but in hardcopy format for customers who are unable to receive it electronically.

We propose to prescribe certain parameters for the form of the Customer Information when provided electronically, and to prescribe a fixed downloadable document as the form if given in hardcopy format.

Background to the Customer Information

- 39 The Customer Information prescribed by ASIC under s12DP of the ASIC Act must be given to a customer in order for the four-day deferral period to start.
- 40 A provider is only required to give the Customer Information if there is an intention to sell an add-on insurance product to the customer. If it is not given, there is no deferral period and certain conduct relating to the sale or offer of add-on insurance products is prohibited: s12DQ and 12DR.
- 41 Section 12DP(4) empowers ASIC to determine by legislative instrument:
- (a) what information is to be given to the customer; and
 - (b) the form and manner in which the information is to be given.
- 42 Section 12DP(5) provides that the Customer Information:
- (a) must include information that relates to the customer giving notice that they do not want to receive:
 - (i) offers of add-on insurance products; or
 - (ii) requests or invitations to ask or apply for add-on insurance products; and
 - (b) may also include information relating to any other matter that ASIC thinks appropriate.
- 43 The responses we receive to this consultation paper will help inform our determination of the content, form and manner of provision of the Customer Information.

Our approach to the Customer Information

44 In developing our proposals on the Customer Information, we considered research that shows the limitations of disclosure alone as a consumer protection measure, particularly in unfair and/or high-pressure sales environments.

45 The 2019 joint report of ASIC and the Dutch Authority for the Financial Markets (Autoriteit Financiële Markten) explored how disclosure and warnings can be less effective than expected, or even ineffective, in influencing consumer behaviour. The report showed that, in some circumstances, disclosure and warnings can backfire, contributing to consumer harm.

Note: See [Report 632](#) *Disclosure: Why it shouldn't be the default* (REP 632).

46 In 2019, a discussion paper by Treasury outlined various research findings showing there were significant limitations in the current approach to disclosure through a Product Disclosure Statement (PDS) or Financial Services Guide.

Note: See Treasury, [Disclosure in general insurance: Improving consumer understanding](#), January 2019.

47 We consider that the Customer Information has a role to play in conjunction with the four-day deferral period.

48 ASIC's aim in prescribing the content, form and manner of provision of the Customer Information is to:

- (a) help customers decide whether to buy add-on insurance, by requiring that they are given concise, relevant information they are not likely to otherwise receive as part of the sales process;
- (b) alert customers that they can say 'no', and facilitate a customer's opt-out if they do not want to be contacted about add-on insurance;
- (c) maximise the likelihood of customers reading, understanding and acting on the Customer Information;
- (d) make the process of giving and receiving the Customer Information efficient for industry and customers; and
- (e) appropriately balance the regulatory burden on industry.

Consumer testing of samples

49 ASIC commissioned the Behavioural Economics Team of the Australian Government (BETA) to design and test a set of sample information statements for the deferred sales model. BETA is the Government's central unit for applying behavioural insights to public policy.

50 BETA undertook consumer testing with a nationally representative sample of 6,243 Australian adults participating in an online hypothetical shopping scenario. The scenario involved three principal products (a plane ticket, a loan or a mobile phone) and the offer of accompanying add-on insurance (travel insurance, consumer credit insurance or mobile phone insurance). The experiment tested the effect on participants of seeing a sample information statement, and the effect of certain content in the statements.

Note: The findings from this experiment can be found in BETA's report [*Slowing down to add it up: Using behavioural insights to support decision-making about add-on insurance*](#).

