

Lauren Eckermann
Senior Manager - Insurers
Australian Securities and Investments Commission
Financial Services and Wealth Group
Level 7, 120 Collins Street
Melbourne VIC 3000
Email: deferred.sales.model@asic.gov.au

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Dear Lauren

CONSULTATION PAPER 339 - IMPLEMENTING THE ROYAL COMMISSION RECOMMENDATIONS: THE DEFERRED SALES MODEL FOR ADD-ON INSURANCE

The Australian Finance Industry Association (AFIA) appreciates the opportunity to respond to the Consultation.

AFIA is a leading advocate for the Australian financial services industry. We support¹ our members to finance Australia's future. We believe that our industry can best support Australia's economy by promoting choice in and access to consumer and business finance, driving competition and innovation in financial services, and supporting greater financial, and therefore social, participation across our community.

AFIA represents over 100 providers of consumer, commercial and wholesale finance across Australia. These banks, finance companies, and fleet and car rental providers, and fintechs provide traditional and more specialised finance to help businesses mobilise working capital, cashflow and investment. They are also at the forefront of financial innovation in consumer finance.

OUR SUBMISSION

Access to a broad range of financial services is an important element in ensuring economic participation and wellbeing. This includes insurance and products that finance them.

AFIA has always advocated that the regulation of add-on insurances should be clear and consistent so that the industry can implement the deferred sales model for add-on insurances (DSM),² in a way that is simple for consumers to access. Our recommendations on CP 339 support this objective.

¹ [Australian Finance Industry Association \(afia.asn.au\)](http://www.afia.asn.au)

² Treasury's exposure draft legislation in relation to its response to the recommendations made by the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (FSRC) – in particular in relation to the DSM for add-

In this vein, members appreciated ASIC's decision not to proceed with its product intervention order for either motor vehicle add-on insurance or extended warranties. We also welcome ASIC's regulatory guidance to assist with implementation of the DSM.

Separately, we note that as the DSM commences on 1 October 2021, coinciding with the Design and Distribution Obligations (DDO) regime, it will therefore be important they align. AFIA and its members look forward to continuing to work with ASIC on this, and to ensuring the DSM is customer-centric.

Recommendation 1: Include guidance on the operation of the DSM where the primary product involves a purchase of a motor vehicle that is subject to finance

We recommend reviewing the examples provided by ASIC in RG 000.13 and in Table 1 to give specific guidance for transactions where there are multiple primary products.

Where a customer enters a contract to purchase a motor vehicle, and that contract is subject to finance, there may be two primary products within the one transaction:

- The motor vehicle (with the add-on product being, for example, tyre and rim insurance).
- The loan (with the add-on product being, for example, gap insurance).

We suggest in this scenario, it would be more efficient and less complex for the customer to have one DSM period and propose the period commences from the date on which the customer enters the contract to purchase the motor vehicle. The sequencing of the transaction could occur as follows:

1. Pre-deferral period commences when the customer indicates the intention to acquire the motor vehicle. At this point, the dealer provides the customer with materials about add-on insurance products including the Customer Information.
2. Deferral period commences when the vehicle sale contract is signed by the customer, subject to finance. At this point, the customer can consider the cover, including if there is an alternative to add-on insurance that better meets their needs.
3. Post-deferral period commences four days after the vehicle sale contract is signed and aligns with the time the finance contract settles.

The intent of this example is to avoid multiple deferral periods which may lead to confusion for customers. We recommend ASIC include the above example to assist customers and the industry better understand what happens when a purchase contract is subject to finance.

Recommendation 2: Provide further clarification on how the exemptions to the DSM are intended to operate

We recommend ASIC provide guidance in relation to the way that the exemptions are intended to operate with respect to bolt-on items.

on insurance, ASIC's Consultation Paper 324: Product Intervention: The sale of add-on financial products through car-yard intermediaries (PIO) and Treasury's consultation on Deferred Sales Model Exemptions by Class.

For example, our members have asked whether the exclusion in section 12DW of the ASIC Act for comprehensive motor insurance includes attachments or accessories that cannot be removed (for example sunroofs and leather seats), and optional line items (for example windscreen glass cover).

