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Dear Sir/Madam

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**Product Design and Distribution Obligations (“PDDO”)
Draft ASIC Regulatory Guide and Consultation**

This submission is made by the Zurich Life and Investments business (“Zurich”). Zurich manufactures a range of life risk insurance products and distributes through financial advice networks, group, direct to consumers and intermediated direct channels.

Zurich welcomes the opportunity to provide feedback to the Consultation Paper and draft Regulatory Guide in relation to “Product design and distribution obligations”. We sincerely apologise for our late submission due to the urgent priorities arising from the recent events relating to COVID-19.

We note the questions in the Consultation Paper. We do not intend to address all of them. Some questions do not relate specifically to life insurance and in any event, we consider the Regulatory Guide provides useful overall guidance. We would like to raise three issues set out below that could benefit from further clarification.

Zurich supports the new reforms and their intention to address the shortcomings of the existing disclosure regime and introduce obligations designed to assist consumers to obtain appropriate financial products by requiring issuers and distributors to have a consumer-centric approach to designing, marketing and distributing financial products. It is against this policy backdrop that our comments and recommendations are made.

1. Bundled and customisable products – Waiting periods in income protection

ASIC considers that when a single product has multiple elements that are offered as a package or bundle, the issuer must make a target market determination (“TMD”) that considers the entire product. However, when multiple products are packaged or bundled by an issuer, a TMD must be made for each separate product (RG 000.103). This concept has been further extended to customisable point of sale choices or options (RG 000.104).

We do not consider that TMDs should be made for each “product” where that is inconsistent with the key client objectives to be addressed by the bundled products. It can be appropriate for products to be bundled (such as where the product includes both life insurance and general insurance covers) and this bundle to be collectively directed to the same client outcomes.

Additionally, while there is an acknowledgement that customisable point of sale choices or options may not change the target market in all situations (RG 000.105), the reference in RG 000.104 to waiting periods for an income protection insurance product is also concerning in that it suggests that a life insurer would need to consider whether each waiting period should be subject to its own target market.

Waiting periods is one of a number of “elements” to which a person can exercise discretion when purchasing income protection. Other elements could include super and non-super policy ownerships, step vs level premiums, increasing claims option, super contribution option, accident option, trauma advancement option and others. If each of these elements was considered to have a different target market requiring a separate TMD, it would add complexity that would outweigh any benefit for issuers, distributors and consumers.

Further, we consider that customisable point of sale options such as waiting periods do not change the target market but simply allow clients to customise products to their individual circumstances and needs.

We recommend that the example relating to waiting periods be removed. Instead, we suggest that ASIC’s Regulatory Guide should instead require issuers to consider the core objectives of the class of persons for the purpose of determining whether or not different target markets could be constituted. For example, the class of persons could be described in a TMD be as follows:

- For income protection, it could be a class of persons seeking an income stream as a result of them being temporarily or permanently sick or injured, or of involuntary unemployment; or
- For death cover, the class of persons could be those seeking protection for outstanding financial commitments that will not be satisfied by their estate in the event of death. These commitments could include

mortgage and other servicing costs, final expenses and income replacement.

The class of persons have been described by reference to the objectives of cover. Persons that do not align with these objectives could be regarded as falling outside the target market. Accordingly, to expand on the examples above, those that do not have a “financial commitment” would not be in a target market for death cover, or those who are already unemployed should be outside the target market for income protection. Ultimately, description of the class of persons for the purpose of a TMD should be a matter for the issuer having regard to the relevant product design.

2. Granularity of Target Market Determinations and factors insurers should consider in determining the likely objectives, needs and financial situation of the target market

Deciding the level of detail to be incorporated into a TMD is one of the more significant pressure points of the new PDDO reform. We appreciate ASIC’s guidance that what amounts to an appropriate TMD 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 (RG 000.65).

It would be beneficial if the ASIC Regulatory Guide could provide additional guidance to assist issuers with the level of detail required to be included in a TMD. In particular, that issuers need to take into consideration:

- The distinction between the likely objectives of a *class of persons* vs. the needs and objectives of an *individual client*, and *limiting the scope of the TMD to a class of persons*
- Any significant risks associated with the product being mis-sold to a class of persons
- The ability of distributors to manage and monitor compliance with the TMD including appropriate and reasonable data points

Additional guidance in the form of examples would assist to drive compliance and consistency on these issues. We have worked closely with the life insurance industry on a TMD template for the various commonly marketed types of life insurance covers that describe the target market as the core objectives of each of these cover type. Two examples are provided in section 1 above which we consider provide distributors with simple, clear and verifiable criteria for the purposes of aligning their distribution practices with the TMD to reduce the risk of clients that do not share in the objectives being offered that type of cover.

We would be grateful if ASIC Regulatory Guide could reflect the considerations set out above.

3. Personal advice

Currently, we anticipate that Zurich's approach to PDDO for our direct channel would be to apply the new regime on top of our general or no advice sales models. However, the new reform envisages that in some cases, to enable the distributor to take reasonable steps that a person is in the target market, the distributor will need to ask specific questions that could tip a conversation into personal advice.

Policy makers have anticipated the above issue (EM para 1.101), and had amended section 766B which provides that the acts of asking for information solely to determine whether a person is in a target market, and informing the person of the result of that determination, do not, of themselves, constitute personal advice (s766(3A)). While this is helpful, the issue remains that whether or not personal advice has been provided needs to be considered in the context of the conversation / campaign in its entirety.

We note the guidance ASIC has provided to reduce the likelihood of a client being left with the impression that their personal circumstances have been taken into account and the conversation being considered to constitute personal advice. This includes knock-out questions asked in the later stages of the sales process (RG 000.168 and 000.169).

Despite the above, Zurich is concerned about the limitations on the ability of a distributor to use existing information on a client to assist it to form a view that the client is reasonably within the target market. Digital channels, privacy consideration, outdated and partial client information all limit the ability of a distributor to use existing information on the client for this purpose. Moreover, we believe asking knock-out questions at the later stages of the sales process is a poor customer experience and unlikely to sufficiently reduce a distributor's risk of providing personal advice.

It would be helpful, therefore, if ASIC could provide an example of how distributors can avoid an unacceptable level of risk around personal advice. Zurich recommends that where the following factors are present, ASIC could regard knock-out questions as less likely to constitute personal advice:

- A clear warning to be delivered to prospective clients to avoid the impression about their personal circumstances being taken into account, in the context of the questions being asked to satisfy PDDO; and
- Only a small number of questions may be asked on the basis that the greater the number of personal questions, the more likely they are to give an unintended impression to clients about the intent underpinning the questions.

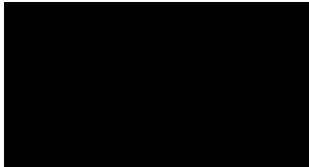
In summary, the presence of the factors above could frame the discussions with clients such that they would not misunderstand the intent of those questions, and are made aware that the sole purpose of those questions are to

ensure that they are the right target market for the product. They would also mean that ASIC would less likely regard the questions as being personal advice for the purpose of s766(3A).

Finally, Zurich would be grateful to ASIC for a more flexible approach to its enforcement in its early stages of the implementation deadline as issuers and distributors refine our approaches to the reform. Moreover, much of Zurich resources have recently been diverted to address matters arising from COVID-19 and some flexibility would be greatly beneficial as companies continue to refine and refocus on our PDDO implementation measures.

If you wish to discuss any of the issues raised in this submission, please do not hesitate to contact either myself or Li Chang at [REDACTED] or [REDACTED].

Yours sincerely



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