- 51 BETA's design and testing process was intended to help guide the development of the Customer Information. It found that:
- (a) sections of the statements that provided information on opting out and the insurance not being compulsory drew participants' attention;
 - (b) participants liked the information that add-on insurance was not compulsory;
 - (c) claims ratio information was poorly understood and may have misled some participants;
 - (d) the use of a red 'warning' colour scheme (for a product with a low claims ratio) compared with a blue 'informative' colour scheme (for a product with a higher claims ratio) made little difference to participants; and
 - (e) very few participants clicked on links to the sample page on ASIC's Moneysmart website or a sample PDS for the insurance product.
- 52 We propose to prescribe the following content that received positive responses in BETA's testing and aligns with ASIC's aims in prescribing the information:
- (a) a statement that the customer can say 'no' to insurance, and that it is not compulsory; and
 - (b) information relating to the customer giving notice that they do not wish to be offered the insurance.
- 53 Reflecting BETA's test findings, we do not propose to prescribe:
- (a) content relating to the add-on insurance product's claims ratio;
 - (b) that the Customer Information be a different colour if it relates to a low value add-on insurance product; or
 - (c) that the Customer Information include a link to product-specific information (such as the PDS).

Further development

- 54 We have further developed our proposal for the Customer Information, including by targeted engagement with industry and consumer representatives. In developing the proposal, we have balanced considerations such as the practicalities of delivery, regulatory burden and expected outcomes and effect of the Customer Information on consumers.
- 55 The practicalities of delivery we have considered include the effect of variations in sales channel, the variety of methods of electronic provision, and the effect of a digital device’s screen size on physical presentation and legibility of content. We have also considered how to ensure that customers who do not have the required electronic access receive the Customer Information.
- 56 We may conduct further testing of our proposal for the Customer Information before prescribing it by legislative instrument.

Content of the Customer Information

Proposal

- D1 We propose to prescribe the content of the Customer Information, as shown in the appendix to this paper. The proposed content includes:
- (a) for hardcopy format only—the Australian Government logo;
 - (b) a prominent message that the customer can say ‘no’ and that the add-on insurance ‘is not compulsory’;
 - (c) a statement about the four-day deferral period;
 - (d) information on opting out of being contacted about add-on insurance and a mechanism for customers to do so;
 - (e) two questions for customers to ask themselves as prompts with accompanying text;
 - (f) a link to ASIC’s Moneysmart website; and
 - (g) a statement explaining why the customer has been given the Customer Information.

Your feedback

- D1Q1 Do you support the proposed content of the Customer Information? Please provide evidence to support your view.
- D1Q2 Should ASIC prescribe any product-specific content? If so, what content? Please provide evidence to support your view.
- D1Q3 Does ASIC need to tailor the content of the Customer Information to suit particular forms of electronic delivery? Please provide evidence to support your view.

Rationale

- 57 The Customer Information is:
- (a) designed to be fit for purpose across the wide range of add-on insurance products within the scope of the deferred sales model;
 - (b) written using plain, simple language; and
 - (c) intended to achieve ASIC's aim as stated in paragraph 48.
- 58 We propose to prescribe the content of the Customer Information so that it is generic and applies to all add-on insurance products. We consider that this approach will reduce the cost and regulatory burden to providers, as they will not be required to tailor the information to each product.
- 59 The Customer Information will operate alongside other tailored, product-specific disclosure obligations in the Corporations Act.

Australian Government logo (hardcopy format only)

- 60 The inclusion of the Australian Government logo is intended to signify authority and distinguish the Customer Information from marketing material or other paperwork that the provider may supply at the same time.
- 61 We consider it is appropriate to prescribe the use of the Australian Government logo within a fixed template only. (The hardcopy format will be a fixed document that providers will download from the ASIC website.) Where providers give customers the Customer Information electronically, we will not prescribe use of the logo because we do not intend to prescribe a fixed form for electronic provision.

Statements that customer can say 'no' and insurance is not compulsory

- 62 The statements that a customer can say 'no' and that the insurance is not compulsory are intended to convey to a customer that they do not need to buy the add-on insurance they have been offered. These statements may help counter a common misconception about add-on insurance that has been created by some sellers during the sales process.

Statement about the four-day deferral period

- 63 The statement about the four-day deferral period is intended to inform the customer that they cannot be sold add-on insurance until the four-day deferral period has passed.

