National Automotive Leasing & Salary Packaging Association

NALSPA Response to ASIC Consultation Paper 294
The sale of add-on insurance and warranties through caryard intermediaries

Your feedback: Deferred sales model	***NALSPA Response/Member Comment***
E1Q1 Do you consider that it is appropriate to apply a deferral period to the sale of add-on products by caryard intermediaries?	NALSPA submits that should ASIC determine that: • the sale of add-on products by 'caryard intermediaries' includes the distribution of such products through employer salary packaging arrangements; and • the mandating of some form of deferral period would improve the ability of consumers (within a salary packaging context, 'consumers' refer to the employees of organisations to which NALSPA members provide salary packaging services) to make informed purchasing decisions and result in net consumer benefit; and • that a deferral period would not cause unnecessary or unreasonable disruption or cost impost to the salary packaging sector or existing sales processes; then a deferral period, appropriately designed, could in principle be implemented within a salary packaging context. **<u>However</u>**, this would only be achievable on the basis that consideration of the requirements and processes that are unique to the salary packaging sector are taken into express consideration in the design of any mandated deferral period <u>and</u> process. It is important to note that the package commencement process for an employee using a salary packaging provider is significantly different to the sales process a consumer experiences via a car dealership. If this difference is not appropriately recognised in the design of a deferral period then employees utilising salary packaging are likely to be negatively affected. In this regard the timing and duration of a deferral period is critical.

	It is our submission, that should it be determined necessary, then the required timing to commence a deferral period for products sold within a salary packaging context is when the **<u>mandated consumer communication is provided, with such communication to be provided when the consumer is offered insurance products or receives a quote from the salary packaging provider which includes insurance products</u>**. In addition, the deferral period would necessarily need to cease sufficiently prior to settlement of the vehicle in order to ensure that the integrity of and benefits flowing from salary packaging arrangements are expressly maintained for the consumer (employee) with no financial detriment or unnecessary inconvenience to the consumer. The sales process within a salary packaging context (and the principle reasoning for entering into a salary packaging arrangement) is fundamentally different from the sales process at a car dealership. It is important to consider and accommodate these differences, otherwise there lies the risk of producing unintended consumer consequences, including: • diminishing the ability of the consumer to capitalise insurance product costs, and importantly to utilise pre-tax income to meet such costs; • diminishing the ability of the consumer to determine a ‘whole of life’ cost relating to the vehicle and to assess vehicle affordability in the context of their ‘after tax’ remuneration; and • creating unnecessary disruption and/or administrative burden to the novated lease process which has three parties affected, namely the employer, the employee and the financier. Further details of our recommendations are set out at E1.1 and E1.2. In a broader context, consideration needs to be given to the negative consequences of a deferral period resulting in the non-insurance of a motor vehicle, which is then subject to an event which the insurance coverage would have otherwise covered. Again, in a fully-costed, tax-effective novated lease salary packaging arrangement, the employee would then be at a disadvantage in relation to the cost of the insurance products effectively being double the cost as part of their gross remuneration amount, due to the fringe benefits tax implications.
E1Q2 To what extent would a deferral address the consumer harms identified in this market?	As already outlined in the foreword to this response, the employee experience is materially different in the salary packaging context to the consumer experience in a car dealership. ASIC in its Consultation Paper 294 has raised concerns regarding sale practices and the level of understanding by the consumer of the add-on insurance products’ benefits. Practically these issues are likely to be more relevant to add-on products that are sold at car dealerships contemporaneously with the vehicle and in the physical presence of the consumer.

