

4 March 2020

Attention: Product Regulation
Strategic Policy
Australian Securities and Investments Commission (ASIC)
GPO Box 9827
Brisbane QLD 4001

By email: product.regulation@asic.gov.au

RE: Submission in response to ASIC's proposed design and distribution obligations (DDO) framework

ClearView appreciates the opportunity to provide our comments to ASIC regarding Consultation Paper 325: Product design and distribution obligations, released on 19 December 2019.

ClearView broadly supports the implementation of the DDO framework and any reforms designed to strengthen consumer protections and drive improved consumer outcomes.

ClearView generally agrees with ASIC's corresponding guidance, however, given ClearView's products and services are only accessible through financial advisers in conjunction with personal advice, parts of the proposed guidance do not appear to be directly applicable.

As such, this submission focuses on specific proposals, set out below.

1. About ClearView

ClearView is an ASX-listed diversified financial services company that partners with financial advisers to help Australians plan and invest for the future, provide for their families and ultimately retire with confidence.

Our quality life insurance and wealth management products are distributed through financial advisers in conjunction with personal advice. ClearView includes a registered life insurer, funds management business, superannuation trustee and two financial advice licensees (AFSLs).

As at 31 December 2019, the group had \$260.6 million in in-force premium and \$2.88 billion in funds under management. The Financial Advice business had \$10.2 billion in funds under advice and \$257 million of premiums under advice.



2. Table 1: Comments on specific ASIC proposals

Guidance B2: Draft RG 000 at RG 000.52–RG 000.56

Issuers and distributors should not take advantage of behavioural biases or factors that can impede consumer outcomes. In addition, issuers and distributors should consider consumer vulnerabilities and how these vulnerabilities may increase the risk that products sold to consumers do not meet their needs and lead to poor consumer outcomes.

Feedback requested by ASIC	ClearView’s response and concerns
<p>Is our guidance on the consumer-centric approach issuers and distributors should take to deliver good consumer outcomes useful?</p> <p>What additional matters, if any, do you consider to be relevant?</p>	<p>Further guidance and examples required</p> <ul style="list-style-type: none"> The concept of ‘behavioural biases’ is very broad, therefore, further guidance and examples of what would (and would not) constitute taking advantage of such biases or factors would be useful. <p>Personal advice addresses the risk of behavioural biases</p> <ul style="list-style-type: none"> Our intermediated business model means that our products are only available in conjunction with personal advice. Advisers must take into account a client’s unique circumstances, objectives and needs, as part of the advice process. Therefore, the risk of any behavioural bias is managed given personal advice is tailored to the client’s specific needs and circumstances. <p><u>Other policy considerations</u></p> <ul style="list-style-type: none"> ClearView agrees that achieving improved consumer outcomes through better designed, more tailored products is paramount but an equally important objective should be lifting the financial literacy of all Australians. <p>This involves a delicate balancing act in regulating the financial services industry. If prescriptive regulations result in a decline in financial literacy and responsibility (i.e.</p>



	<p>customers perceiving that they do not need to understand a product and consider its appropriateness for them, since issuers must ensure it is designed for them), this may have a detrimental impact on financial literacy. The long-term disadvantages may outweigh the current ‘symptomatic’ protection afforded, which is an undesirable outcome.</p>
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Guidance C4: Draft RG 000 at RG 000.78–RG 000.79

When an issuer considers it appropriate to contemplate consumers in the target market acquiring the financial product as part of a diversified portfolio, the reasonable steps obligation will require the issuer to manage the risk of the product being sold to consumers who do not have a diversified portfolio.

Feedback requested by ASIC	ClearView’s response and concerns
<p>Do you have any comments on our proposed guidance for issuers considering the role of diversification as it relates to their identification of the target market?</p>	<p>Personal advice addresses the risk of products being sold to consumers without a diversified portfolio</p> <ul style="list-style-type: none"> • From a privacy perspective, it may be problematic to require consumers to disclose all their investment holdings and provide a broader view of their wealth. However, placing the onus on issuers to ‘manage the risk’ may require issuers to inquire into each consumer’s investment holdings. <p>ClearView believes that advisers are best placed to understand an individual’s total financial position and provide advice on diversification strategies. This requirement should not extend to issuers.</p>



Guidance C7: Draft RG 000 at RG 000.98–RG 000.106 and Examples 7–8.

How the target market determination (**TMD**) applies for certain products when the application of the obligation is not straightforward, including:

- a) to superannuation and investor directed portfolio services (also known as ‘platforms’ or ‘IDPS’);
- b) when products are offered and acquired as a ‘package’ or ‘bundle’; and
- c) when products are customisable by the consumer at point-of-sale, including through choices or options (e.g. selecting a waiting period for an income protection insurance product).

Feedback requested by ASIC	ClearView’s response and concerns
<p>C7Q1 In relation to our guidance on how a target market determination should be approached for superannuation products, as set out in Example 7:</p> <p>(a) Do you agree with our proposed guidance that if investment options are suitable for different groups of members, then the trustee should account for this in undertaking its target market determination for the Choice superannuation product? If not, why not?</p> <p>(b) What factors do you consider relevant to the grouping of investment options in making a target market determination? Why?</p> <p>(c) Do you agree with our proposed guidance to consider insurance as part of the target market determination for a Choice product? If not, why not?</p> <p>(d) How should a trustee take into account insurance in making a target market determination for a Choice product?</p> <p>C7Q2 Do you agree with our guidance on the application of the target market determination obligation to IDPS?</p> <p>C7Q3 Do you agree with our guidance on how a target market determination should</p>	<p>Personal advice may address issue of product acquisition as a package/bundle or point-of-sale client-driven customisation</p> <ul style="list-style-type: none"> • Investment options already disclose information such as investment objectives which consumers can use to assess suitability. Requiring issuers to produce a TMD for each investment option would not provide a meaningful consumer benefit but would create a significant volume of TMDs, which would be unmanageable. • ClearView agrees that choice insurance products should require a TMD, however, TMDs should not be required for each customisable option. Insurance products have a range of options available and to prepare a TMD for each possible combination would result in a significant, unmanageable volume of TMDs with minimal consumer benefit. • Alternatively, there should be an exemption for requiring a TMD for each customisable option where the product is a choice product or sold in conjunction with personal advice. In the context of ClearView’s intermediated



<p>be approached for a bundled product? If not, why not?</p> <p>C7Q4 Do you agree with our proposed approach to the application of the design and distribution obligations to products that can be customised at point-of-sale? If not, why not?</p> <p>C7Q5 Are there any particular options or choices, or types of options or choices, that you consider would affect the product's suitability for a consumer if selected? Please give examples.</p>	<p>business model, we believe that advisers are best placed to understand a client's position and portfolio and, if required, recommend a suitable product (however that product or option is packaged, bundled or customised).</p> <p>Our position is that it is appropriate for a single TMD to be prepared in the context of personal advice.</p>
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Guidance D5: Draft RG 000 at RG 000.180–RG 000.183

Provide guidance that a TMD for a financial product should be considered by a financial adviser in providing the advice and meeting their best interests' duty.

Feedback requested by ASIC	ClearView's response and concerns
<p>D5Q1 Do you agree that a TMD for a financial product should be considered by a financial adviser in providing the advice and meeting their best interests' duty? If not, please explain.</p>	<p>ClearView agrees that the TMD should be considered during the personal advice process.</p> <p>In addition, it is important for the adviser to articulate their reasoning for recommending a product if the consumer is not within the target market.</p>

Please do not hesitate to contact me if further information is required.

Yours sincerely



Simon Swanson
Managing Director