Customer opt-out message and mechanism

- 64 The Customer Information must tell the customer how they can give notice that they do not want to receive offers of add-on insurance, or requests or invitations to ask or apply for add-on insurance products: s12DP(5)(a).

- 65 Consistent with this legislative requirement, as well as our intent to use plain language, we propose including the message that a customer can say ‘no’ to being contacted about insurance sold as an ‘extra’. We intend this to be expressed in straightforward language to maximise customer understanding.
- 66 We propose to include a mechanism to facilitate a customer’s opt-out. Where the Customer Information is provided electronically, the opt-out mechanism is to be via hyperlink. This is intended to make it efficient for customers to opt out at any time after the sale, without requiring any further direct contact with the salesperson (provider). We consider that, if properly implemented, electronic recording of customer opt-outs will help providers with their record keeping and demonstrate compliance.
- 67 Where the Customer Information is provided in hardcopy format, it will tell the customer that they can opt out by telling the salesperson (provider). In some scenarios, the hardcopy format will be handed to a customer during an in-person interaction with a provider. The customer should be made aware that opting out can be quick and straightforward, and will not require them to do anything more than telling the provider.
- 68 The hardcopy format also includes a tick-box mechanism for opting out. This is for customers who prefer to tick the paper than verbally opt out, who decide to opt out when they are no longer in the presence of a provider, or who received the Customer Information by postal mail.

Questions as a prompt with accompanying text

- 69 The two questions in the Customer Information are intended to prompt customers to reflect on their decision about whether to purchase the add-on insurance product, and to reinforce that they can choose not to purchase the add-on product.
- 70 The specific questions and accompanying text are intended to give direction to a customer who wants to further consider buying the add-on insurance product, but is not sure how to assess the product they have been offered.

Statement why the customer has been given the Customer Information

- 71 The statement explaining the reason why the customer has been given the Customer Information is included to give the customer contextual information. It states that giving the Customer Information is an ASIC requirement and that it is to help prevent the sale of low-value products.

Link to further information

- 72 The inclusion of a hyperlink to ASIC’s Moneysmart website, with its additional resources on add-on insurance and making financial decisions, is intended to make it easy for a customer to access further customer-focused information if they wish to.
- 73 We consider that keeping the Customer Information as concise as possible while providing a link to additional information strikes an appropriate balance between information and brevity.

Form of the Customer Information

Proposal

- D2** For the electronic format—we propose not to prescribe a specific form for the Customer Information, due to the wide range of digital mediums through which it may be given. However, we propose to prescribe that:
- (a) the content must be set out in a specific sequence (as shown in the appendix to this paper);
 - (b) the font known as Arial must be used and the content must be displayed in a size that is not smaller than it would appear if using Arial font and 10 points in size;
 - (c) the content must appear in the body of the communication and not be placed in a link or attachment; and
 - (d) if sent via a digital medium that has a subject line (e.g. email)—the subject line must be ‘You can say no to being sold insurance’.

Your feedback

- D2Q1 Do you support our proposals for the form of the Customer Information when it is provided electronically? Please provide evidence for your view.
- D2Q2 Do you foresee any issues in complying with the proposed form requirements for the electronic format? If so, please explain and provide relevant information to inform our consideration.

- D3** For the hardcopy format—we propose to prescribe the specific design and layout of the Customer Information. The Customer Information will be made available as a download from the ASIC website that providers can print and provide in hardcopy format.

Your feedback

- D3Q1 Do you support our proposals for the form of the Customer Information when it is provided in hardcopy format? Please provide evidence for your view.

D3Q2 Do you foresee any issues in complying with the proposed form requirements for the hardcopy format? If so, please explain and provide relevant information to inform our consideration.

Rationale

74 For the electronic format of the Customer Information, we propose not to prescribe the specific form of the Customer Information. Providers can generate and present the Customer Information as best suits their method of electronic provision.

75 However, to maintain uniformity, quality and legibility of the Customer Information and with the intent of maximising engagement with its content, we propose to prescribe:

- (a) the sequence of the content;
- (b) the font and minimum font size;
- (c) that the content be contained in the body of the communication; and
- (d) the subject line, where applicable.

