



11 March 2020

Product Regulation
Strategic Policy
Australian Securities and Investments Commission
GPO Box 9827
Brisbane QLD 4001

Submitted by email: product.regulation@asic.gov.au

Dear Sir/Madam

PRODUCT DESIGN AND DISTRIBUTION OBLIGATIONS (CONSULTATION PAPER 325)

Insurance Australia Group Limited¹ (IAG) welcomes the opportunity to make a submission to the Australian Securities and Investments Commission's (ASIC's) Consultation and draft Regulatory Guide on the design and distribution of financial products obligations in Part 7.8A of the Corporations Act 2001 (Cth) which commence on 5 April 2021.

At IAG, our purpose is to make your world a safer place. We aim to fulfil this purpose by making our customers safer and more confident through the products and services we deliver. IAG supports the objectives of the design and distribution obligations to ensure that issuers and distributors have a consumer-centric approach to designing and distributing products and that products do not cause harm to consumers.

IAG supports ASIC's principles-based approach to the Product Design and Distribution Obligations (PDDO) regime given the diverse and varied nature of financial products to which the obligations will apply. Given the broad range of financial products involved, we have provided our feedback specifically on how we think the proposed guidance will impact the general insurance sector.

IAG is committed to implementing the obligations to ensure the desired consumer

¹ IAG is the parent company of a general insurance group, with operations in Australia and New Zealand. Our businesses sell insurance under many leading brands, including: NRMA Insurance, CGU, SGIO, SGIC, Swann Insurance and WFI in Australia; NZI, State, AMI and Lumley Insurance in New Zealand. Our purpose is to make your world a safer place, which means we are working to create a safer, stronger and more confident tomorrow for our customers, partners, communities, shareholders and our people throughout Asia Pacific.

outcome is achieved. The implementation of the design and distribution obligations will require significant operational systems and process changes for insurers. Given that, and the newness of the obligations, IAG welcomes ASIC's acknowledgement in paragraph 22 of CP 235 that it will administer the requirements in a flexible and cooperative way with entities through the early stages of implementation and that the improvement of the product design and distribution is an evolving process. IAG is of course willing to work with ASIC to share learnings and issues during the implementation of this process.

We acknowledge ASIC's objective for the guidance to be clear and useful, and to provide issuers and distributors with tools and direction to assist them to meet the design and distribution obligations. As such, we have identified some alternative approaches in our submission that we believe will provide greater clarity and certainty around how these laws are intended to operate.

IAG's primary concern relates to the potential impacts to the cost and availability of insurance if an onerous approach is adopted to insurers' investigation of changes to customer circumstances in relation to the renewal of policies. IAG currently insures over 8.5 million customers and making the renewal process overly restrictive for customers and insurers could lead to underinsurance and could significantly impact the cost of insurance. IAG would be willing to share our estimates of likely compliance costs that IAG might incur with ASIC on a confidential basis.

If you have any questions or require any further information please do not hesitate to contact Allan Howden, Executive General Manager, Regulatory Engagement, on

[REDACTED]

Yours sincerely,

[REDACTED]

Steve Marshall
Executive General Manager, Product & Pricing



ASIC Reference	Topic	IAG's Response
B1	Product Governance Framework	<p>IAG agrees that issuers need to have a robust and effective product governance framework and that, where relevant it should require them to consider choice architecture, consumer vulnerabilities and behavioural biases. We consider that the extent of these controls should be scalable in line with the risk of consumer harm.</p>
B2	Behavioral Biases or Factors	<p>IAG wholly supports ASIC's views that behavioural biases should not be taken advantage of and that consumer vulnerability should be considered.</p> <p>IAG considers that RG000.53 would benefit from further clarity how behavioural biases ought to be controlled for. It is not practical for an insurer to know or discover all the biases or 'other factors' of each individual policy holder.</p> <p>We agree that behavioural biases, and consideration of consumer behavior generally, are a critical factor in designs that are seeking to be customer centric. However, it is likely that many choice architectures could represent a gain for most customers but a loss for some customers, relative to other choice architectures, and so could be considered to be "impeding outcomes" for the smaller group of customers who are negatively affected.</p> <p>As an example, for the general insurance industry, consumers are often required to select an excess level from a range of options. A default level is typically presented from which a consumer can elect to keep or to vary their preference. The choice of the level of default excess (or even the decision not to provide a default) is a choice architecture decision and must consider many biases. One important bias is anchoring, which is the tendency for a pre-selected "default" to influence a final decision. For example, there are some consumers for whom a very high home insurance excess is desirable, but this might be a poor choice for many consumers, who might then struggle to</p>