	In contrast, the sales process in the salary packaging context is outside of the dealer environment and the consumer does not ordinarily make decisions at the same time or immediately after the purchase of the vehicle. In most instances the salary packaging context is not a face to face process. Furthermore, the relationship is enduring through the ongoing salary packaging administration process. The products and services made available to employees are done so in accordance with the contractual arrangements negotiated on the employee's behalf by their employer and that the provision of these products and services by a salary packaging providers are delivered against a backdrop of service delivery performance requirements as defined by the employer. As noted, we submit that the sale of add-on insurance products via salary packaging arrangements already contains natural pauses at various stages in the sales process – in other words, there is an in-built deferred sales mechanism for products sold through salary packaging arrangements. The sale of the car, finance and related insurance products occurs over a period of time and with temporal separation which supports informed purchasing decisions. Consumers are afforded time to assess the type of vehicle, the price of the vehicle most suitable for their needs and budget, to compare their financing options and to assess the merits of and need for other products ancillary to the vehicle which are available, such as add-on insurance products. To illustrate - from the initial discussion with the customer about their vehicle and related needs, through to settlement of financing (including the signing of a tripartite deed of novation with the employer and financier) and all documentation required for procurement of the vehicle and any associated products such as add-on insurances, this process averages around **37 days** (not including vehicle delivery time which may be substantially longer in the case of new vehicles) across the salary packaging environs. NALSPA submits that the inherent protection under an enduring salary packaging contract, which is relationship based, should satisfy ASIC with respect to the risks alleged to exist with add-on insurance products provided in the caryard intermediary environment. Employers and employees alike are recurring customers, as opposed to 'one-off customers'. Accordingly, we submit that a mandated deferral period relating to add-on insurance products sold in the salary packaging context would create no further consumer protections than those already embedded within current practices. We are also cognisant that increased regulatory compliance can increase the cost of delivering a product or service in any market. NALSPA is therefore concerned to ensure that any increase in regulatory compliance related to these products delivers a clear and demonstrable positive benefit to consumers. If this is not the case then it may just increase the price of products for consumers and force smaller players out of the market decreasing market competition. Again, consideration needs to be given to designing rules that do not protect against an existing risk, simply to replace it with an alternate risk (loss as a result of add-on products not having been acquired).

E1Q3 How would the proposal affect businesses (e.g. insurers, car dealers, finance brokers, credit providers)? Would it have a different impact on small businesses?	The timing and duration of any deferral period is critical in the salary packaging context. One of the material benefits afforded through the salary packaging of a motor vehicle and its related costs, is the ability to utilise pre-tax personal income for the payment of such costs related to the acquisition and operation of the vehicle. If the deferral period were to commence after the signing of the novated lease **or** the delivery of the vehicle, it would be extremely disruptive to employees who want to salary package a novated lease and insurances for their vehicle and likewise cause detriment to salary packaging providers, and employers who are looking to provide a benefit to their employees. This is because: • In most cases the cost of ancillary items such as insurances are bundled up into the total finance amount prior to settlement of the vehicle - the Australian Taxation Office (ATO) allows the total monthly repayment in respect of the lease (therefore including any insurance components) to be met with pre-tax remuneration; • Therefore in order to be included as part of the employee's salary packaging arrangements and to ensure that the employee does not suffer financial detriment, conclusion of the purchase of such products must normally occur prior to settlement; • Any disruption will likely increase costs, reduce choice, and affect the ability of the consumer to salary package to maximise the tax benefit available; • It would diminish the ability to determine a 'whole of life' cost relating to the vehicle and to assess vehicle affordability in the context of their 'after tax' pay. This is an important value add for the salary packaging process as it enables employees to accurately assess the true cost of the vehicle for their personal situation. Any regulatory change that inhibits a salary packaging provider from fully disclosing all elements of the salary packaging arrangement is a disadvantage to the employee, limiting their understanding and ability to make informed decisions; and • Some employers require insurances, such as lease protection insurance to be offered as a risk mitigation strategy in the event of termination of employment of their employees who are salary packaging. We therefore submit that if some form of mandated deferred sales model is necessary for add-on insurance products acquired as part of salary packaging arrangements, then the conclusion of the deferral period would need to occur **well in advance of the date of settlemen**t. Any time period which mandated cessation of the deferral period post settlement of the novated lease would likely create **financial disadvantage** for those employees desiring to salary package or purchase insurance products.
E1Q4 Would the model need to apply differently to the new and used cars markets? In what ways could the model	NALSPA **recommends a standardised approach** for new and used cars as the novated lease sales process does not materially differ between new and used cars.