76 The proposed font and minimum font size is consistent with the requirements for small amount credit contract warnings on Australian credit licensees' websites.

Note: The font size for small amount credit contract warnings is specified in reg 28LCB of the National Consumer Credit Protection Regulations 2010.

77 For the hardcopy format of the Customer Information, we propose to prescribe the specific form (design) that must be used and make a fixed document available for download from ASIC's website.

78 This approach will allow ASIC to:

- (a) make the design as effective as possible in engaging consumers and prompting them to act;
- (b) distinguish the Customer Information from other documents a customer is given;
- (c) include the Australian Government logo; and
- (d) ensure it is easy and cost-efficient for providers to access, download and provide the Customer Information.

79 The hardcopy format shown in the appendix represents the proposed layout. We may make further layout and graphic design changes after consultation and before the Customer Information is prescribed.

Manner of provision: How to provide the Customer Information

Proposal

D4 We propose to prescribe that:

- (a) the default method of providing the Customer Information is electronic, but we will not prescribe exhaustively the available methods for electronic provision;
- (b) if the customer does not confirm that they can access the Customer Information electronically, the provider must give the Customer Information in hardcopy format, otherwise the Customer Information will not have been given for the purpose of s12DP(1);
- (c) if the Customer Information is sent via postal mail, a return paid and addressed envelope must be included so the customer may return the page with the opt-out tick box checked, and the provider must account for postage time when recording when the Customer Information was given; and
- (d) where the customer makes the commitment to acquire the principal product or service in person, the provider must provide the Customer Information electronically and must also give the customer the option of receiving the Customer Information in hardcopy format.

Your feedback

D4Q1 Do you agree that the Customer Information should be provided electronically by default, and that a hardcopy format must be provided if the customer cannot receive it electronically, or requests the hardcopy format in person? If not, why not?

D4Q2 Are there any risks or disadvantages of requiring electronic provision as the default? If so, please detail the risks or disadvantages, and the customers affected.

D4Q3 Do particular methods of electronic provision pose additional risks or disadvantages that ASIC should consider when prescribing the form and manner of provision of the Customer Information? If so, please detail the risks or disadvantages, and the customers affected.

D4Q4 Should ASIC prescribe permissible and/or impermissible methods of electronic provision? Please provide reasons for your view.

D4Q5 Is there anything we should consider regarding provision of the hardcopy format for customers who cannot access the Customer Information in electronic format?

D4Q6 Is there anything else that should be done to ensure that the Customer Information is accessible to and engaged with by customers?

D4Q7 Do you foresee any issues in complying with the proposed manner of provision requirements? If so, please explain and provide relevant information to inform our consideration.

Rationale

- 80 Both electronic and hardcopy provision of the Customer Information have customer-engagement advantages and disadvantages. The intent of our proposals for the content, form and manner of provision is to appropriately balance those advantages and disadvantages.
- 81 The advantages of electronic provision for the customer are that the customer will:
- (a) receive the Customer Information immediately;
 - (b) have convenient repeat access to it;
 - (c) be able to opt out of further contact at the press of a button; and
 - (d) be able to click one link to access information on ASIC's Moneysmart website.
- 82 The disadvantages of electronic provision for the customer are that the customer may:
- (a) fail to see and read the Customer Information; or
 - (b) receive Customer Information which is illegible or difficult to read (e.g. because the screen size is small and they have to scroll).
- 83 A customer who is given the Customer Information in hardcopy format has the advantage of being able to view the content on the printed page (rather than opening a device, accessing an email application and clicking on the email).
- 84 The disadvantages of the hardcopy format for the customer are that the customer may:
- (a) not notice the Customer Information in a bundle of other papers provided at the same time; and
 - (b) not have a simple, immediate way to opt out, unless they choose to opt out at the same time they are given the Customer Information.
- 85 There are also implementation, compliance and record-keeping considerations. We consider that, properly implemented, electronic provision of the Customer Information will support efficient and precise recording of the time the customer was given the Customer Information, and therefore when the deferral period started. It also allows for automatic processes to register a customer's opt-out from further offers. For these reasons, we consider electronic provision will assist providers to demonstrate compliance with the deferred sales model and reduce compliance costs.
- 86 Overall, we consider that electronic provision by default is preferable, except for customers who cannot access information electronically. Consistent with the objective of technology neutrality, we do not propose to prescribe exhaustively which methods of electronic provision are permissible.
- 87 We propose to require that a provider must give the customer the option of being given the Customer Information in hardcopy format as well as

