

ASIC Consultation Paper 325 – Product design and distribution obligations

Submission by Legal Aid Queensland

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Legal Aid Queensland (LAQ) welcomes the opportunity to provide a submission in response to ASIC Consultation Paper 325 – Product design and distribution obligations.

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way” and is required to give this “legal assistance at a reasonable cost to the community and on an equitable basis throughout the State”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ’s services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ’s lawyers in the day to day application of the law in courts and tribunals. We believe that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

LAQ’s Civil Justice Services Unit lawyers provide advice to clients as well as lawyers and financial counsellors throughout Queensland in relation to insurance, mortgage stress, housing repossession, banking and financial issues, financial hardship, debt, contracts, loans, telecommunications and unsolicited consumer agreements, including clients who experience detriment as a result of a wide variety of credit, finance and insurance products.

Questions

B1 We propose to give guidance that a robust product governance framework that fulfils the objectives of the design and distribution regime should:

- (a) focus on the identified target market across the lifecycle of the financial product;**
- (b) be designed to reduce the risk of products being sold to consumers that are not consistent with their likely objectives, financial situation and needs; and**
- (c) be documented, fully implemented, monitored and reported on, and regularly reviewed to ensure that it is up to date. See draft RG 000 at RG 000.30–RG 000.43.**

B1Q1 Is our guidance on a robust product governance framework useful? What additional matters, if any, do you think are important in ensuring that a product governance framework will be effective and support compliance with the design and distribution obligations?

ASIC’s guidance on a robust product governance framework is useful, but the following additional matters should be considered:

- (a) It should be consumer centric and focused on consumer outcomes; and
- (b) It should focus on more than an individual product. In designing a new product, it is important that any governance framework will address the effect of a product on

consumers when it is operating in conjunction with other products being offered by an issuer or distributor.

B2 We propose to give guidance that 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. See draft RG 000 at RG 000.52–RG 000.56.

B2Q1 Is our guidance on the consumer-centric approach issuers and distributors should take to deliver good consumer outcomes useful?

LAQ supports ASIC's Guidance.

B2Q2 What additional matters, if any, do you consider to be relevant?

LAQ submits the following should also be considered:

- (a) Cultural and ethnic differences between consumers;
- (b) Written and verbal translations of any terms and conditions of a product should be provided to culturally and linguistically diverse consumers; and
- (c) The societal context of the consumer. For example, LAQ sees an increase in the number of expensive consumer leases for white goods being signed following natural disasters in Queensland. These contracts lead to poor consumer outcomes.

C1 We propose to provide guidance that what amounts to an appropriate target market determination can differ, depending on the type and particular characteristics of the financial product to be issued, the intended distribution approach and the issuer's product governance framework. See draft RG 000 at RG 000.64–RG 000.65.

C1Q1 Do you agree with our approach to guidance on the form and content of a target market determination? If not, why not?

LAQ supports this guidance. We submit that it is also relevant to consider any regulator guidance or feedback about similar products and their effect on the market.

C2 We propose to provide guidance that, generally speaking:

(a) for new products—issuers should identify the target market and design financial products that are likely to be consistent with the likely objectives, financial situation and needs of consumers in that target market; and (b) for continuing products—issuers should still critically assess the product (and its features) and identify the target market under the design and distribution obligations by reference to the likely objectives, financial situation and needs of consumers for whom the product would likely be consistent. If issuers already have processes directed towards these purposes, they should check that the processes meet the detailed requirements of the legislation. See draft RG 000 at RG 000.62–RG 000.65.

C2Q1 Is our guidance on the approach to identifying the target market for new products and continuing products useful?

LAQ supports ASIC's proposed guidance.

C2Q2 What additional matters, if any, do you consider to be relevant?

In our view, the following additional matters are relevant:

- (a) Depending on the product, the target market may change between urban, rural and regional areas. Different products may be suitable and adapted to the needs of urban consumers but are wholly unsuitable for consumers in rural areas;
- (b) The proposed target market's access to and ability to use technology; and
- (c) The marketing targeting market and the design and distribution obligation target market are unlikely to be the same. Financial firms should not make the mistake of thinking that the people who are most likely to respond to marketing about the product are the same people that a design and distribution obligation will identify as being the correct target market.