differ to be effective across the two markets?	Whilst the delivery of a used vehicle is likely to occur in a shorter timeframe given almost immediate availability of the vehicle, the actual process as part of a salary packaging arrangement is very similar, irrespective of whether the vehicle is new or used. The circumstance where this would not be the case is where an employee desires to refinance their existing vehicle or to purchase a new vehicle and enter into a new novated lease at the end of their existing lease – in such a case the timeframe is much shorter. NALSPA submits that ASIC should be cognisant that the application of different requirements across new and used car markets has the potential to create market confusion and additional administration complexity.
E1Q5 What are the preconditions for a competitive online market? How can a deferred sales model contribute to this outcome?	No comment at this stage.
E1Q6 Could the objectives of a deferred sales model be achieved in a different way or could any complementary measures better ensure our objectives are achieved?	NALSPA submits that the sale of add-on insurance products through salary packaging arrangements already contains an in-built deferred sales mechanism. Thereby the sale and distribution of such products in association with salary packaging arrangements is already achieving the key objectives of a deferred sales model.
E1Q7 If a deferred sales model was introduced, are there any existing related obligations on insurers, finance providers and car dealers that would no longer be appropriate and could be removed?	NALSPA is unable to identify any existing obligations which could be removed with the implementation of this model within the salary packaging industry. Depending on its specific requirements, the implementation of the model would likely represent an increase in regulation on the segment.
E1Q8 What is the most effective way of testing whether consumer understanding has improved due to a deferred sales model? What metrics would provide the best way of measuring consumer comprehension?	Consumer understanding is a qualitative measure and therefore needs to be consistently tested against a benchmark via regular random surveying of consumers, both those who purchased and those who elected not purchase. Given the subjective nature of surveying it requires long term commitment to ensure a statistically significant understanding of the consumer is achieved. This will require ASIC to commit to the cost of a long term survey program. This could cover the following important areas to measure customer understanding and satisfaction: - repeat purchases or renewals of products; - cancellation rates; - complaints.
E1Q9 Should a consumer opt-out mechanism be included?	NALSPA supports an opt-out mechanism for salary packaging consumers where they are fully informed of the product <u>and/or</u> require the product within a short period of time (for example, a salary packaging consumer may wish to enter into a new novated lease immediately upon expiry of their current lease and do not want the inconvenience of not having the use of a vehicle pending expiry of the deferral period. The consumer in this example would also revisit their insurance requirements at the same time as obtaining a new novated lease).

	Consumers could potentially be asked some simple questions to test understanding before being enabled or otherwise to opt-out. We understand that the ability to opt-out is a feature of the deferred sales model implemented in the United Kingdom. In the absence of an opt out process for the deferral period, there is a risk that salary packaging consumers will not have the opportunity to include their selected insurance in their finance and may risk either: a) bearing the burden of these costs as running costs (ie post-tax) for the vehicle, effectively doubling the cost impact on gross remuneration ; or b) not taking out their desired insurance as it cannot be sold to them within their re-financing window. Also in other circumstances, a salary packaging consumer may require a lease settlement in a few days– e.g. the vehicle is ready for sale and the sale price subject to immediate sale, or their existing vehicle has been involved in an accident and there is need for a replacement vehicle as soon as possible. Importantly as part of employer salary packaging arrangements, some employers recommend that their employees take out certain additional insurance products as part of their vehicle acquisition. For example in work places where redundancy activity is not uncommon, such employers may seek that employees take out loan protection (redundancy) insurance. Other employers will support a process of loan protection insurance being an 'opt out' to the extent that salary packaging providers utilise a checklist requiring a discussion with the employee if loan protection insurance is not elected to be purchased. A deferred sales model may cause delays that would impact on the consumer under such circumstances. In these situations, an opt-out mechanism would enable salary packaging providers to meet these customers' objectives.
Your feedback: Commencement of the deferral period	
E1.1Q1 Which of the proposed options in paragraph 193 for commencement of the deferral period would be preferable and why (please suggest other options if relevant)?	**Option A per paragraph 193** In order for the integrity and benefits of salary packaging arrangements to remain intact for the benefit of the consumer, and to ensure no degradation of consumer choice or experience, NALSPA submits that any deferral period should commence on the date that the salary packaging provider first provides the mandated consumer communication to the customer. This can be provided at or immediately following the first interaction with the consumer or when a quote is given.

