



**ASIC**  
Australian Securities &  
Investments Commission

CONSULTATION PAPER 346

# The hawking prohibition: Update to RG 38

July 2021

## About this paper

This consultation paper seeks your feedback on our proposals for updating [Regulatory Guide 38](#) *The hawking prohibitions* (RG 38) to reflect new legislative changes.

In particular, we are proposing to revise and clarify our guidance on the types of communications and the nature and scope of consent to which the hawking prohibition applies. We are also proposing to add guidance on the right of return, which is a consumer remedy.

Note: The draft updated RG 38, which is attached to this paper, is available on our website at [www.asic.gov.au/cp](http://www.asic.gov.au/cp) under CP 346.

### About ASIC regulatory documents

In administering legislation, ASIC issues the following types of regulatory documents.

**Consultation papers:** seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

**Regulatory guides:** give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

**Information sheets:** provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**Reports:** describe ASIC compliance or relief activity or the results of a research project.

### Document history

This paper was issued on 21 July 2021 and is based on the legislation as at the date of issue.

### Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

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## The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information. We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on the hawking prohibitions. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section D, 'Regulatory and financial impact'.

### Making a submission

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 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](http://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.

Comments should be sent by 18 August 2021 to:

Stephen Garofano  
Strategic Policy Adviser, Strategy Group  
Australian Securities and Investments Commission  
email: [hawking.submissions@asic.gov.au](mailto:hawking.submissions@asic.gov.au)

### What will happen next?

<b>Stage 1</b>	21 July 2021	ASIC consultation paper released
<b>Stage 2</b>	18 August 2021	Comments due on the consultation paper
<b>Stage 3</b>	September 2021	Updated regulatory guide released

## A Background to the proposals

### Key points

There are currently three separate hawking prohibitions that apply to offers of financial products for issue or sale during or after an unsolicited meeting or telephone call.

On 5 October 2021, these prohibitions will be replaced by a general hawking prohibition on offers that are made in the course of, or because of, unsolicited contact.

To reflect this and other legislative changes, we are proposing to update our guidance in [Regulatory Guide 38](#) *The hawking prohibitions* (RG 38). In this paper, we are seeking feedback on:

- revisions and clarifications to our current guidance on the types of communications and the nature and scope of consent to which the hawking prohibition applies; and
- additional guidance on the right of a consumer to return a product and be refunded when there has been a breach of the hawking prohibition.

Note: See the 'Key terms' in the draft updated RG 38 for a list of terms and definitions used in this paper. The draft updated RG 38 is available on our website at [www.asic.gov.au/cp](http://www.asic.gov.au/cp) under CP 346.

## Background to the reform

- 1 There have long been prohibitions on hawking various financial products, which have emerged as product or sector specific prohibitions in response to particular conduct. During the course of the hearings of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission), various instances of misconduct and conduct falling below community standards linked to unsolicited offers of financial products were discussed, including:
  - (a) selling superannuation products in bank branches under a general advice model; and
  - (b) unsolicited telephone calls by insurance providers to offer both funeral and life insurance products, including to vulnerable consumers, and in some instances, using pressure selling tactics.

- 2 These case studies, along with other evidence presented to the Financial Services Royal Commission, led Commissioner Hayne to observe (at p. 279):
- [Hawking] has long been unlawful because it too readily allows the fraudulent or unscrupulous to prey on the unsuspecting ... The asymmetry of power and information between the provider of the product and service and the acquirer is very large. Even if the ‘hawker’ is not fraudulent or unscrupulous (and, too often, cases examined in evidence showed that the hawking was at least unscrupulous) the acquirer is nevertheless ‘unsuspecting’. The potential acquirer who has not sought out the product or service comes to the encounter unprepared to look critically at whatever is said. The potential acquirer often does not know what questions to ask.
- 3 Ultimately, the Financial Services Royal Commission made recommendations to strengthen the prohibition on the hawking of superannuation and insurance products (Recommendations 3.4 and 4.1 of the Financial Services Royal Commission). The Australian Government accepted these recommendations.