C3 While we do not propose to give any definitive formulation of how a target market should be described in a target market determination, we propose to give guidance that explains the process and key considerations for identifying and describing the target market by reference to examples across different product sectors. See draft RG 000 at RG 000.66–RG 000.89.

C3Q1 Do you have any comments on our approach to guidance on identifying and describing the target market?

LAQ supports the guidance issued by ASIC, particularly identifying a negative target market for a product. This approach will encourage product issuers and distributors to identify who their proposed product would not be suitable for. This identification would prevent this group from being targeted to buy what is an inappropriate product for them by inappropriate marketing practices.

C3Q2 Do you have any comments on the following examples, which we have used in our guidance to illustrate key principles set out in RG 000.66–RG 000.89: (a) Example 1: Credit cards; (b) Example 2: Reverse mortgages; (c) Example 3: Cash options in superannuation; (d) Example 4: Consumer credit insurance; (e) Example 5: Low-value products; and (f) Example 6: Basic banking products?

Example 1: Credit Cards

LAQ supports the use of this example. In LAQ's submission the example would be strengthened by also including consumers who might already have multiple credit cards and the effect of a high interest rate credit cards on them.

Example 2: Reverse Mortgages

LAQ supports the use of this example. It is a situation that we regularly see in case work. As the Australian population gets older, these circumstances are likely to become more prevalent. Reverse mortgages are generally poorly understood by consumers and often result in disadvantage and hardship to consumers. The proportion of the population likely to benefit from this product is very small and it might be difficult for an issuer or distributor to identify a market for this type of product.

Example 4: Consumer Credit Insurance

Over the past few years, LAQ has seen significant detriment to consumers caused by the mis-selling of this product to a wide cross section of the community. This product has targeted consumers generally and impacted consumers in vulnerable circumstances. It will be difficult for an issuer or distributor to identify a target market that would benefit from this type of product.

Example 5: Low value products

LAQ strongly supports the use of this example. By their nature low value products have disproportionately caused detriment to more vulnerable consumers. In addition to funeral insurance products, add-on insurance products are another example of a low value product that should be discussed in this example.

Example 6: Basic Banking Products

LAQ supports the use of this example. Basic banking products are an important way of reducing the costs of banking and financial services for consumers in financially vulnerable circumstances. It is important that issuers and distributors be encouraged to proactively identify the consumers in financially vulnerable circumstances who may benefit from this product.

C3Q3 What additional matters, if any, do you consider to be relevant?

In LAQ's submission the guidance would benefit from examples that address consumer Lease products and small amount loan products.

C4 We propose to give guidance that 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. See draft RG 000 at RG 000.78–RG 000.79.

C4Q1 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?

LAQ has no submissions to make in response to this question.

C5 We propose to give guidance that we do not consider a target market for a product should be predominantly based on consumer understanding of a product. See draft RG 000 at RG 000.80.

C5Q1 Do you agree that consumer understanding of a product does not necessarily equate to the product being likely to be consistent with the likely objectives, financial situation and needs of consumers in the target market? If not, why not?

LAQ supports this guidance. In our experience, consumer understanding of how financial products work is poor. This lack of understanding occurs because financial products are technical and very complex making it difficult for consumers to understand. These products are often sold by salespeople who have an equally limited understanding of the product.

As a consequence, we support ASIC's view that a target market for a product should not be predominantly based upon a consumer's understanding of the product. A consumer's understanding of the product is unlikely to be consistent with the likely objectives, financial situation and needs of consumers in the target market.

C6 We propose to provide guidance that in making a target market determination, it will also be useful for the issuer to consider, in addition to the target market, those for whom the financial product is clearly unsuitable (the 'negative target market'). See draft RG 000 at RG 000.90–RG 000.92.

C6Q1 Do you agree that it may also be useful for an issuer to describe the negative target market for its financial product? If not, why not?

We refer to its answer to C3Q1. We agree that it will be very useful for an issuer to describe the negative target market because it will encourage issuers to identify who their product is not suitable for and allow them to put systems in place to ensure that consumers who fall into the negative target market are not high users of the product that is unsuitable for them.

C6Q2 Is our guidance on the role of describing a negative target market adequate and useful? If not, please explain why, giving examples.

LAQ supports this guidance.