	Accordingly **option A** as outlined in paragraph 193 is the only commencement point of the three options contained within that paragraph which could apply under salary packaging arrangements without causing unintended consequences/consumer detriment. Further, we consider that the mandated consumer communication and deferral period should apply regardless of the medium for sale, whether direct to consumer, online or over the phone. **Option A will ensure:** • that salary packaging providers are able to openly communicate about all product elements of an employee's salary package from early consultation with the employee. Any regulatory change which diminishes a provider's ability to communicate with their client could reduce their client's full understanding of the price of the transaction across the life of the lease and their ability to make a properly informed decision to purchase. We are confident that this is the opposite of what ASIC is looking to achieve; • that the employee can continue to have the freedom of choice and convenience to elect to capitalise the cost of insurance products into their novated lease finance arrangement. For this capitalisation to continue to occur, the employee must be able to elect to purchase such products sufficiently prior to the settlement of the novated lease and payment for the vehicle. As already outlined, any regulatory change which makes this unlikely diminish' s the employees ability to use salary packaging as a budgeting tool enabling them to pay for these products over a define period of time; and • that there is minimal disruption to existing administration and related sales processes within salary packaging providers which have been established at significant cost and are well understood and embedded across thousands of employers and hundreds of thousands of employees.
E1.1Q2 Which sales sequence (see Figure 1) is most likely to meet our stated objectives, and why?	The novated lease establishment process enshrined within salary packaging arrangements **does not** necessarily fit into either Sales Sequence A, B or C as outlined in paragraph 204. The novated lease establishment process begins with providing the consumer an estimate (or quote) of the effect on take home pay for the novated lease which can be based on either an estimate of the vehicle price, or the actual price of the vehicle. This is accompanied by product information regarding add-on insurance products as appropriate. By providing an estimate of the effect on take home pay of the consumer's novated lease, there is time for the consumer to digest product information concerning relevant add-on insurances, the finance amount, to consider the tax concepts associated with the novated lease, as well as underlying cost of the vehicle. The consumer has time to ask and discuss any questions they may have, as the novated lease establishment timeline is ostensibly managed by the consumer. Once the consumer advises that they desire to proceed, then the final price for

	vehicle is determined, a final 'whole of life' cost of the novated lease transaction is prepared and sent to the customer again for review, and if acceptable their signature. Once the consumer approval is attained, the vehicle is subsequently ordered, and finance is completed. NALSPA is of the view that under salary packaging arrangements, it is neither desirable or necessary to mandate a process as outlined in Sales Sequence A, B and C as outlined in paragraph 204. These sequences **do not** take into consideration the manner in which decision making occurs under a salary packaging arrangement, where as the name implies, consumers make decisions based upon the total composition of each element of the cost and operation (in this case) of a motor vehicle so that there is full understanding of the cost of ownership as a 'package' or bundle. Rather as already outlined, should it be determined to mandate a deferred sales process, then the required timing to commence a deferral period for products sold in a salary packaging context should be when the **mandated consumer communication is provided (such mandated information to be provided when the consumer is offered the product or is given a quote)**, with the deferral period to cease sufficiently prior to vehicle settlement. The actual processes within that sales sequence should then be the domain of the consumer to determine in conjunction with the salary packaging provider.
E1.1Q3 How could the point at which the deferral period commences be easily documented to be readily verified by all relevant parties?	Within the salary packaging channel this is documented via time and date stamped electronic communication. The email communication where the mandated information is provided to the consumer could also include a statement that the deferral period has commenced.
E1.1Q4 If the deferral period commenced at vehicle delivery, could short-term 'bridging' insurance be offered to cover the deferral period (only)? What does insurers' claims data demonstrate about the likelihood of a claim shortly after delivery?	As already outlined, NALSPA reaffirms that if some form of mandated deferred sales model is necessary for add-on insurance products acquired as part of salary packaging arrangements, that conclusion of the deferral period would need to occur well in advance of settlement of the novated lease. Any time period which mandated cessation post settlement would create material financial disadvantage for those employees desiring to salary package such costs. Therefore short-term bridging finance **would not** address this issue. In addition, NALSPA is not aware of any products currently available in the market that could be used for 'insurance bridging" purposes. The development and distribution of these products is likely to add both complexity and expense to the sales process without any meaningful consumer benefit.

