



ASIC
Australian Securities &
Investments Commission

CONSULTATION PAPER 317

Unsolicited telephone sales of direct life insurance and consumer credit insurance

July 2019

About this paper

This consultation paper is for insurers and Australian financial services (AFS) licensees who sell life insurance or consumer credit insurance (CCI) without providing personal advice, as well as other interested parties.

It seeks feedback on our proposal to ban unsolicited telephone sales of life insurance and CCI when only general advice or no advice is given.

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 18 July 2019 and is based on the Corporations Act 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 because of the comments we receive, or as other circumstances change.

Contents

| | |
|--|-----------|
| The consultation process | 4 |
| A Background to the proposed ban | 5 |
| ASIC's reviews of life insurance and CCI | 5 |
| Unsolicited sales of direct life insurance and CCI | 7 |
| Other products and distribution methods..... | 10 |
| B The need for reform | 12 |
| Regulation of life insurance and unsolicited sales..... | 12 |
| Why existing provisions and initiatives are insufficient..... | 13 |
| C Proposed ban | 15 |
| Unsolicited telephone sales of direct life insurance and CCI | 15 |
| D Regulatory and financial impact | 17 |
| Key terms | 18 |

The consultation process

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

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

Your comments will help us refine our proposal.

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 about 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 **29 August 2019** to:

unsolicited.sales@asic.gov.au

What will happen next?

| | | |
|----------------|----------------|--|
| Stage 1 | 18 July 2019 | ASIC consultation paper released |
| Stage 2 | 29 August 2019 | Comments due on the consultation paper Review submissions and make policy decision |
| Stage 3 | December 2019 | Consider changes to existing regulatory guidance Consult on possible draft instrument |
| Stage 4 | March 2020 | Finalise instrument |

A Background to the proposed ban

Key points

ASIC intends to ban unsolicited telephone sales of direct life insurance and consumer credit insurance (CCI) using our modification power in the Corporations Act. This will provide interim protections to consumers ahead of broader law reform by the Australian Government.

The proposed ban follows recent ASIC reviews, which found that outcomes for consumers who buy direct life insurance and CCI are often poor, with unsolicited telephone contact particularly associated with ongoing sales conduct issues.

Life insurance and CCI are complex, and when sold direct (i.e. without personal advice), consumers must consider many features and try to determine whether the product is right for their personal circumstances. Consumers receiving an unsolicited phone call are unlikely to have thought about the type or level of cover they need, increasing the risk they will buy a product they cannot afford, do not want, or that does not meet their needs.

Other products and distribution methods that pose similar challenges and risks to consumers include funeral insurance and unsolicited telephone sales of life insurance by financial advisers without personal advice.

ASIC's reviews of life insurance and CCI

Life insurance

- 1 Life insurance products include term life insurance, accidental death insurance, trauma, total and permanent disability insurance (TPD), funeral insurance and income protection insurance.

Note 1: In this paper, life insurance includes all 'life risk insurance products' as defined in the *Corporations Act 2001* (Corporations Act): see s761A and 764A(1)(e).

Note 2: Funeral insurance excludes funeral benefits that cover the cost of funeral and burial or cremation services (e.g. pre-paid funeral plans) and funeral-expenses-only policies that provide a benefit for the sole purpose of meeting expenses of, and incidental to, a funeral and burial or cremation (i.e. where the payout does not exceed these substantiated expenses). This is because such benefits and policies are not covered by the financial services licensing and conduct regime of the Corporations Act: see s765A(1)(w) and 765A(1)(y) of the Corporations Act, and reg 7.1.07D of the Corporations Regulations 2001.

- 2 These products can be bought:
 - (a) directly through an insurer or their distributor, providing only general advice or no advice (direct life insurance);
 - (b) through a financial adviser, generally providing personal advice (retail life insurance); or
 - (c) through a group arrangement such as superannuation (group life insurance).