electronically. However, unless the customer cannot receive the Customer Information electronically, the time the Customer Information is provided electronically will be the time it is taken to have been given for the purpose of s12DP(1).

- 88 It is important that a customer who receives the Customer Information via postal mail is not disadvantaged relative to other customers. We propose to prescribe that if the Customer Information is sent via postal mail, it must be accompanied by a return paid and addressed envelope so that the customer does not face the barrier of having to pay to opt out using the hardcopy format.
- 89 We also consider that the provider must account for postage time when recording when the Customer Information was given and when the deferral period commenced.

Manner of provision: When to provide the Customer Information

Proposal

- D5 We propose to prescribe that:
- (a) the Customer Information must be given to the customer only after, not before, they have made a commitment to acquire the principal product or service; and
 - (b) if a customer makes repeat purchases of the principal product or service, the Customer Information must be given each time the customer has entered into a commitment to acquire the principal product or service.

Your feedback

- D5Q1 Do you agree with the proposed requirements for when the Customer Information must be given? Please explain your view.
- D5Q2 Do you foresee any issues in complying with the proposed manner of provision requirements? If so, please explain and provide relevant information to inform our consideration.

Rationale

- 90 We consider that the Customer Information should be given to customers in a way that avoids conflating it with the principal product or service. We have assumed that if the Customer Information is given to a customer only after they have committed to acquire the principal product or service, they may be more likely to think about the offer of add-on insurance, and more likely to engage with the content of the Customer Information.
- 91 As is contemplated by s12DP(4)(b), we consider it is appropriate that, in the case of a repeat customer, the Customer Information must be provided each time the particular customer enters into a commitment to acquire a principal product or service.

E Regulatory and financial impact

- 92 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we consider the proposals strike an appropriate balance between:
- (a) effectively implementing the important consumer protection objectives of the deferred sales model; and
 - (b) ensuring that our guidance on the requirements that apply to providers of add-on insurance under the deferred sales model is clear and proportionate.
- 93 Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:
- (a) considering all feasible options, including examining the likely impacts of the range of alternative options that could meet our policy objectives;
 - (b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and
 - (c) if our proposed option has more than a minor or machinery impact on business or on the not-for-profit sector, preparing a Regulation Impact Statement (RIS).
- 94 All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.
- 95 To ensure that we are in a position to properly complete any required RIS, please give us as much information as you can about our proposals or any alternative approaches, including:
- (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits.

See 'The consultation process', p. 4.

Appendix: Proposed content and form of Customer Information

- 96 This appendix shows the proposed content and form of the Customer Information as outlined in Section D of this paper.

Content for electronic provision

- 97 The proposed content, and the sequence of the content, for electronic provision of the Customer Information is as follows:

You can say no to being sold insurance. It is not compulsory.

Salespeople must wait 4 days before selling you insurance as an 'extra' to your main purchase.

You can say 'no' to being contacted about insurance as an extra by clicking this link [hyperlink to provider's opt-out mechanism].

If you are unsure, consider your situation and ask yourself:

- Do I need and understand this insurance?

Consider what the policy covers and what it excludes. You may already have insurance that will cover any potential loss or damage.

- Could I get a better deal somewhere else?

Consider if another insurance product or company can better meet your needs. You may be able to shop around for a better deal.

For more information, visit <https://Moneysmart.gov.au/AddOnInsurance>.