C7 We propose to give guidance on how the target market determination 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). See draft RG 000 at RG 000.98–RG 000.106 and Examples 7–8.

C7Q1 In relation to our guidance on how a target market determination should be approached for superannuation products, as set out in Example 7:

- (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?

LAQ supports this guidance. It is important that the trustee take account of the effect of investment options under a product for all the different groups of its members in making the target market determination.

- (b) What factors do you consider relevant to the grouping of investment options in making a target market determination? Why?
- (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?
- (d) How should a trustee take into account insurance in making a target market determination for a Choice product?

LAQ has no submissions to make in response to questions C7Q1 (b)–(d).

C7Q2 Do you agree with our guidance on the application of the target market determination obligation to IDPS?

LAQ has no submissions to make in response to this question.

C7Q3 Do you agree with our guidance on how a target market determination should be approached for a bundled product? If not, why not?

LAQ supports ASIC’s guidance that requires a target market determination to be made for each product that is a part of a bundled product offering. A product that is inappropriate for a class of consumers cannot be cured by bundling it with one or a number of products that is suitable for that same class of consumers.

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?

LAQ supports ASIC’s view that all choices and options that form a part of a customisable financial product should be considered as part of the issuer making a target market determination.

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.

Choices that would affect a product’s suitability for a consumer if selected include:

- (a) Choices that require a balloon payment as a final payment for a product in circumstances where the consumer can only afford the standard repayments;
- (b) Choices that require cash to be paid to keep a product operating (for example a margin loan) when the consumer is asset rich and cash poor;

- (c) Choices that require repayments to a loan for a number of years after the average retirement age in Australia unless the person's expected retirement income will enable repayments; or
- (d) Choices that require the person to offer to pay for the goods to keep them (as now occurs with consumer leases).

C8 We propose to give guidance on the reasonable steps' obligation for issuers and set out our view on the factors that may be relevant to the obligation. These factors include: (a) the distribution conditions that are specified in the target market determination; (b) the issuer's marketing and promotional materials; (c) the selection of distributors; (d) the supervision and monitoring of distributors; (e) the issuer's ability to eliminate or appropriately manage conflicts of interest; and (f) whether issuers have provided distributors with sufficient information to help them ensure that distribution is consistent with the target market determination. See draft RG 000 at RG 000.107–RG 000.120, Examples 9–11 and Table 3.

C8Q1 Do you have any comments on the following examples, which we have used in our guidance to illustrate key principles set out in RG 000.107–RG 000.120:

- (a) Example 7: Superannuation products;
- (b) Example 8: Investor directed portfolio services;
- (c) Example 9: Superannuation;
- (d) Example 10: Mortgage fund; and
- (e) Example 11: Listed investment companies?

LAQ does not provide legal advice on superannuation and investment products. LAQ has no submissions to make in response to this question.

C8Q2 Do you agree with the factors listed in Table 3 of draft RG 000 that we expect will be relevant when considering whether an issuer has met the reasonable steps obligation? If not, why not?

C8Q3 What additional factors, if any, do you consider should be included in Table 3 of draft RG 000?

LAQ agrees with the factors set out in Table 3 of draft RG 000 that are relevant to considering the relevant steps obligation.

C9 We do not propose to set out in guidance standard review triggers and maximum review periods for issuers to adopt. Instead, our draft guidance sets out examples to illustrate what review triggers may be appropriate for certain types of financial products. See draft RG 000 at RG 000.127–RG 000.134 and Examples 12–13.

C9Q1 Do you have any comments on our guidance on setting appropriate review triggers and maximum review periods?

LAQ supports the examples illustrating the review triggers for particular products that are set out in the guidance. However, LAQ also recommends that standard review triggers and maximum review periods are also specified, because they are important to ensuring that inappropriate products are quickly and promptly identified.

C9Q2 Do you have any comments on the following examples, which we have used in our guidance to illustrate key principles set out in RG 000.127–RG 000.130: (a) Example 12: Insurance; and (b) Example 13: Managed fund?

Example 12 Insurance

LAQ supports this example concerning insurance. In our experience, these type of review triggers apply directly to many add-on insurance products in today's market that provide poor value and poor claims outcomes for consumers.