Your feedback: Duration of the deferral period	
E1.2Q1 What would be the appropriate duration of the deferral period within the range of 4–30 days and why?	As noted above (E1.1Q1) any regulatory change that did not provide consumers the ability to elect these products **prior** to the settlement of the novated lease and payment for the vehicle is likely to disadvantage consumers utilising the salary packaging channel. NALSPA consider that a timeframe of or close to four clear days is adequate time for a customer to consider the disclosure and be in a position to make an informed purchasing decision. If they are not ready or they have more questions, they can engage with the provider at that time and the period will naturally be as long as required by the consumer. As noted earlier, the average salary packaging customer takes significantly longer than the four days to consider their arrangements, consume product and finance information and make a vehicle selection. We also consider that a longer deferral period is likely to generate inertia within the customer in terms of their appetite and propensity to consume and digest product information. A shorter more defined period of time is likely to focus the consumer's consideration of the various products which they may require in support of the purchase of their vehicle.
E1.2Q2 Should the duration of the deferral period be different for new and used cars?	NALSPA would be concerned if ASIC were to consider introduction of inconsistent sales process's across add-on insurance products relating to new and used vehicles. This would add complexity and expense to the implementation and management of any changes. NALSPA would want to ensure that any regulatory change was designed to meet the varying market requirements of both new and used vehicles. As previously outlined, salary packaging arrangements (processes) do not materially differ between new and used cars
E1.2Q3 What is the average period of time between the sale of a new car or a used car and its delivery to the consumer? What is the shortest period of time and how common is it?	From commencement of contact with a customer concerning their interest in acquiring a vehicle via a novated lease arrangement through to completion (settlement) of all documentation and financing, the average period across the salary packaging sector is in the order of **37 days** (not including actual delivery of the vehicle which in the case of a new vehicle can be an additional period of months). There are situations where the customer requires a much faster completion time period and this can be as short as a few days. Such a time period requirement is driven by the need/request of the consumer.
E1.2Q4 What is the average period of time between when a consumer applies for finance and approval? What is the shortest period of time and how common is it?	Within the novated lease establishment process, the consumer completes a finance application, and conditional finance approval is provided by the financier, and this step occurs early in the establishment journey. Once conditional approval is granted, the consumer is provided with an estimate of the effect on take home pay for the novated lease which can be based on either an estimate of the vehicle price, or the actual price of the vehicle.