Recommendation 3: Implement AFIA recommendations in relation to Customer Information

The Customer Information is important to ensuring customers are fully informed when making the decision to purchase add-on insurances. We recommend:

- 1. Removing references to salespeople in the Customer Information:** The proposed Customer Information at paragraph 97 of CP 339 uses the terminology 'salespeople'. Our members note that many add-on insurances are now offered online and as part of the purchase of the primary product. As such, customers may not interact with salespeople in the sale and purchase of add-on insurances.
- 2. Make the opting out feature technology neutral and align it with the Australian Communications and Media Authority's (ACMA) expectations:** ASIC should reconsider its opt-out proposal in paragraph 66 of CP 339. Our members support an opt-out mechanism. However, we suggest that it should be technology neutral. For example, a customer may be shown the Customer Information whilst logged into an online portal. In this instance, there may be the option of having a 'tick box' within the on-screen text to allow opting out without navigating away from the Customer Information, which would happen through a hyperlink. Another example is where the customer is sent the Customer Information by SMS. In this case, the customer can opt out by replying with the number '1' or texting 'opt out'. We recommend that ASIC consider more general principles about the ease of the opt out method as well providing examples of what is acceptable and unacceptable opt outs, to align with ACMA's expectations for opting out of commercial electronic messages.
- 3. Review proposed purpose statement within Customer Information:** ASIC's proposed statement at paragraph 71 of CP 339 infers to a customer that the add-on insurance products are low value. As we discuss further below, add-on products have changed significantly. We therefore recommend ASIC consider amending the statement to be: *This Customer Information is prescribed as a requirement of the Australian Securities and Investments Commission Act 2001 to promote informed purchasing decisions by consumers for add-on insurance products.*
- 4. Add product specific content to prescribed text:** We recommend product specific content be added to enable customers to connect the receipt of the Customer Information with the purchase of the primary product. Field headings could be used to add minimal specific information and provides the customer with essential contextual information. For example, 'provider name', 'product type' and 'product name'. Members also request that ASIC clarifies whether it is possible to add a link to information about the primary product within the prescribed text in the Customer Information.
- 5. Do not mandate font size and type:** We recommend that ASIC provide objective criteria about the font's attributes rather than mandating the font. This would be a technology neutral approach. In some digital mediums, customers can customise the appearance of text - for example, chatbots or digital customer service interfaces, SMS, and appearances of messages on mobile devices, so these elements are not in the provider's control.

- 6. Allow links and attachments:** We recommended that ASIC considers present and emerging technologies that allow a provider to monitor and record when a customer has opened a link or an attachment before placing restrictions on their use in providing the Customer Information.
- 7. Do not mandate a default setting for the way the Customer Information is distributed:** We recommend that there is no default setting for the way in which the Customer Information is provided. The intent of the Customer Information is to ensure that the customer is well-informed, aware that they can say 'no' and that they can and should consider alternative products. We therefore recommend that issuers and distributors be given the flexibility to nominate the distribution method for the Customer Information, so that it best suits the product, customer need and circumstance.

Recommendation 4: Review add-on insurance market and update ASIC's MoneySmart website

We recommend ASIC update its guidance with respect to add-on insurances on its MoneySmart website. The current Customer Information refers to the add-on insurance page on ASIC's MoneySmart website. This was produced following REP 470 'Buying add-on insurance in car yards: Why it can be hard to say no' released in February 2016. We believe the warnings in this material about the products and suggestions that they are of low value no longer reflects the nature of this market.

We understand that as part of its market supervision activities ASIC continues to gather data from the industry about the sale of add-on insurance products.

ASIC would be aware, through these activities, that the add-on insurance market has significantly changed in the last five years. These changes include voluntary withdrawal of many products which, whilst still offering value to customers, no longer meet the expectations of the current regulatory landscape. We also understand that the last 12 months have demonstrated an increase in claims rates for insurances that were previously deemed to be low value.

CLOSING COMMENTS

AFIA and its members believes that all finance providers and lenders should support their customers by offering the best products, services, and technologies. In this context it is important that the DSM is implemented in a way that ensures consumers receive clear information to support their decisions about financial products.

AFIA represents both large and smaller lenders, ADI and non-ADIs. Many of the contributing members to this submission would be available for a further discussion or a roundtable to assist ASIC with the development of its regulatory guidance and other work on add-on insurances.

Should you wish to discuss our submission or require additional information, please contact me or
_____, Director of Policy & Regulatory Affairs at _____ or _____.

Yours sincerely

Executive Director of Policy