- 3 ASIC has released four reports on life insurance in recent years. In 2016, our review of life insurance claims handling (excluding funeral insurance) showed higher declined claims for direct life insurance than for retail and group life insurance: see [Report 498](#) *Life insurance claims: An industry review* (REP 498).
- 4 After releasing REP 498, we wanted to review how life insurance products in the direct channel are designed and sold, and whether this might increase the likelihood of policies lapsing or consumers later having their claims declined. In 2018, we released [Report 587](#) *The sale of direct life insurance* (REP 587), which identified a clear link between poor sales conduct and poor consumer outcomes. In particular, outbound sales calls were associated with a higher risk of misconduct, such as pressure selling.
- 5 As part of this review, we engaged an external firm to conduct research into consumer experiences when buying direct life insurance: see [Report 588](#) *Consumers' experience with the sale of direct life insurance* (REP 588). This report included findings on consumers who had bought life insurance after a sales call from an insurer or distributor.
- 6 Funeral insurance, which is often sold directly to consumers without personal advice, was covered in an earlier separate review. In late 2015, we released [Report 454](#) *Funeral insurance: A snapshot* (REP 454), highlighting an 80% cancellation rate for this product, which was linked to insurers failing to ensure understanding of key features of the product at the point of sale.
- 7 In August 2018, we announced that, based on the findings in REP 587, we would restrict outbound sales of direct life insurance and funeral insurance: see [Media release 18-250MR](#) *ASIC's review of direct life insurance finds high cancellation rates and poor claims outcomes* (30 August 2018).

Consumer credit insurance

- 8 Consumer credit insurance (CCI) is a type of add-on insurance sold with credit cards, personal loans (including car loans) and home loans. It is supplementary to a primary purchase (such as a credit card) and is often sold over the telephone, in caryards or in bank branches. It generally provides insurance cover for a consumer if they cannot meet their credit obligations due to unemployment, sickness, injury or death.
- 10 In [Report 256](#) *Consumer credit insurance: A review of sales practices by authorised deposit taking institutions* (REP 256), we found that there were significant problems with the way CCI was sold to consumers. This included:
- (a) consumers being sold CCI products without their knowledge or consent;
 - (b) potentially misleading representations being made during the sale and promotion of CCI products;

- (c) the use of pressure tactics and harassment to induce consumers to buy CCI products; and
 - (d) deficiencies in the scripts used for the sale and promotion of CCI.
- 11 In July 2019, we released [Report 622](#) *Consumer credit insurance: Poor value products and harmful sales practices* (REP 622), which found that CCI continues to deliver poor consumer outcomes due to poor product design and sales practices.
- 12 Given the similar characteristics and sales issues for direct life insurance and CCI, we consider that it is appropriate to extend the ban to both products.

Unsolicited sales of direct life insurance and CCI

- 13 Unsolicited sales of insurance occur where contact is initiated by an insurer or distributor to sell insurance and the consumer has not requested contact for this purpose. Unsolicited sales may include telephone calls, door-to-door sales, or being approached by sales agents in a public place such as shopping centres.

Note: In this paper, a reference to ‘unsolicited sales’ means unsolicited contact to offer, issue or sell a financial product, which is prohibited under s992A of the Corporations Act (known as the ‘hawking provisions’). However, unsolicited telephone contact for this purpose (referred to in this paper as ‘unsolicited telephone sales’) is allowed if certain requirements are met: see s992A(3)(a)–(e).

- 14 Examples of unsolicited sales can include contacting consumers whose details have been acquired through:
- (a) online lead generation, including where consumers take part in lifestyle surveys or competitions, click on sponsored content, sign up to newsletters or provide their details to access information;
 - (b) telemarketing; or
 - (c) an existing relationship with the brand or provider.
- 15 In [Regulatory Guide 38](#) *The hawking provisions* (RG 38) we note that, while what is considered unsolicited contact might vary in different circumstances, contact is generally considered unsolicited if there has not been a ‘positive, clear and informed request from the consumer’.
- 16 In February 2019, the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission) recommended that the hawking of insurance and superannuation products should be prohibited and a legislated definition of ‘unsolicited’ should be introduced.

Note: See Royal Commission, [Final report](#), pp. 283–284.

- 17 The Government responded to this recommendation by committing to strengthen and clarify the prohibition on hawking in s992A, including by defining 'unsolicited'.
- 18 In the meantime, ASIC's proposed ban will provide interim protections to consumers ahead of broader law reform by the Government, and we will continue to administer the hawking provisions on the basis of our regulatory guidance in RG 38.