	Final finance approval is obtained once all the novated lease documents, including the lease agreement and deed of novation (signed by the employer) are signed and lodged with the financier. The application for finance and approval for finance is one step within the novated lease establishment process. As explained in E1.2Q3, the total customer journey is in the order of an average of **37** days.
Your feedback: Consumer communication (delivery and content)	
E1.3Q1 Should providers be required to take active steps to ensure consumers read and understand information about their products before they can buy them?	NALSPA believes that there is already ample opportunity within the sales sequence embedded in the salary packaging sector for consumers to read, digest and query product information. Salary packaging organisations provide product sheets with their quotes and then follow up with the customer to answer relevant questions and to unpack and finalise the quote – this process most often occurs over a number of iterations and period of time. As such there is ample opportunity to answer any questions on the insurance products that the consumer may possess. NALSPA considers that there needs to be a certain level of consumer responsibility in place within the sales process. If a consumer is provided with all the information in a clear and concise format and given adequate opportunity to review it and ask questions, then we consider that this should be sufficient and there should not be further onus upon the provider to 'test' their understanding. Providers should take reasonable steps to ensure that information is presented clearly and concisely to facilitate consumers' understanding of the product.
E1.3Q2 What forms of innovative disclosure could be used to better inform consumers about their insurance decision?	Across the salary packaging sector electronic forms of communication are already in place to provide product and related information, together with the provision of such information via websites and other means. We note however that Product Disclosure Statements (PDS) given their legal complexity are rather long and wordy. Therefore we question whether their current design and content may provide a barrier to improved product understanding. Potentially more visuals could be utilised to assist consumer product understanding together with wording simplification as appropriate – ideally such communications should be sharper, shorter and better directed at enhancing understanding.
E1.3Q3 What information should the consumer communication include?	NALSPA considers that a one page product information sheet clearly disclosing the premium, policy coverage, key exclusions, term etc. would be most useful to consumers.

Your feedback: Consumer communication (other products)	
E1.3Q4 Should providers be required to inform consumers about the availability of other products that provide similar cover, but may be cheaper?	Regulation that required providers to supply clients with competitor product and pricing information is uncommercial and exceedingly complex and expensive. We are not aware of another market segment where this is a regulatory requirement. This information would be almost impossible to accurately source and maintain in a dynamic market environment and likely to result in suppliers providing inaccurate/out of date information to consumers. It is also difficult to see how ASIC could oversee the accuracy of this information in a commercially sustainable manner. NALSPA members would be extremely uncomfortable referring a customer to another provider's products. The product may have different coverage and terms and may not be suitable to them. We consider this would verge on the potential provision of financial advice, which most intermediaries will not be licenced or qualified to provide. Rather, providers could be required to remind consumers that the insurance products are not mandatory and similar products are available from alternate insurers.
E1.3Q5 If so, what information should the consumer communication include?	No comment at this stage.
Your feedback: Mechanical breakdown insurance and warranties	
E1.4Q1 Should a separate deferred sales model be introduced for these products? If not, how could the particular risks associated with these products be addressed?	As noted above (E1.2Q2) NALSPA would be concerned if ASIC introduced different regulations for sales process's relating to different, albeit similar products. Introducing such a differential within the novated lease establishment process would increase complexity, potential expense, confusion and in our view not add value to the consumer. And it would only add to the already varying regulatory environment in which intermediaries operate. The novated lease provides a "whole of lease" cost to the consumer and this is immediately diminished if elements of the product bundle are not included in employee quotes. It would be difficult to include a separate deferred sales model for these products within the novated lease sales process, as the consumer would be unlikely to take advantage of the tax benefits associated with novated leasing if there is a deferred payment for these policies.

	Furthermore, across much of the salary packaging sector, consumers can cancel the policy and obtain a full refund during the period whilst the extended warranty product is ‘off-risk’ and a pro-rata refund with minimal cost based on the period insured and claims paid when the policy is ‘on risk’. Accordingly, we do not consider it necessary to have an extended deferral period for these products as the consumer outcome is more effectively achieved by the above measures. And having a separate deferred sales model does not meet the requirements (or behaviours) of the vast majority of consumers who at their time of their vehicle purchase want to consider and decide on all aspects relating to their purchase (primarily for peace of mind) and do not want to have to make such deliberations through the life of their ownership.
Your feedback : Monitoring & Supervision	
E2Q1 Given the limitations in monitoring conduct at the point of sale, what changes would be necessary to ensure providers are effectively supervising their representatives?	No comment at this stage.
E2Q2 What risk indicators could be introduced to improve the capacity of providers to monitor their representatives?	No comment at this stage.
E2Q3 What sanctions would be most effective in deterring representatives from engaging in unfair practices at the point of sale?	No comment at this stage.