



ASIC
Australian Securities &
Investments Commission

The sale of add-on motor vehicle financial risk products: Summary of changes to draft product intervention order and questions for feedback

Background

In October 2019 ASIC consulted on a draft product intervention order intended to address consumer detriment arising from the distribution of add-on insurance and warranties by caryard intermediaries: ASIC Corporations (Product Intervention—Add-on Insurance and Extended Warranties) Instrument 2019/XX (previous draft order). The draft order was released with [Consultation Paper 324](#) *Product intervention: The sale of add-on financial products through caryard intermediaries* (CP 324).

Following the consultation, ASIC has made changes to the draft order: see ASIC Corporations (Product Intervention—Add-on Motor Vehicle Financial Risk Products) Instrument 2020/XX (revised draft order), which was released with Media release (20-179MR) *ASIC consults on proposed product intervention order for the sale of add-on motor vehicle financial risk products* in August 2020.

Table 1 sets out the material differences between the previous draft order and the revised draft order. It is intended to help stakeholders to identify and provide feedback on the changes we have made.

We seek your feedback on these changes, including your responses to some specific questions for feedback at the end of this document.

Summary of changes

Table 1: Comparison of previous draft order and revised draft order

Previous draft order	Relevant feature	Revised draft order	Relevant change
Section 1	The title of the order referred to 'add-on insurance and extended warranties'.	Section 1	The title of the order now refers to 'add-on motor vehicle financial risk products'.
Section 2	The order did not provide for a general transition period.	Section 2	The order now provides for a general transition period of three months.
Section 3	No change	Section 3	No change

Previous draft order	Relevant feature	Revised draft order	Relevant change
Section 4	<p>The order included a definition of 'add-on insurance product'.</p> <p>'Arrange' was not defined for the purposes of the order (e.g. 'arrange for the issue of an add-on insurance product').</p> <p>'Comprehensive motor vehicle insurance' was not defined for the purposes of the order.</p> <p>The order included definitions of 'online consumer roadmap' and 'extended warranty product'.</p>	Section 4	<p>'Add-on insurance product' has been changed to 'add-on motor vehicle financial risk product', which is defined to include both insurance and warranty products.</p> <p>The order includes a definition of a new class of products—'assistance insurance products'.</p> <p>The class of products 'loan or lease termination insurance products' has been removed.</p> <p>The concept 'arranging conduct' has been introduced and defined.</p> <p>The product class 'comprehensive motor vehicle insurance' is now defined.</p> <p>The prescribed form and content of the 'online consumer roadmap' have been modified.</p> <p>'Warranty product' has been substituted for 'extended warranty product' and defined. This definition now expressly excludes comprehensive motor vehicle insurance.</p>
Section 5	This section set out a prohibition applying to intermediaries and product issuers, as well as three exceptions to the prohibition.	Sections 5–9	<p>This section is now split into three general prohibitions (sections 5–7) and one specific prohibition (section 8).</p> <p>The exceptions to the prohibitions are set out in a separate condition in Section 9.</p>
Sections 6 and 7	<p>Section 6 of the order set out a condition relating to the 'online consumer roadmap' and stated at paragraph 6(2) that intermediaries must determine 'unsuitable classes' of retail clients for each add-on product.</p> <p>Section 7 set out a condition relating to the 'deferral period'.</p>	—	See 'Section 11'.

Previous draft order	Relevant feature	Revised draft order	Relevant change
Section 8	The order included a condition relating to 'unconscionable conduct or manipulation', which has the effect of prohibiting any technique 'that should not in good conscience have been used'.	—	The condition has been replaced with a general prohibition in section 7 that is limited to requiring the retail client to sign an acknowledgement: see 'Sections 5–9'.
Section 9	The order included a condition requiring product issuers to provide a written statement containing specified information upon request by ASIC.	Section 10	The condition now: <ul style="list-style-type: none"> • specifies the types of information for which ASIC can request a written statement; and • provides that ASIC may only request a written statement once every six months.
—	—	Section 11	The conditions relating to the 'online consumer roadmap' and the 'deferral period' in sections 6 and 7 of the previous draft order have been merged into one section. These conditions now come into effect six months after the commencement of the order. The requirement to determine 'unsuitable classes' of retail clients in paragraph 6(b) of the previous draft order has been removed.
—	The order did not restrict the sale of mechanical risk products in relation to the level of cover remaining on any manufacturer warranty, provided the terms of the product met the requirements in section 10.	Section 12	A new condition has been added prohibiting the sale of mechanical risk products where a retail client has a certain level of cover under a manufacturer warranty. This was previously consulted on: see paragraphs 181–191 and paragraphs 231–234 of CP 324 .
Section 10	The order included a condition relating to the terms of mechanical risk products.	Section 13	A new condition has been added at paragraph 13(b) stating that mechanical risk products must provide cover for at least 12 months. A new condition has been added at paragraph 13(g) stating that a mechanical risk product holder must not be required to pay an amount to a third party on cancellation of the product.

Specific questions for feedback

1. Please summarise your views on any of the changes made to the revised draft product intervention order, including whether the changes would be more or less effective in addressing the significant consumer detriment previously identified by ASIC, including in [CP 324](#). Please explain the reasons for your position.
2. Do you consider that any further changes should be made to the revised draft order before ASIC proceeds to a final decision on whether to exercise the product intervention power?
3. Do you consider there is a significant risk of avoidance of the revised draft order as a result of any changes made by ASIC? If so, should ASIC introduce additional measures to address that risk?
4. Do you consider that the consequences of the COVID-19 pandemic have had, or are likely to have, any effect on the significant consumer detriment identified by ASIC in [CP 324](#)? Please provide evidence in support of your response.
5. Please provide any information on likely compliance savings or costs, the likely effect on competition and other impacts, costs and benefits.

Making a submission

We seek your views on these changes and your responses to the questions set out above. We also ask you to describe, and provide reasons for, any alternative approaches you think would achieve our objectives.

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 that 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.