Poor sales practices

- 19 Direct life insurance can be sold by outbound phone calls, inbound phone calls from consumers, online or face to face (e.g. through bank branches).
- 20 In REP 587, our review of over 540 sales calls (both outbound and inbound) identified firms engaging in sales practices that increased the risk of poor consumer outcomes. This included:
- (a) pressure selling;
 - (b) inadequate explanations of exclusions and future cost;
 - (c) downgrading consumers to more limited cover, sometimes without adequate warning; and
 - (d) engaging in conduct that was likely to reduce informed decision making (e.g. sales staff selecting the type and level of cover on behalf of the consumer).
- 21 Outbound sales of direct life insurance were more commonly associated with poor sales conduct, including pressure selling, increasing the risk of poor consumer outcomes.
- 22 In REP 622, we found that lenders selling CCI employed telemarketers and focused on maximising sales rather than detecting and preventing misconduct. Telemarketers used similar unfair tactics including:
- (a) pressure selling;
 - (b) failing to inform consumers about exclusions;
 - (c) providing false information to consumers that buying CCI was a condition of getting credit; and
 - (d) suggesting consumers buy CCI and cancel it during the cooling-off period at no cost if they see no value in the product.

Complex products sold without personal advice

23 In ASIC's view, selling products as complex as life insurance or CCI through unsolicited contact, with only general advice or no advice being given, is not conducive to consumers making informed decisions.

24 When a consumer is buying direct life insurance, they must make their own decision about whether the product meets their needs. This includes making decisions about:

- (a) the type of cover (e.g. standalone term life insurance or income protection, or a bundled product that provides multiple cover types such as term life, trauma and TPD);
- (b) the level of cover;
- (c) the premium structure (stepped or level);
- (d) underwritten or guaranteed acceptance cover; and
- (e) whether the exclusions applied to the product are suitable to their circumstances.

25 Life insurance is a product that is designed to be held for the longer term. It is important for consumers to assess their need for the product, its suitability, and affordability over time. When an insurance product is bought through unsolicited contact, there is limited information and time available, and the consumer is unlikely to be able to compare products and adequately assess whether the insurance being offered meets their needs.

26 Likewise, CCI is a complex product that requires a consumer to consider different features, limits and exclusions, and then determine whether they require the cover, if it offers them value and whether product conditions and exclusions would prevent them from successfully claiming.

Poor consumer outcomes

27 The combination of these factors—the complexity of the product, the absence of personal advice, the poor practices identified in the sale of direct life insurance and CCI and unsolicited contact—increases the risk of consumers taking out cover they do not want, cannot afford or that does not meet their needs. This in turn increases the risk of policies lapsing, claims being declined, or consumers holding multiple policies they do not need.

28 The consequences of a consumer buying a life insurance or CCI product that does not meet their needs can be high. If the product does not perform as expected at claim time, the consumer and/or their family may face significant financial harm.

29 If a consumer decides to switch their life insurance or CCI, new health issues may be excluded from the policy or the policy might be more expensive due to age and health factors.

- 30 In REP 588, we identified a range of poor outcomes for consumers who had bought direct life insurance after an outbound sales call. These consumers were:
- (a) more likely to report feeling pressure to buy a product;
 - (b) more likely to base their decision on the type or amount of cover suggested by the sales person;
 - (c) less likely to be aware of any exclusions in their policy; and
 - (d) more likely to be influenced by promotions and offers.
- 31 Some consumers that bought insurance in this way felt overwhelmed by long phone calls, with some buying the product just to get off the phone or because they felt some obligation to the sales person.

Other products and distribution methods

- 32 Other products and distribution methods raise similar concerns to direct life insurance and CCI. Products where ASIC has observed consumer harm include funeral insurance and unsolicited telephone sales of life insurance by financial advisers without personal advice.
- 33 We consider that these products and methods are within the scope of the modification power and should be included in the action taken to restrict unsolicited telephone sales of direct life insurance and CCI.

Funeral insurance

- 34 Funeral insurance is a form of life insurance and is primarily sold direct to consumers without personal advice. While it was not examined as part of REP 587, we identified similar concerns and poor consumer outcomes in an earlier review of this product.
- 35 In 2015, we specifically examined the design and sale of funeral insurance, which revealed a high rate of policy cancellations. In 2014, the cancellation rate was 80% of policies sold, with insurers not doing enough to ensure that consumers understood the features of the product: see REP 454.
- 36 The Royal Commission also identified case studies that demonstrated poor consumer outcomes for funeral insurance. For example, in the Freedom Insurance case study, funeral insurance was offered with the first 12 months free. Of the 37,584 incoming calls from consumers who subsequently wanted to cancel the policy, 75% were from consumers who said they could not afford the insurance or did not want it.