C10 We propose to give guidance on the issuer's obligation to specify in the target market determination: (a) any information that it considers is necessary to require from its distributors in order to promptly decide that a target market determination may no longer be appropriate; and (b) the reporting period for the information the distributor must provide to the issuer about the number of complaints about the financial product. See draft RG 000 at RG 000.135–RG 000.142.

C10Q1 Do you have any comments on our guidance on the issuer's obligation to specify information it requires from its distributors?

LAQ supports this guidance. Appropriate data from distributors will allow insurers to make an accurate target market determination.

C10Q2 What existing information collected by distributors would be relevant to an issuer's consideration of the ongoing appropriateness of its target market determination?

LAQ has no submissions to make in response to this question.

C10Q3 In addition to the information set out at RG 000.139, are there other types of information an issuer should collect from distributors? If so, please describe the type of information you think would be relevant.

LAQ has no further information to add to the information listed in RG000.139.

C10Q4 What potential effects on competition may occur as a result of the issuer's right to set the information the distributor must provide?

LAQ has no submissions to make in response to this question.

C10Q5 Do you have any comments on our guidance on the issuer's obligation to specify the reporting period in relation to the number of complaints?

In LAQ's submission complaints data should be reported monthly. It is much easier for insurers and the regulator to meaningfully identify trends from monthly data that should trigger a review of a target market determination.

C11 We propose to give guidance that, in reviewing a target market determination, we expect the issuer will take into account all available information on its financial product, using multiple data sources. See draft RG 000 at RG 000.143–RG 000.145.

C11Q1 Do you consider our guidance on the types of information issuers should have regard to (described at RG 000.143) to be useful? If not, why not?

C11Q2 In addition to the data sources described in draft RG 000 at RG 000.143(a)–RG 000.143(d), are there other sources of information that you think an issuer should take into account in reviewing a target market determination?

LAQ considers the guidance provided between RG000.143 and RG000.145 that ASIC expects the insurer to take into account all available information on its financial product from multiple data sources is appropriate and useful.

We submit that RG000.143(c) should be amended to include a reference to consumer lawyers and advocates who have a specialist insight into the effects that products are having on consumers and in particular vulnerable consumers in the market.

C11Q3 Do you have any other comments on our guidance on conducting a review of a target market determination?

LAQ has no further comments.

C12 We propose to provide guidance that the factors an issuer should consider when determining whether there has been a significant dealing in a financial product that is not consistent with the product's target market determination include: (a) the proportion of consumers who are not in the target market acquiring the financial product; (b) the actual or potential harm to consumers; and (c) the nature and extent of the inconsistency of distribution with the target market determination. See draft RG 000 at RG 000.147–RG 000.148.

C12Q1 Are there any additional factors that issuers should consider? If yes, please provide details.

Additional factors that should be considered are:

- (a) The proportion of consumers who are part of the negative target market who are acquiring the product.
- (b) The proportion of consumers who are part of particular consumer groups who are likely to suffer detriment as a result of acquiring the product.

D1 We propose to give high-level guidance on the reasonable steps obligation for distributors of financial products by setting out our view on factors that may be relevant to this obligation, including: (a) the distribution method(s) used; (b) compliance with distribution conditions; (c) the marketing and promotional materials circulated by the distributor; (d) the effectiveness of the distributor's product governance framework; (e) the steps taken to eliminate or appropriately manage the risk that incentives for staff or contractors may influence behaviours that could result in distribution being inconsistent with the target market determination; (f) whether reliance on existing information about the consumer is appropriate; (g) whether the distributor has given staff involved in distribution operations sufficient training; and (h) how the distributor forms a reasonable view that a consumer is reasonably likely to be in the target market. See draft RG 000 at RG 000.154–RG 000.163 and Table 5.

D1Q1 Do you agree with the factors listed in Table 5 of draft RG 000 that we will take into account when considering whether a distributor has met the reasonable steps obligation? If not, why not?

D1Q2 What additional factors, if any, do you consider should be included in Table 5 of draft RG 000?

We agree with the factors listed in Table 5.