### The revised prohibition

- 4 In 2020, in response to the Financial Services Royal Commission’s recommendations, the Australian Government consulted on legislation to rationalise and update the existing hawking prohibitions in the *Corporations Act 2001* (Corporations Act) into a single prohibition (the revised prohibition). This revised prohibition covered a range of products, including superannuation and insurance products.
- 5 The amending legislation received Royal Assent on 17 December 2020: see the *Financial Sector Reform (Hayne Royal Commission Response) Act 2020* (Financial Sector Reform Act) and its associated [Explanatory Memorandum](#). The provisions relevant to the revised prohibition are contained in Sch 5 and will commence on 5 October 2021.

Note: The Financial Sector Reform Act is available on the [Federal Register of Legislation](#).

- 6 On the commencement of Sch 5 to the Financial Sector Reform Act, three separate prohibitions on hawking in the Corporations Act will be replaced with a single prohibition in s992A.
- 7 Key features of the revised prohibition are that:
- (a) while the previous prohibitions applied to in-person meetings and telephone calls, the revised prohibition is ‘technology neutral’, and now applies to any ‘real-time interaction in the nature of a conversation or discussion’ (see paragraph 5.58 of the Explanatory Memorandum);
  - (b) it has been broadened to cover the offer for issue or sale of any financial product within the meaning of the Corporations Act;

- (c) it includes a test to limit the financial products about which an offeror may contact a consumer. That test is one of whether a product is ‘reasonably within the scope’ of the consumer’s consent;
- (d) consent by consumers to any contact is now explicitly required to be positive, voluntary, and clear;
- (e) consumers have a right to return a product issued or sold to them and to be refunded if the offeror has breached the hawking prohibition;
- (f) it does not extend to communications in the context of providing personal financial advice; and
- (g) it does not apply to those products during any applicable deferred sales period under the add-on insurance reforms.

Note: In this paper, a person who offers, issues or sells a product (or invites or requests a consumer to purchase or apply for a product) is referred to as an ‘offeror’ and an existing, potential or prospective retail client or customer is referred to as a ‘consumer’, unless otherwise indicated.

## Our current guidance

- 8 We currently provide guidance for people who offer financial products for issue or sale (offerors) during or following an unsolicited meeting or telephone call with a retail client in [RG 38](#). Currently, RG 38 sets out guidance on some of the issues offerors should consider in complying with the hawking prohibitions in s736, 992A and 992AA of the Corporations Act.
- 9 We first issued what is now RG 38 in July 2002. RG 38 was most recently updated in December 2019 with changes relating to the prohibition on offering to issue or sell life risk insurance products or consumer credit insurance without personal advice in the course of, or because of, an unsolicited telephone call.

## Overview of our proposals

- 10 We are proposing to update RG 38 to reflect the changes arising from the Financial Sector Reform Act. In Section B of this paper, we identify the areas in RG 38 that we consider would benefit from being revised and clarified. Specifically, we are proposing to update and clarify:
  - (a) the forms of contact that are subject to the prohibition;
  - (b) the nature of the consent that is required from a consumer who wishes to be contacted about a financial product; and
  - (c) what is required to establish consumer consent.



- 11 In Section B, we are proposing to add guidance in RG 38 about the consumer's right to return a product and to be refunded when there has been a breach of the hawking prohibition.
- 12 The Government has the power to make regulations exempting certain products or situations from the hawking provisions. We note Treasury consulted on exemptions as part of exposure draft legislation. A further exemption was foreshadowed in the Explanatory Memorandum, and another in the Treasurer's [media release on the deferred sales model for add-on insurance](#). Once any such regulation has been made, we will update our guidance.
- 13 We are seeking your feedback on both the draft regulatory guide and this consultation paper.
- 14 Our draft guidance is intended to help industry make changes to systems and practices before the reforms commence. We welcome any feedback you may have on our proposals. We will take your comments into account when finalising the regulatory guide. We are aiming to release our final guidance in September 2021.

