Association of Financial Advisers Ltd
ACN: 008 619 921
ABN: 29 008 619 921
PO Box Q279
Queen Victoria Building NSW 1230
T 02 9267 4003 F 02 9267 5003
Member Freecall: 1800 656 009
www.afa.asn.au

30 September 2019

Manager
Insurance Team
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: addoninsurance@treasury.gov.au

Dear Manager

AFA Submission – Reforms to the Sale of Add-On Insurance Products

The Association of Financial Advisers Limited (**AFA**) has served the financial advice industry for over 70 years. Our objective is to achieve *Great Advice for More Australians* and we do this through:

- advocating for appropriate policy settings for financial advice
- enforcing a Code of Ethical Conduct
- investing in consumer-based research
- developing professional development pathways for financial advisers
- connecting key stakeholders within the financial advice community
- educating consumers around the importance of financial advice

The Board of the AFA is elected by the Membership and all Directors are currently practicing financial advisers. This ensures that the policy positions taken by the AFA are framed with practical, workable outcomes in mind, but are also aligned to achieving our vision of having the quality of relationships shared between advisers and their clients understood and valued throughout society. This will play a vital role in helping Australians reach their potential through building, managing and protecting their wealth.

Introduction

The AFA appreciates that this is an important issue, where the risk of client detriment is material. In our view there are two key issues that are important to address:

- Poor insurance products in the add-on insurance market, particularly in terms of the percentage of premiums that are paid out in claims, but also in the context of the terms and conditions.
- The sales practices that are utilised in an add-on context.

The introduction of a deferred sales model may provide greater protection for consumers, however it does not necessarily address either of the above issues.

We believe that the Government should set expectations for minimum product standards, such as a benchmark for claims payment ratios. We also encourage the Government to do more to prevent poor sales practices or aggressive sales tactics, noting that this will be beneficial in other contexts.

The Royal Commission deferred sales model recommendation leveraged earlier work that was undertaken by ASIC and the Productivity Commission. The Royal Commission final report has taken the issue much further than what ASIC did with respect to add-on insurance in car yards, by suggesting that it should be extended to all cases of add-on insurance. This recommendation seems to have been made without any reference to the potential scope of this obligation. The potentially impacted products have been addressed to some extent in Chart 1 on page four, however there is very little detail on this.

Page seven of the proposal paper sets out the intended application as follows:

> It is proposed for the deferred sales model to apply to those insurance products that are offered or sold at the same time as when a consumer purchases the primary product or acquires finance for which the insurance covers associated risks.

There is one other key situation that may not have been adequately considered in this exercise, which would appear to have been caught under this proposal. It is often the case when someone takes out a home loan that they might also take out life insurance. The fact that they have taken on significant debt to finance the purchase of a home is a very sensible trigger to consider the adequacy of their existing level of life insurance. Often this could be done by a financial adviser working within the office of a mortgage broker or by someone who a mortgage broker refers clients to. Generally, the advice process takes place before the loan is taken out, often during the loan application process to coincide with the completion of the loan and to ensure the client is covered immediately upon commencement of the loan. The products made available as part of this process are the standard retail advised life insurance products with good terms and conditions and much higher claims payment ratios.

We note that there will be grounds for certain products to be exempt. The proposal paper discusses this in terms of client need. We would also consider that it is essential that these exemptions were also extended to all cases where personal financial advice is provided and where the client received a Statement of Advice. In our view, this deferred sales requirement should be limited to general advice and no advice business models.

Clarity is also required with respect to the implications for a referral arrangement.

Consultation Framing

We note the statement on page two of the proposal paper that "The Government will be consulting on the implementation of all recommendations of the Royal Commission through exposure draft legislation. However, by exception, the Government is releasing this proposal paper to support the implementation of an industry-wide deferred sales model."

We also note the further statements on page two – "Feedback should be focussed on how the measure can best be implemented, not whether it should be implemented. Submissions not consistent with this will not be considered."