This Customer Information is prescribed as a requirement of the *Australian Securities and Investments Commission Act 2001* to reduce the number of poor-quality insurance products being sold in Australia.

Content and form for hardcopy format

- 98 The proposed content and form for the hardcopy format of the Customer Information is set out on the next page.

[Australian Government logo]

You can say no to being sold insurance. It is not compulsory.

Salespeople must wait 4 days before selling you insurance as an 'extra' to your main purchase.

You can say 'no' to being contacted about insurance as an extra by:

Telling the salesperson

or

Ticking here []

(return this form to the salesperson after selecting this option)

If you are unsure, consider your situation and ask yourself:

- Do I need and understand this insurance?
Consider what the policy covers and what it excludes. You may already have insurance that will cover any potential loss or damage.
- Could I get a better deal somewhere else?
Consider if another insurance product or company can better meet your needs. You may be able to shop around for a better deal.

For more information, visit [Moneysmart.gov.au/AddOnInsurance](https://www.moneySMART.gov.au/AddOnInsurance)

This Customer Information is prescribed as a requirement of the *Australian Securities and Investments Commission Act 2001* to reduce the number of poor-quality insurance products being sold in Australia.

List of proposals and questions

| Proposal | Your feedback |
|--|--|
| <p>B1 As the deferred sales model is prescriptive, and there are significant consequences of breaching the requirements, we propose to publish a detailed regulatory guide.</p> | <p>B1Q1 Do you agree with our approach of providing detailed guidance on the deferred sales model? Please explain your view.</p> <p>B1Q2 Do you consider that ASIC could provide less guidance? If so, what parts of our proposed guidance should be deleted?</p> |
| <p>B2 We propose to publish a regulatory guide on the deferred sales model, which covers:</p> <ul style="list-style-type: none"> (a) a description of the scope of the deferred sales model; (b) what we expect providers will need to do to comply with the deferred sales model; and (c) how we will approach applications for exemption (see Section C of this paper) from the deferred sales model. | <p>B2Q1 Do you agree with the proposed guidance in draft RG 000? Please explain your view.</p> <p>B2Q2 Do you agree with the proposed examples in draft RG 000? Are there additional examples that would be useful?</p> <p>B2Q3 What guidance should we include about the provision of the prescribed customer information (see our proposal for the Customer Information in Section D of this paper)?</p> <p>B2Q4 Are there other matters we should consider providing guidance on?</p> |
| <p>C1 We propose to provide guidance on:</p> <ul style="list-style-type: none"> (a) how to apply for an exemption; (b) how we will apply each of the factors that we must have regard to when considering whether to grant an exemption; and (c) the types of product data and other information that will assist us in determining an exemption application. | <p>C1Q1 Is there further guidance we should provide on our interpretation of the exemption factors in s12DY(2)?</p> <p>C1Q2 Are there any other matters that we should consider under s12DY(2)(e)?</p> <p>C1Q3 Are there any additional data and indicators that would be useful to include in Appendices 2 and 3 of draft RG 000?</p> <p>C1Q4 Are there additional matters relevant to exemptions on which we should consider providing guidance?</p> |