## B Revising and clarifying our current guidance

### Key points

We are proposing to update [RG 38](#) to reflect the new legislative changes. In particular, we are proposing to update our guidance on:

- the types of communications to which the new hawking prohibition applies (see paragraphs 15–21);
- the nature of the consent that is required from a consumer who wishes to be contacted about a financial product (see paragraphs 22–25); and
- the scope of the consumer’s consent (see paragraphs 26–32).

## Forms of contact subject to the prohibition

### Proposal

- B1** We propose to update our guidance to include further information on the forms of communication that are subject to the prohibition. This includes providing guidance on real-time interactions, which are in the nature of a conversation or discussion. This also includes providing guidance on advertising and information-giving practices.

Note: See Section C of the draft updated RG 38 attached to this paper.

### Your feedback

- B1Q1** What forms of communication do you currently use, or foresee using, with consumers, and do you anticipate any practical issues raised by the prohibition in respect of those forms?
- B1Q2** Is there any additional or alternative guidance you think would be useful in helping you design and monitor communication methods with consumers?
- B1Q3** Do you currently use unsolicited real-time contact to advertise or provide consumers with information about your products? If so, what types of information do you provide, and how do you communicate it?

## Rationale

### Real-time contact and interaction

- 15 The new s992A(4)(a)(ii) of the Corporations Act introduced by the Financial Sector Reform Act provides that the hawking prohibition applies to any real-time contact or interaction that is in the nature of a discussion or conversation. Paragraph 5.58 of the [Explanatory Memorandum](#) states that the new hawking prohibition is intended to apply regardless of the medium

used to contact the consumer if the contact takes place in real time. This change seeks to make the prohibition technology neutral as new technologies emerge for communication with consumers.

Note: In this paper, all references to the 'new' s992A are to the Corporations Act as inserted by the Financial Sector Reform Act.

- 16 Conversations and discussions usually require or create an expectation of an immediate response from another party in real time. We consider that the hawking prohibition is intended to apply to these types of communications.
- 17 The draft updated RG 38 provides guidance that reflects the new legislative changes to the prohibition, as well as the need to protect consumers. In particular, we are aware that the increased use of electronic/digital media, such as push notifications and text or instant messaging, could be used to 'hawk' financial products to consumers.
- 18 Our guidance is intended to provide greater clarity to offerors about how they can continue to use different types of communications to contact consumers. We have included examples in our revised guidance, which are not exhaustive, but which aim to illustrate the types of behaviour that we consider may or may not breach the hawking prohibition.

#### **Advertising and information-giving practices**

- 19 Our proposed guidance also includes a section on advertising and giving information, which we have included to assist industry in better understanding whether their practices in this area will be subject to the hawking prohibition.
- 20 We have provided guidance that the prohibition does not prevent an offeror from advertising financial products or providing information so long as:
- (a) the interaction with the customer does not take place in real time in a manner of a conversation or discussion; or
  - (b) no offer, invitation or request is made during or because of the advertisement or provision of information.
- 21 In particular, we note that the prohibition does affect the ability of insurers to provide quotes as part of a cross-sale, during cold-calls or unsolicited real-time interactions. This is because in some cases, providing these quotes would not be reasonably within the scope of the consumer's consent.

## Nature of the consent required for contact

### Proposal

- B2** Reflecting the reforms, we propose to revise our guidance on the nature of the consent that is required from a consumer who wishes to be contacted about a financial product, including:
- (a) that the consent must be positive, voluntary, and clear;
  - (b) that a reasonable person would have understood that a consumer consented to the contact;
  - (c) that the consumer can vary or withdraw the consent and the implications of doing so;
  - (d) what we expect from an offeror in relation to a contact, including the time period following consent within which the contact must be made; and
  - (e) the records that an offeror may need to keep.

#### *Your feedback*

B2Q1 Do you anticipate any practical issues in seeking consumer consent? Please give details.

B2Q2 Is there any additional or alternative guidance you think would be useful to help you design internal policies and processes to ensure compliance with the new prohibition? Please give details.

B2Q3 Do you anticipate any practical issues associated with your implementation of our guidance on the creation and maintenance of records, including practices that may help offerors meet their obligations?

Note: See Section D of the draft updated RG 38 attached to this paper.