		<p>pay the excess when making a claim. Knowledge of anchoring can be used to design a low default amount, which may mean that people are less likely to select a high excess option unless they have seriously considered the implications of this decision. The use of a bias in this way benefit many people without restricting options that are desirable to some, but may hinder a customer whose ideal decision may be a high excess.</p> <p>We note ASIC has provided some guidance at RG000.105 and consider it would be helpful if RG000.53 could be aligned with that provision. An example for a general insurance home or motor product would be beneficial.</p> <p>We would encourage the regulatory guidance be amended to require issuers and distributors to take into account and assess behavioural biases and use the knowledge to select strategies that ensure consumers are not impeded in making appropriate choices <i>in general</i> across the class of consumers for whom the product is intended. This could be evaluated at a cohort level, giving suitable weight to vulnerable consumers, as a test at an individual level may be too stringent to meet.</p> <p>It would also be desirable for alignment with the respective industry code requirements, for example the vulnerable customer section of the General Insurance Code of Practice which is scheduled to commence on 1 July 2020.</p>
C2	The approach to identify the target market for new products and continuing products	<p>IAG understands that ASIC does not propose to give definitive guidance on the content and form of a TMD. It would, however be helpful to have further guidance on ASIC's expectations on how to treat variations of products within a class. For example, would ASIC expect a different TMD for a motor product depending on the level of coverage that the product offers or would a more general approach be acceptable. This clarity is sought noting that these documents will be made available to consumers.</p> <p>The Guidance is silent on the restrictions regarding contact with an individual who falls outside of a target market. IAG would appreciate clarity on whether ASIC intends to specify the manner in which entities can communicate with customers that are no longer within a target market to offer alternative cover. The ability to contact customers who fall within these parameters is key to minimise underinsurance and takes into account developments in product innovation. This scenario also raises issues about the interaction with anti-hawking obligations.</p>

C3	Process and key considerations for identifying and describing the target market	<p>In relation to RG000.87, some insurance products provide value to a broad range of customers for example, comprehensive car insurance or home insurance. IAG would appreciate clarification on whether an insurer would be required to develop TMD's for, say, each demographic or geographic group of consumers to avoid too broad a TMD.</p> <p>IAG considers that an example for general insurance would also be beneficial.</p> <p>IAG welcomes ASIC's flexible approach to regulatory implementation and enforcement of the obligations where entities have made genuine efforts to meet the new requirements, particularly with respect to the testing of TMDs for general insurance.</p>
C5	Consumer understanding	IAG agrees with the principle that a consumer's understanding does not necessarily equate to the product being likely to be consistent with their objectives, financial situation and needs.
C7Q3	Product Specific Issues – Bundled Products	<p>RG 000.103 requires that any bundled insurance product that includes different types of cover to have separate TMDs. For example, a business insurance policy that includes cover for home buildings, home contents and motor vehicles would require separate TMD's for the home building cover, the home contents cover and the motor vehicle cover.</p> <p>IAG would appreciate confirmation that a TMD is not required for the cover sections of a bundled product that do not require a Product Disclosure Statement (PDS) and interaction of cover sections that do not require a TMD for example, a business insurance policy that includes cover for home building, home contents and motor vehicles as well as business interruption and business liability (as these latter two do not fall within the categories of product that require a TMD). We have assumed that a TMD will only be required for each of the home building, home contents and motor vehicle covers but will not be required for the business interruption and business liability covers.</p>
C10Q4	Potential effects on competition	<p>In our view, there would be an effect on competition as smaller distributors may not have the resources to efficiently collect the information required.</p> <p>Some insurers may require more information from their distributors than others and this may have the effect of distributors moving their business elsewhere.</p>
C11Q1	Conducting a review of	IAG considers that RG000.143 should be changed to read 'this may include'. In our view, the list in RG000.143 should