D2 We propose to include an example to illustrate, at the time of renewal for general insurance policies, how insurers (in their role as distributor) can approach the reasonable steps obligation to ensure that the renewal process results in outcomes that are consistent with the target market determination. Our guidance suggests that, at the time of renewal, an insurer should: (a) analyse information it holds, such as: (i) information it gathered when the customer initially acquired the product; and (ii) updated details that have been provided, or through claims that have subsequently occurred; and (b) consider a number of factors, including the likelihood that a class of consumers is no longer in the target market for the policy. When an insurer assesses that it is likely that a consumer is no longer in the target market for an insurance policy, this should not result in an insurer declining to offer a renewal of the policy without contacting the consumer. See Example 14 of draft RG 000.

D2Q1 Do you have any comments on our proposed guidance for distributors in Example 14 of draft RG 000?

D2Q2 What other steps or controls, if any, do you consider would be appropriate for a distributor to consider what reasonable steps should be taken at renewal?

LAQ supports the inclusion of Example 14 concerning the renewal of a general insurance policy. In LAQ's submission, it is important for this example to also consider:

- (a) Whether any claims made under the policy have been approved or refused; and
- (b) The geographical location of claims made and whether there is any difference in the rates of claims approvals and/or refusals between different states or between different geographical areas within States.

D3 We propose to provide guidance: (a) that, in most cases, a distributor should have sufficient information about a consumer through its existing sales processes to form a reasonable view on whether the consumer is reasonably likely to be in the target market for a financial product; (b) that the ways a distributor's processes could assist it to form a reasonable view that a consumer is reasonably likely to be in the target market for a financial product include: (i) the inclusion of 'knockout questions' within application processes; (ii) analysis of data held on the consumer or a class of consumers; and (iii) in some cases, asking the consumer direct questions to determine whether they are reasonably likely to be in the target market (see draft RG 000 at RG 000.168(a)–RG 000.168(c)); and (c) on the steps that a distributor can take to reduce the likelihood that a consumer will be left with the impression that their personal circumstances have been considered, including: (i) not having a relevant provider (i.e. an individual authorised to give personal advice to consumers on relevant financial products) involved in the distribution process to ask specific questions of a consumer and communicate the view that the consumer is in the target market to the consumer; and (ii) only asking specific questions of a consumer (when required) in the later stages of the sales process after the consumer has already made the decision to acquire the financial product (see draft RG 000 at RG 000.169(a)–RG 000.169(b)).

D3Q1 Do you agree that, in most cases, a distributor would have sufficient information about a consumer through its existing sales processes to form a reasonable view on whether the consumer is reasonably likely to be in the target market for a financial product?

LAQ agrees that in most cases a distributor will have enough information about a consumer through its existing sales process to form a view about whether that consumer is reasonably likely to fall within a target market.

D3Q2 What data do you consider would help distributors reasonably conclude that a consumer is reasonably likely to be in the target market for a financial product?

The data that would help distributors reasonably make a decision about whether the consumer is likely to fall within a target market include:

- (a) The consumer's general characteristics including age, current employment, employment history; and
- (b) Geographical data about the consumer or class of consumers and whether similar geographically situated clients have taken out the product and used it successfully.

D3Q3 Do you consider our guidance should identify (in draft RG 000 at RG 000.168) other ways that a distributor's sales processes can assist it to form a reasonable view that a consumer is reasonably likely to be in the target market for a financial product? What other approaches can be taken?

LAQ does not support this proposal. RG 000.168 sets out an appropriate mechanism to make this determination that should not be deviated from.

D3Q4 Do you have any comments on our proposed guidance (in draft RG 000 at RG 000.169) on how a distributor could reduce the likelihood of leaving a consumer with the impression that their personal circumstances have been considered?

LAQ supports the list in RG 000.169 being non-exhaustive as LAQ recognizes that there will be unique parts of individual company's distribution processes that will be relevant to reaching this determination.

D4 We propose to provide guidance that the reasonable steps a distributor should take when selling a financial product to consumers who are outside the target market for the product depends on the circumstances of the interaction, the nature and degree of harm that might result, and the steps that can be taken to mitigate the harm. See draft RG 000 at RG 000.170–RG 000.175.

D4Q1 Do you have any comments on our proposed guidance on the content of the reasonable steps obligation in these circumstances?

D4Q2 Are there any specific methods that you consider our guidance should identify for distributors seeking to meet the reasonable steps obligation in the context of interacting with consumers who are outside the target market for a financial product?