### Rationale

- 22 The new legislative provisions require that consent from a consumer must be positive, voluntary and clear, and that a reasonable person would have understood that it was being given. We have updated our guidance to align with these requirements. In providing our guidance in relation to these requirements we have closely followed Parliament's intention as set out in the legislation and the [Explanatory Memorandum](#).
- 23 The draft updated RG 38 provides guidance on the new requirement for consent to be voluntary. We consider this requirement seeks to address situations when a consumer is pressured, coerced or manipulated into providing their consent to be contacted. The new requirement recognises that pressure to consent can arise in a number of different ways, and can be deliberate or inadvertent.
- 24 As noted above, the law introduces a requirement that a reasonable person would have understood that the consumer consented to the contact. Our guidance notes that where a consumer would not have reasonably realised

that they were consenting to being contacted about offers of a financial product, such consent will not meet the requirement. Consumers need to be sufficiently informed to understand that they are consenting to being contacted by a person, and that such contact may result in an offer, request or invitation: see the Explanatory Memorandum at paragraph 5.82.

- 25 The new hawking prohibition allows consumers to limit their consent to contact through selected media: see the new s992A(5)(f) of the Corporations Act. It also allows consumers to withdraw or vary that consent. The draft updated RG 38 provides guidance on how to ensure compliance with the consent requirements, including through the maintenance of records.

## Establishing the scope of the consumer's consent

### Proposal

- B3** We propose to revise our guidance to clarify that we expect an offeror to offer, issue or sell to a consumer (or invite or request a consumer to purchase or apply for) only financial products that are reasonably within scope of what the consumer has consented to, including offers of cross-sold or bundled products.

Note: See Section C of the draft updated RG 38 attached to this paper.

#### *Your feedback*

- B3Q1 Do you agree with our proposed guidance on offering products that are within reasonable scope of a consumer's consent? If not, why not?
- B3Q2 What products do you commonly cross-sell or bundle together for sale or issue? Does the prohibition raise practical issues for these practices?
- B3Q3 Is there any additional or alternative guidance you think would be useful to help you design or update your processes and procedures for your staff to identify the products that are within the scope of a consumer's consent?

### Rationale

- 26 The new legislative provisions allow an offeror to contact a consumer about the issue or sale of a financial product only if that product is 'reasonably within the scope of the consumer's consent': see new s992A(5)(a)(ii). Our draft revised guidance provides further clarity about how an offeror should determine whether contact for the purpose of offering or selling a particular product has met the statutory test for being reasonably within the scope of the consumer's consent.

- 27 In the [final report](#) of the Financial Services Royal Commission, Commissioner Hayne noted (at pp. 13–14):
- [I]t should be ... made plain that a solicited meeting, or telephone call, to discuss one type of financial product must not be used for the unsolicited offering of some other type of product.
- 28 We are aware that some offerors currently sell multiple products together, or offer additional products upon the sale of a first, and that those offers can be unsolicited.
- 29 Our draft guidance refers to practices such as cross-selling or bundling products. The [Explanatory Memorandum](#), in particular at paragraphs 5.65 to 5.67, makes clear that where multiple products are offered together, the second such product will be within the scope of a consumer’s consent if, for example, it covers the same risk, has the same purpose or function, or is so closely related to the product that the consumer consented to being contacted about that the consumer would reasonably expect to be offered the second product.
- 30 The draft guidance states that the fact that two or more products are commonly sold or issued together is not in itself sufficient to make their offer for sale or issue reasonably within the scope of a consumer’s consent, consistent with Example 5.5 in the [Explanatory Memorandum](#).
- 31 The Explanatory Memorandum states at paragraph 5.66:
- A reasonable person should consider a financial product to be within the scope of the consumer’s consent if it: [among other reasons]
- is so closely related to the product that the consumer consented to being contacted about that the consumer would reasonably expect to be offered that product.
- 32 In our guidance we have explained that a product is likely to be ‘so closely related’ and therefore reasonably within scope of a consumer’s consent where that product is functionally related to another product or service to which the consumer gave consent. We have set out what this may look like for insurance products in particular.