	a TMD	not be mandatory, and each issuer should be able to determine what data it can use to trigger a review in line with the review triggers it sets.
C12Q1	Notifying ASIC of 'significant dealings'	A 'significant dealing' is likely to arise over a period of time. That is, there will be some dealing prior to it becoming significant (as per the factors in RG000.148). IAG would appreciate clarification on whether the period of time during which a dealing of this sort has been continuing could also be a factor in terms of significance.
D2Q1	Renewal of general insurance policies	<p>An issuer is required to analyse information it holds such as information gathered when a customer acquired a product, updated details that have been provided, and consider a number of factors including the likelihood that a class of customers is no longer in the target market and whether more data should be gathered from customers. It would be helpful for ASIC to expand on Example 14 to cover a scenario where at renewal an issuer is required to contact a customer because it requires more data.</p> <p>We are concerned if it is suggested that insurers would have to contact each customer prior to renewal to re-ask questions or ask new questions (where the insurer believes a customer may no longer be in a target market) as it is not clear this is in the customer interest or desired by customers. Given the sheer volume of renewals insurers handle each day, the resourcing required for this would be substantial and this may have significant cost and affordability issues for customers. An alternative approach could be to provide customers with details of answers previously offered and asking if anything has changed and that the customer should consider these questions again and contact an insurer if necessary.</p> <p>We are of the view that there are issues with the practicality of this approach as there is a risk that a customer might become uninsured if unsuccessfully contacted.</p> <p>Additionally, IAG would appreciate clarification on a situation where at renewal an insurer contacts a customer because they no longer appear to fall within the target market, however the customer wants to retain the policy anyway – for reasons known or unknown to the insurer. In our view, this raises concerns regarding compliance and regulatory risks for the insurer. IAG would like clarification on whether the reasonable steps provision for distributors protect an insurer in this case.</p> <p>Information regarding level and amount of coverage should be clearly communicated to customers. However, if</p>

		insurers are able to deny coverage after a communication attempt is made (and unanswered) this may lead to poor customer outcomes.
D3Q4	Comments on how a distributor could reduce the likelihood of leaving a consumer with the impression that their personal circumstances have been considered	IAG considers this needs to be clearer to consumers as the methods identified seem to be subtle to consumers.
D4Q1	Consumers outside the target market	<p>Noting s994E(4), clarification is sought on a situation where a consumer demands to be sold a particular product despite not falling within the target market. The consumer may have reasons unknown to the distributor for wanting to acquire the product and may be unwilling to share this information. What should the distributor do in such circumstances?</p> <p>There may be varying responses to this for example, some may be dealt with by knock-out questions where the cover simply will not be provided if the customer falls outside the target market, or warnings may be issued if the customer may be on the edge of a target market. Again, do not wish to force customers out of a cover that they may specifically wish to take for personal reasons even if they are on the edge of the target market as this may result in adverse outcomes for the customer.</p> <p>There will however need to be clear guidance about this and when the cover could be provided in such circumstances and ensuring the customer is aware of potential issues with the cover.</p>
E1Q2	Factors ASIC will take into account	<p>IAG considers that additional factors could be:</p> <ul style="list-style-type: none"> • Where the insurance product is compulsory and highly standardised; and • Where a customer may fall outside the target market but specifically wishes to take the product anyway