Life insurance sold by financial advisers

- 37 Financial advisers will sometimes provide general advice when selling life insurance, which may be considered a direct method as no personal advice is given. We did not specifically examine this distribution method in REP 587 as firms advised us that these sales are generally not recorded in a way that is easily extracted from all other sales by financial advisers.
- 38 When providing personal advice, financial advisers are required to act in the best interests of their client. However, this obligation does not apply when an adviser only provides general advice.
- 39 We consider it appropriate to treat unsolicited telephone sales of direct life insurance by financial advisers, where general or no advice is given, in the same way as other unsolicited telephone sales of life insurance.

B The need for reform

Key points

In ASIC's view, the consumer harms identified in our reviews are not adequately addressed by:

- the existing provisions for unsolicited sales in the Corporations Act; or
- initiatives by industry for direct life insurance and CCI products.

Regulation of life insurance and unsolicited sales

- 40 The life insurance industry is jointly regulated by ASIC and the Australian Prudential Regulation Authority (APRA). ASIC regulates conduct while APRA is the prudential regulator.
- 41 ASIC regulates Australian financial services (AFS) licensees, including insurers, distributors and friendly societies. Conduct obligations are set out in the Corporations Act, including the general conduct obligations in s912A. ASIC also enforces the consumer protection provisions in the *Australian Securities and Investments Commission Act 2001*.
- 42 The prohibition on hawking in s992A of the Corporations Act aims to limit unsolicited sales of financial products to consumers.
- 43 Under the hawking provisions, a person must not offer financial products for issue or sale in the course of, or because of, an unsolicited meeting or phone call. This extends to issuers and sellers of financial products, as well as their agents and representatives.
- 44 There is an exemption to the prohibition that allows unsolicited telephone contact when certain criteria are met. These criteria regulate:
- (a) the times during which a person can be contacted;
 - (b) the opportunity to register on a no call/no contact list and the time or frequency that they are contacted;
 - (c) the provision of a Product Disclosure Statement (PDS); and
 - (d) the requirement to tell the person about using the information in the PDS when deciding to buy a financial product.
- Note: See s992A(3)(a)–(e).
- 45 A breach of the hawking provisions is a criminal offence with penalties of fines, imprisonment, or both. The consumer may also have a right to return the product or take civil proceedings against the offeror.

- 46 RG 38 sets out ASIC’s regulatory guidance on the hawking provisions. Following the consultation process, we expect to review RG 38 and provide updated guidance on the hawking provisions, including the proposed ban on unsolicited telephone sales of direct life insurance and CCI in Section C of this paper if it is implemented.

Why existing provisions and initiatives are insufficient

Disclosure requirements

- 47 In ASIC’s view, the hawking provisions are insufficient to prevent the potential consumer harms of buying unnecessary, unwanted, or unsuitable life insurance and CCI products. We think that the disclosure requirements for unsolicited telephone contact do not by themselves ensure that the consumer has had the opportunity to reflect on their personal circumstances, consider alternative products and make an informed decision.
- 48 The criteria in s992A(3)(a)–(e) allowing this contact are largely administrative and rely on disclosure through the PDS.
- 49 We have observed that disclosure is often poorly designed, overly complex, and poorly targeted. Even where disclosure is an appropriate or necessary device, it may not be designed or delivered in a way that facilitates good consumer decision making or better outcomes.
- 50 The Royal Commission also found that the prohibition on hawking in s992A does not effectively protect consumers from harm.
- Note: See Royal Commission, [Final report](#), pp. 282–283.
- 51 Prohibiting unsolicited telephone sales of direct life insurance and CCI appropriately reflects the complexity of these products, the intention that they are held for the longer term, the risks to consumers in buying the wrong product, and the implications if consumers need to switch to a different product.
- 52 The barriers to switching are high in the life insurance context as there may be significant differences in products, making them difficult to compare. There is also less incentive to switch to a different product if the consumer has recently been diagnosed with a new medical condition that would not be covered by a new policy.

Direct life insurance initiatives

- 53 Many firms have voluntarily moved away from outbound telephone sales models, both before and in response to the release of REP 587. We think that a prohibition on unsolicited telephone sales will ensure an even playing field for all insurers and distributors who offer direct life insurance and prevent the risk of further consumer harm from these sales. It will also prevent other

firms from using unsolicited telephone sales in direct life insurance due to a perceived gap in the market because of the recent move away from this distribution model by industry.

54 The Life Insurance Code of Practice developed by industry to establish minimum standards for the sale of life insurance came into effect on 1 July 2017. The Code commits life insurers that are members of the Financial Services Council to minimum standards on sales practices and advertising, including not engaging in pressure selling, and appropriate consequences for inappropriate sales conduct.