It is our view, that these statements are inappropriate and that simply because the Royal Commission has made this recommendation, should not mean that a genuine debate and consideration of the merits of the issue is not required. This issue was the subject of less than three pages in the Royal Commission final report and it is clear that there was very little discussion of the potential consequences of such a recommendation or consideration of alternative solutions.

We are not arguing that the issue of poor-quality products and poor sales practices in the add-on insurance context, should not be addressed. They certainly should be. Our concern is the apparent lack of willingness to investigate and analyse the solutions that are available and the potential consequences for consumers if the implementation is not adequately researched.

Feedback on the Proposal Paper

We question why it is proposed that ASIC would have the power to include products in tier 3. In our view, it would be more appropriate to address this via regulations.

Sequencing of Primary Sale and Insurance Product Discussion

It appears that the deferred sales model is based upon a sequential process of the consumer first making the decision to purchase the relevant product and then making a subsequent decision to purchase add-on insurance. This seems to have been set out in the third last paragraph on page 12 which states:

> "The sequencing of the financial commitment and the prescribed information is designed to prevent the retailer from providing information to the consumer before the consumer has agreed to purchase the primary product."

Yet the next sentence states something that appears to be contradictory:

> "Commencement of the deferral period could be before or after the consumer acquires the primary product or finance, depending on when this occurs relative to the trigger events."

We certainly question the requirement that no information could be provided to the consumer until after they have made the concrete decision to purchase the primary product. It would seem to us that in many cases, it would be reasonable to encourage the consumer to think about the need for insurance early on in the sales process. Where a travel agent is talking to a family about an overseas holiday, it would be reasonable for them to mention the importance of travel insurance. Equally, where a mortgage broker is talking to a consumer about a home loan, it would be important to encourage them to consider if they have adequate life insurance in place.

We believe that this requires greater clarity.

Duration of Deferred Sale

We appreciate the policy intent of separating the sale of the primary product from any decision to acquire a secondary insurance product. We also recognise that in many cases, insurance may be important for the consumer and we would therefore suggest that a longer deferral period may not be in the best interests of the consumer. Otherwise it is much less likely to happen.

In the third paragraph on page 14, it states:

> "At the conclusion of the deferral period, the Government proposes that the intermediary or the insurer will be able to contact the consumer via written correspondence, but only on one occasion."

Is this deliberately expressing a view that other forms of contact with the client, such as via phone call or email will not be permitted? Once again, we are conscious that in a number of cases, obtaining quality insurance may be in the best interests of the consumer.

We support the proposition that there should be an exemption for when the consumer initiates contact, however we believe that greater clarity is required with respect to what documentary evidence was needed to prove the fact that it was client initiated. We would also not like to see this requirement restrict the ability for the product provider to contact the consumer in the days following the purchase, or for the product provider to be constrained in responding to questions that are raised by the consumer.

Commencement

Noting the stage that this is up to in the consultation process and the limited remaining Parliamentary sitting weeks in 2019, we consider that a 30 June 2020 commencement date does not provide a satisfactory transition period. In our view the potential changes to business processes and documentation, would necessitate a longer transition period.

Recommendations

The AFA puts forward the following recommendations:

- The Government should look to put in place laws or guidance with respect to the minimum expected claims payout ratio for insurance products.
- The Government should take more steps to prevent inappropriate and unreasonable sales practices and tactics.
- The requirement for a deferred sales process should not apply where the obligations for the provision of personal financial advice are being met.
- The discussion of the need for insurance or the value of insurance should not be prevented during the initial product sales process.
- The deferral period should only be for three or four days.

Concluding Remarks

The AFA supports the proposal to take action to address poor quality add-on insurance products and poor sales practices. This proposal represents a significant and broad reform that may not always work to the benefit of consumers. It is important to ensure adequate analysis and consultation is undertaken to identify the risk of unintended consequences.

The AFA welcomes further consultation with Treasury should clarification of anything in this submission be required. Please contact us on (02) 9267 4003.

Yours sincerely

Philip Kewin
Chief Executive Officer
Association of Financial Advisers Ltd