| Proposal | Your feedback |
|--|---|
| <p>D1 We propose to prescribe the content of the Customer Information, as shown in the appendix to this paper. The proposed content includes:</p> <ul style="list-style-type: none"> (a) for hardcopy format only—the Australian Government logo; (b) a prominent message that the customer can say ‘no’ and that the add-on insurance ‘is not compulsory’; (c) a statement about the four-day deferral period; (d) information on opting out of being contacted about add-on insurance and a mechanism for customers to do so; (e) two questions for customers to ask themselves as prompts with accompanying text; (f) a link to ASIC’s Moneysmart website; and (g) a statement explaining why the customer has been given the Customer Information. | <p>D1Q1 Do you support the proposed content of the Customer Information? Please provide evidence to support your view.</p> <p>D1Q2 Should ASIC prescribe any product-specific content? If so, what content? Please provide evidence to support your view.</p> <p>D1Q3 Does ASIC need to tailor the content of the Customer Information to suit particular forms of electronic delivery? Please provide evidence to support your view.</p> |
| <p>D2 For the electronic format—we propose not to prescribe a specific form for the Customer Information, due to the wide range of digital mediums through which it may be given. However, we propose to prescribe that:</p> <ul style="list-style-type: none"> (a) the content must be set out in a specific sequence (as shown in the appendix to this paper); (b) the font known as Arial must be used and the content must be displayed in a size that is not smaller than it would appear if using Arial font and 10 points in size; (c) the content must appear in the body of the communication and not be placed in a link or attachment; and (d) if sent via a digital medium that has a subject line (e.g. email)—the subject line must be ‘You can say no to being sold insurance’. | <p>D2Q1 Do you support our proposals for the form of the Customer Information when it is provided electronically? Please provide evidence for your view.</p> <p>D2Q2 Do you foresee any issues in complying with the proposed form requirements for the electronic format? If so, please explain and provide relevant information to inform our consideration.</p> |
| <p>D3 For the hardcopy format—we propose to prescribe the specific design and layout of the Customer Information. The Customer Information will be made available as a download from the ASIC website that providers can print and provide in hardcopy format.</p> | <p>D3Q1 Do you support our proposals for the form of the Customer Information when it is provided in hardcopy format? Please provide evidence for your view.</p> <p>D3Q2 Do you foresee any issues in complying with the proposed form requirements for the hardcopy format? If so, please explain and provide relevant information to inform our consideration.</p> |

| Proposal | Your feedback |
|--|--|
| <p>D4 We propose to prescribe that:</p> <ul style="list-style-type: none"> (a) the default method of providing the Customer Information is electronic, but we will not prescribe exhaustively the available methods for electronic provision; (b) if the customer does not confirm that they can access the Customer Information electronically, the provider must give the Customer Information in hardcopy format, otherwise the Customer Information will not have been given for the purpose of s12DP(1); (c) if the Customer Information is sent via postal mail, a return paid and addressed envelope must be included so the customer may return the page with the opt-out tick box checked, and the provider must account for postage time when recording when the Customer Information was given; and (d) where the customer makes the commitment to acquire the principal product or service in person, the provider must provide the Customer Information electronically and must also give the customer the option of receiving the Customer Information in hardcopy format. | <p>D4Q1 Do you agree that the Customer Information should be provided electronically by default, and that a hardcopy format must be provided if the customer cannot receive it electronically, or requests the hardcopy format in person? If not, why not?</p> <p>D4Q2 Are there any risks or disadvantages of requiring electronic provision as the default? If so, please detail the risks or disadvantages, and the customers affected.</p> <p>D4Q3 Do particular methods of electronic provision pose additional risks or disadvantages that ASIC should consider when prescribing the form and manner of provision of the Customer Information? If so, please detail the risks or disadvantages, and the customers affected.</p> <p>D4Q4 Should ASIC prescribe permissible and/or impermissible methods of electronic provision? Please provide reasons for your view.</p> <p>D4Q5 Is there anything we should consider regarding provision of the hardcopy format for customers who cannot access the Customer Information in electronic format?</p> <p>D4Q6 Is there anything else that should be done to ensure that the Customer Information is accessible to and engaged with by customers?</p> <p>D4Q7 Do you foresee any issues in complying with the proposed manner of provision requirements? If so, please explain and provide relevant information to inform our consideration.</p> |
| <p>D5 We propose to prescribe that:</p> <ul style="list-style-type: none"> (a) the Customer Information must be given to the customer only after, not before, they have made a commitment to acquire the principal product or service; and (b) if a customer makes repeat purchases of the principal product or service, the Customer Information must be given each time the customer has entered into a commitment to acquire the principal product or service. | <p>D5Q1 Do you agree with the proposed requirements for when the Customer Information must be given? Please explain your view.</p> <p>D5Q2 Do you foresee any issues in complying with the proposed manner of provision requirements? If so, please explain and provide relevant information to inform our consideration.</p> |