55 However, in ASIC's view, the Code does not go far enough to eliminate the risks associated with unsolicited telephone sales of direct life insurance as the products are too complex to be sold by unsolicited telephone contact without personal advice.

CCI initiatives

56 ASIC has worked extensively to improve CCI consumer outcomes, including establishing a Working Group that agreed on a deferred sales model for CCI sold with credit cards and personal loans (but not CCI sold with home loans). This means that Australian Banking Association members will not sell CCI with a credit card or personal loan for at least four days after the consumer has applied for the card. The agreement has been codified in the Banking Code of Practice, which came into effect on 1 July 2019.

57 Although a deferred sales model breaks the nexus between buying a product and being offered CCI, there is a continued risk with unsolicited telephone sales that the consumer may buy a product that they do not need or want, or end up with multiple policies covering the same events.

58 While ASIC considers the deferred sales model standards in the Banking Code of Practice to be a positive step towards treating consumers more fairly, other risks to consumers remain. We consider that both industry initiatives and prohibiting unsolicited telephone sales can play a role in improving consumer outcomes for CCI.

C Proposed ban

Key points

ASIC intends to ban unsolicited telephone sales of life insurance (including funeral insurance) and CCI when sold with general advice or no advice.

We propose to do this by using our modification power in s992B(1)(c) of the Corporations Act so that the prohibition on hawking in s992A(3) would apply (with no exemptions) to these sales.

Unsolicited telephone sales of direct life insurance and CCI

Proposal

- c1** We intend to use our modification power in relation to the hawking provisions in the Corporations Act to prohibit unsolicited telephone sales of life insurance (including funeral insurance) and CCI, when only general advice or no advice is given at the point of sale.

Your feedback

- C1Q1 Do you have any feedback about our intention to use the modification power to prohibit unsolicited telephone contact to offer, issue or sell direct life insurance?
- C1Q2 Do you have any feedback about our intention to use the modification power to prohibit unsolicited telephone contact to offer, issue or sell CCI?
- C1Q3 Is there a risk of causing inadvertent consumer harm by banning unsolicited telephone contact to offer, issue or sell direct life insurance and CCI?
- C1Q4 Do you think that the prohibition on unsolicited telephone contact should be extended to any other financial products currently captured by the hawking provisions (e.g. other insurance products, superannuation products)? If so, which products, and on what basis?
- C1Q5 If you are an insurer or distributor:
- (a) what are the likely compliance costs of the ban?
 - (b) what is the likely effect on competition?
 - (c) do you foresee any other impacts, costs and/or benefits of this proposal, or of any alternative approach you suggest?

Rationale

Prohibiting unsolicited telephone sales of direct life insurance and CCI

59 Imposing a ban on unsolicited telephone sales of direct life insurance and CCI would address the concerns raised in our reviews that current industry practices can result in consumers paying for life insurance and CCI policies that are not suitable for their needs. Such a ban would promote informed decision making and reduce consumer harms.

60 We consider that the proposed ban appropriately:

- (a) ensures that consumers have an opportunity to consider their needs and the products available before taking out an insurance policy; and
- (b) reduces the likelihood that consumers will be sold insurance products that are not necessary or suitable.

61 ASIC's proposal addresses, in part, the Royal Commission's recommendation that the hawking of insurance products should be prohibited. We consider that the proposed ban addresses areas of consumer harm identified by ASIC and will provide interim protections to consumers ahead of broader law reform by the Government.

Use of ASIC's modification power

62 ASIC has a modification power, under s992B(1)(c) of the Corporations Act, to declare that specified provisions of the prohibition on hawking in relation to a financial product be omitted, modified or varied.

63 The Government also recently introduced a product intervention power that allows ASIC to make a product intervention order—this is one of several regulatory tools available to ASIC to improve consumer outcomes.

64 We consider that, in this instance, our modification power is the most appropriate tool to implement this ban. We intend to use this modification power to declare that the exemptions in s992A(3)(a)–(e) do not apply to unsolicited telephone sales of life insurance and CCI where general advice or no advice is given. This means that the prohibition on hawking in s992A(3) would apply (with no exemptions) to these sales.

65 In ASIC's view, our proposal is consistent with the intentions of the legislation, as the obligations differ depending on the nature (including the complexity and potential risk) of the financial product. In particular, s992AA regulates the hawking of interests in managed investment schemes and does not contain exemptions equivalent to those in s992A(3)(a)–(e).