LAQ supports the guidance set out in RG000.170–RG000.175. We would highlight the importance of maintaining timely records of the discussions and interactions that occur with a consumer in these circumstances. In LAQ's submission, the guidance in RG000.175 should be amended to refer to a "contemporaneous" record of the discussion or interaction, not just a record of the discussion or interaction with the consumer.

D5 We propose to provide guidance that a target market determination for a financial product should be considered by a financial adviser in providing the advice and meeting their best interests duty. See draft RG 000 at RG 000.180–RG 000.183. D5Q1 Do you agree that a target market determination 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.

LAQ has no submissions to make in response to this question.

D6 We propose to provide additional guidance on aspects of the interaction between the responsible lending obligations and the design and distribution obligations, including that: (a) information gathered as part of the responsible lending obligations may help the distributor form a reasonable view on whether the consumer is reasonably likely to be in the target market for a product; and (b) the reasonable steps obligation does not require further steps to be taken by a distributor when assessing, for responsible lending purposes, whether the consumer can comply with their financial obligations under the contract. See draft RG 000 at RG 000.184–RG 000.189.

D6Q1 Do you have any comments on our proposed guidance on using information gathered for the purpose of meeting responsible lending obligations in order to assist a distributor to form a reasonable view on whether a consumer is reasonably likely to be in a target market for a financial product?

D6Q2 Are there any further issues you consider are raised by the interaction of the two regimes that should be dealt with in our guidance? Please explain.

LAQ supports the view that the design and distribution obligations and the responsible lending framework for lenders are complementary regimes that if complied with will lead to consumers being placed or not placed into more appropriate products that are:

- (a) affordable for them;
- (b) meet their needs and objectives; and
- (c) do not cause them detriment.

D7 We do not propose to provide specific guidance on the practical aspects of the relationship between the issuer and the distributor regarding information exchange.

D7Q1 Do you think it would be useful to provide guidance on the following arrangements between the issuer and the distributor: (a) whether there is a need for information requirements to be set out in an agreement between the issuer and the distributor; (b) the format of information exchange; and (c) the mode of delivery and communication of information? If so, what considerations are relevant to these factors?

LAQ supports ASIC providing guidance that the information requirements should be set out in an agreement between the issuer and the distributor because it will provide a central point of agreement that clarifies the obligations of each party. We do not consider that there is a need for guidance to be provided on the format of the information exchange or on the mode of delivery and communication of information.

D7Q2 Are there other considerations that need to be taken into account in the collection and exchange of information between an issuer and a distributor?

LAQ has no submissions to make in response to this question.

E1 We propose to give guidance on the factors that we will take into account when considering whether to provide an exemption from, or modification to, the design and distribution obligations. These factors include: (a) whether the objects of Ch 7 are being promoted, including the provision of suitable financial products to consumers (see s760A(aa)); (b) the policy intention underlying the design and distribution obligations to: (i) improve consumer outcomes; and (ii) require financial services providers to have a consumer-centric approach to making initial offerings of products to consumers; and (c) Parliament's intent (as reflected in the law) for these obligations to apply to a broad range of financial products. See draft RG 000 at RG 000.232.

E1Q1 Do you agree with the factors that we will take into account when considering whether to provide an exemption from, or modification to, the design and distribution obligations? If not, why not?

E1Q2 Are there any additional factors that you consider we should take into account?

LAQ supports the proposed guidance. In LAQ's submission it should be a very rare occurrence where an exemption from or modification to design and distribution obligations are made. The focus of this legislation is on protecting consumers and ensuring that they are entered into more appropriate financial products that:

- (a) meet the needs of consumers;
- (b) provide consumers with better outcomes; and
- (c) do not cause detriment to consumers.

It will be rare that other considerations outweigh the importance of protecting consumers under this legislation.

E2 We propose to give guidance that, if we grant disclosure relief for a financial product, relief from the design and distribution obligations will not automatically follow. If requested, we will consider whether to grant relief from the design and distribution obligations as a separate matter to our consideration of the disclosure relief. See draft RG 000 at RG 000.233.

E2Q1 Do you agree with our proposed approach to providing relief from the design and distribution obligations when disclosure relief has been granted in relation to a financial product? If not, why not?

LAQ supports this proposal.