## C Adding new guidance on the right of return

### Key points

We are proposing to include guidance in RG 38 on the consumer remedy, which provides that a consumer has a right to return a product issued or sold to them and to be refunded if the offeror has breached the hawking prohibition.

### The right to return a product and receive a refund

#### Proposal

- c1 We propose to include guidance in RG 38 on:
- (a) the consumer remedy giving a consumer the right to return a product and receive a refund when the hawking prohibition has been breached; and
  - (b) how this remedy will operate for different financial products.

Note: See Section E of the draft updated RG 38 attached to this paper.

#### Your feedback

- C1Q1 Does the payment of refunds for financial products raise any practical issues?
- C1Q2 To the extent applicable, how do financial product issuers currently comply with the existing rights of return? Please give details of any challenges you face in meeting those obligations, and why they are relevant to compliance with the new provisions.
- C1Q3 Is there any additional or alternative guidance that you think would help offerors to meet their obligations to allow consumers to return products and to provide refunds?

#### Rationale

- 33 The new legislation provides that consumers have a right to return a product issued or sold to them and to be refunded if the offeror who issued the product has breached the hawking prohibition: see s992AA. The legislative changes, however, do not set out how this provision will operate for different financial products.
- 34 We consider that the return and refund of financial products is unlikely to operate in exactly the same way for all products because they are different in nature. For this reason, the draft updated RG 38 provides general guidance

about how we expect businesses to give effect to the refunds for different products.

- 35 As it will often be difficult for consumers to know whether they have been sold or issued a product in breach of the hawking prohibition, our guidance provides that, as a matter of good practice, offerors should check their records for applicable consents when a consumer contacts them to return a product.
- 36 Providing consumer refunds under s992AA may not fully discharge obligations owed to a consumer who has been sold or issued a financial product in breach of the hawking prohibition. For this reason, the draft guidance refers to Australian Financial Services (AFS) licensees' general obligation to ensure that their financial services are provided efficiently, honestly and fairly (see s912A(1)(a) of the Corporations Act) and notes that compliance with this obligation includes licensees taking responsibility for the consequences of their actions if things go wrong and consumers suffer loss or detriment. This may mean that licensees have an obligation to compensate consumers for any loss or damages caused by a breach of the hawking prohibition beyond refunding amounts paid. None of the statutory provisions in s992AA displaces offerors' obligation to remediate that may arise from other sources, for example in contract or equity. Considerations might include interest on amounts paid, fees incurred, but also detriment suffered where consumers lose out because they are unable to be reinstated into a legacy product they previously held, or not on the same terms or with the same benefits.
- 37 It is possible for the value of the consumer's interest to have changed between the date of issue of the product and the date of refund. In such cases consumers will be entitled to receive a refund of the amount they contributed or transferred into the account. If the value of the account has decreased (excluding through distributions to the consumer), the refund must include the amount of any shortfall.
- 38 The new legislative changes provide that the legal relationship between the consumer and the person who issued the product ends from the date of the refund. As such, we are interested in feedback on situations, such as when, in the case of an insurance product:
- (a) a claim is made (or has been made and paid) against a policy prior to it being returned and refunded; and
  - (b) a discount was applied for the purchase of multiple bundled products, and part of the bundle is returned.
- 39 When a consumer is sold a new insurance product in breach of the hawking prohibition, they may lose coverage they had under an existing policy. This means that even if they are provided a refund after return of a product, they



may be unable to regain the same coverage they had before, or only at significantly higher cost, for example for medical conditions that would now be considered pre-existing. This risk arises both in the context of standalone life insurance products but also in the case of insurance obtained through a superannuation product.

40 In the case of superannuation products, to exercise the right of return, the consumer (in this case, the holder of the product) must nominate a fund into which the money (including any restricted non-preserved benefits or preserved benefits) is to be paid. This means that the consumer must first hold another superannuation product into which the refund can be paid. This may include:

- (a) another superannuation product held in the same superannuation fund;
- (b) the previous fund of which the consumer was a member; or
- (c) another fund that the consumer joins and becomes a member.