D Regulatory and financial impact

- 66 Before settling on a final policy, we will comply with the Australian Government’s regulatory impact analysis requirements by:
- (a) considering all feasible options, including examining the likely impacts of the range of alternative options which 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 minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).
- 67 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.
- 68 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 proposal or any alternative approaches, by making a submission and addressing the questions in Section C.

Key terms

| Term | Meaning in this document |
|-----------------------|--|
| advice | Financial product advice |
| advice provider | A person to whom the obligations in Div 2 of Pt 7.7A of the Corporations Act apply when providing personal advice to a client. This is generally the individual who provides the personal advice. However, if there is no individual that provides the advice, which may be the case if advice is provided through a computer program, the obligations in Div 2 of Pt 7.7A apply to the legal person that provides the advice (e.g. a corporate licensee or authorised representative) |
| AFS licence | An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A. |
| AFS licensee | A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A. |
| APRA | Australian Prudential Regulation Authority |
| ASIC | Australian Securities and Investments Commission |
| CCI | Consumer credit insurance |
| Corporations Act | <i>Corporations Act 2001</i> , including regulations made for the purposes of that Act |
| direct life insurance | Life insurance that is sold to consumers directly, without an adviser providing personal advice, and without a group intermediary like a superannuation fund |
| final report | The final report of the Royal Commission released in February 2019 |
| financial adviser | An advice provider |
| financial product | A facility through which, or through the acquisition of which, a person does one or more of the following: <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); • makes non-cash payments (see s763D) Note: This is a definition contained in s763A of the Corporations Act: see also s763B–765A. |

| Term | Meaning in this document |
|------------------------------------|--|
| financial product advice | <p>A recommendation or a statement of opinion, or a report of either of these things, that:</p> <ul style="list-style-type: none"> • is intended to influence a person or persons in making a decision about a particular financial product or class of financial product, or an interest in a particular financial product or class of financial product; or • could reasonably be regarded as being intended to have such an influence. <p>This does not include anything in an exempt document or statement</p> <p>Note: This is a definition contained in s766B of the Corporations Act.</p> |
| financial service | Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act |
| funeral insurance | <p>A type of life insurance where the sum insured is typically much lower than for other life insurance products, as it is intended only to cover the cost of a funeral and burial or cremation, rather than providing for dependants. For the purposes of this paper, funeral insurance excludes funeral benefits that cover the cost of funeral and burial or cremation services (e.g. a pre-paid funeral plan) and funeral-expenses-only policies that provide a benefit for the sole purpose of meeting expenses of, and incidental to, a funeral and burial or cremation (i.e. where the payout does not exceed these substantiated expenses)</p> |
| general advice | <p>Financial product advice that is not personal advice</p> <p>Note: This is a definition contained in s766B(4) of the Corporations Act.</p> |
| hawking provisions | The prohibition on hawking in s992A of the Corporations Act |
| life insurance | <p>For the purposes of this paper, life insurance includes all 'life risk insurance products' as defined in the Corporations Act</p> <p>Note: See s761A and 764A(1)(e).</p> |
| OBPR | Office of Best Practice Regulation |
| personal advice | <p>Financial product advice given or directed to a person (including by electronic means) in circumstances where:</p> <ul style="list-style-type: none"> • the person giving the advice has considered one or more of the person's objectives, financial situation and needs; or • a reasonable person might expect the person giving the advice to have considered one or more of these matters <p>Note: This is a definition contained in s766B(3) of the Corporations Act.</p> |
| Product Disclosure Statement (PDS) | <p>A document that must be given to a retail client for the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act</p> <p>Note: This is a definition contained in s761A.</p> |
| REP 587 (for example) | An ASIC report (in this example numbered 587) |
| RIS | Regulation Impact Statement |

| Term | Meaning in this document |
|-----------------------------------|---|
| s912A (for example) | A section of the Corporations Act (in this example numbered 912A) unless otherwise specified |
| representative of an AFS licensee | <p>Means:</p> <ul style="list-style-type: none"> • an authorised representative of the licensee; • an employee or director of the licensee; • an employee or director of a related body corporate of the licensee; or • any other person acting on behalf of the licensee <p>Note: This is a definition contained in s910A.</p> |
| Royal Commission | Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry |
| unsolicited sales | Unsolicited contact to offer, issue or sell a financial product including, for example, telephone calls and door-to-door sales |
| unsolicited telephone sales | Unsolicited telephone contact to offer, issue or sell a financial product |