## D Regulatory and financial impact

- 41 In developing the proposals in this paper, we have carefully considered their regulatory and financial impacts. On the information currently available to us, we think they strike an appropriate balance between:
- (a) protecting consumers from unsolicited offers and sales of financial products; and
  - (b) ensuring that financial product offerors (and their representatives and agents) are able to contact and inform consumers about financial products available for purchase.
- 42 The guidance to be provided in RG 38 is expressly within the scope of the [Explanatory Memorandum](#).
- 43 We consider that the guidance proposed is within the scope of the Regulation Impact Statement (RIS) prepared by Treasury for the legislative changes and is relying on that RIS for this guidance. Therefore, we did not prepare a separate RIS for this guidance.

## List of proposals and questions

Proposal	Your feedback
<p>B1 We propose to update our guidance to include further information on the forms of communication that are subject to the prohibition. This includes providing guidance on real-time interactions, which are in the nature of a conversation or discussion. This also includes providing guidance on advertising and information-giving practices.</p> <p>Note: See Section C of the draft updated RG 38 attached to this paper.</p>	<p>B1Q1 What forms of communication do you currently use, or foresee using, with consumers, and do you anticipate any practical issues raised by the prohibition in respect of those forms?</p> <p>B1Q2 Is there any additional or alternative guidance you think would be useful in helping you design and monitor communication methods with consumers?</p> <p>B1Q3 Do you currently use unsolicited real-time contact to advertise or provide consumers with information about your products? If so, what types of information do you provide, and how do you communicate it?</p>
<p>B2 Reflecting the reforms, we propose to revise our guidance on the nature of the consent that is required from a consumer who wishes to be contacted about a financial product, including:</p> <ul style="list-style-type: none"> <li>(a) that the consent must be positive, voluntary, and clear;</li> <li>(b) that a reasonable person would have understood that a consumer consented to the contact;</li> <li>(c) that the consumer can vary or withdraw the consent and the implications of doing so;</li> <li>(d) what we expect from an offeror in relation to a contact, including the time period following consent within which the contact must be made; and</li> <li>(e) the records that an offeror may need to keep.</li> </ul>	<p>B2Q1 Do you anticipate any practical issues in seeking consumer consent? Please give details.</p> <p>B2Q2 Is there any additional or alternative guidance you think would be useful to help you design internal policies and processes to ensure compliance with the new prohibition? Please give details.</p> <p>B2Q3 Do you anticipate any practical issues associated with your implementation of our guidance on the creation and maintenance of records, including practices that may help offerors meet their obligations?</p>

Proposal	Your feedback
<p>B3 We propose to revise our guidance to clarify that we expect an offeror to offer, issue or sell to a consumer (or invite or request a consumer to purchase or apply for) only financial products that are reasonably within scope of what the consumer has consented to, including offers of cross-sold or bundled products.</p> <p>Note: See Section C of the draft updated RG 38 attached to this paper.</p>	<p>B3Q1 Do you agree with our proposed guidance on offering products that are within reasonable scope of a consumer's consent? If not, why not?</p> <p>B3Q2 What products do you commonly cross-sell or bundle together for sale or issue? Does the prohibition raise practical issues for these practices?</p> <p>B3Q3 Is there any additional or alternative guidance you think would be useful to help you design or update your processes and procedures for your staff to identify the products that are within the scope of a consumer's consent?</p>
<p>C1 We propose to include guidance in RG 38 on:</p> <p>(a) the consumer remedy giving a consumer the right to return a product and receive a refund when the hawking prohibition has been breached; and</p> <p>(b) how this remedy will operate for different financial products.</p> <p>Note: See Section E of the draft updated RG 38 attached to this paper.</p>	<p>C1Q1 Does the payment of refunds for financial products raise any practical issues?</p> <p>C1Q2 To the extent applicable, how do financial product issuers currently comply with the existing rights of return? Please give details of any challenges you face in meeting those obligations, and why they are relevant to compliance with the new provisions.</p> <p>C1Q3 Is there any additional or alternative guidance that you think would help offerors to meet their obligations to allow consumers to return products and to provide refunds?</p>