



ASIC

Australian Securities & Investments Commission

Parliamentary Joint Committee on Corporations and Financial Services

Inquiry into the life insurance industry

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Executive summary

- 1 Life insurance is an important risk management product for consumers, helping them to provide for themselves and their families in the event of death, illness, injury or disability. Life insurance products are vital to supporting many thousands of consumers and their families each year at times of significant financial stress.
- 2 ASIC is responsible for conduct and disclosure regulation in the life insurance sector. A well-functioning life insurance sector should have the following characteristics:
 - (a) consumers can access life insurance products that meet their needs now and into the future;
 - (b) life insurance is marketed and sold in a way that allows consumers to understand the features of the product and how they are covered;
 - (c) consumers who want advice on life insurance can obtain good-quality financial advice that prioritises their needs;
 - (d) claims are handled efficiently and fairly; and
 - (e) consumers have access to effective dispute resolution for complaints, and remediation is available if poor conduct has occurred.
- 3 ASIC's regulatory work, as well as concerns raised more generally by consumers and other stakeholders, indicates that the life insurance sector has been falling short of these standards in various ways. ASIC has publicly expressed concerns about practices in the life insurance sector for several years, including in relation to the provision of financial advice on the sale of life insurance products and, more recently, in relation to insurers' claims handling practices. Similarly, the Australian Prudential Regulation Authority (APRA) has also identified areas where the life insurance sector needs to improve.
- 4 We have recently undertaken substantial work in this area, resulting in reform actions by industry, ASIC and government. We have also identified areas for further reform. As most of these reforms are still to be put in place, ASIC supports a clear focus on the implementation of these reforms.
- 5 We see a significant role for industry to make improvements, including insurers, superannuation funds and financial advisers. When poor consumer outcomes have arisen in the life insurance market, we have too often seen various sub-sections of the industry attempting to deflect blame to other industry participants, rather than taking a constructive approach to reform. This has hindered efforts to address industry problems in the past, and must be overcome if consumer outcomes are to be improved on a sustainable basis.

- 6 ASIC will be undertaking ongoing work in this area to focus on areas of concern, and identify and take action on practices that are impacting on beneficial consumer outcomes.

Overview of ASIC's work

Life insurance advice

- 7 In October 2014, we released [Report 413](#) *Review of retail life insurance advice* (REP 413) which set out the findings of our review of personal advice about life insurance provided to retail clients. This review commenced following ASIC investigations and surveillances over many years, which showed poor advice about life insurance was being provided to consumers.
- 8 Specifically, in REP 413 we found that 37% of the personal advice we reviewed failed to comply with the quality of advice conduct obligations in the *Corporations Act 2001* (Corporations Act). We also found that there was a positive correlation between high upfront commissions and poor-quality advice to consumers. We made a number of recommendations in REP 413, including that insurers change their remuneration arrangements and that advisers review their business models to address structural barriers to the provision of compliant life insurance advice.
- 9 Since the publication of REP 413, the impetus to improve the quality of life insurance advice has gained momentum: see paragraphs 85–89. The Government announced a reform package in November 2015 that includes proposals to address conflicts of interest in remuneration structures by:
- (a) limiting the upfront and ongoing commissions paid to advisers;
 - (b) requiring the repayment of commissions to insurers by advisers over a two-year retention period if a policy lapses or a premium is reduced (subject to certain exceptions); and
 - (c) banning other forms of conflicted remuneration.
- 10 Legislation to give effect to these reforms was introduced into the Parliament on 12 October 2016. The Government is also consulting on regulations to extend the application of the reform package to direct or non-advised sales of life insurance.
- 11 As part of the reform package, ASIC has begun work on the following:
- (a) preparation of a legislative instrument to give effect to the reform package;
 - (b) consideration of the data we will collect for our review of the reforms in 2021 (2021 ASIC review);

- (c) the collection of policy replacement data from life insurers to monitor unnecessary or excessive switching of client policies by advisers; and
- (d) a review of Statements of Advice (SOAs) for the provision of advice on life insurance products (SOA review).

Claims handling

- 12 In October 2016, ASIC released [Report 498](#) *Life insurance claims: An industry review* (REP 498), which set out the results of our industry-wide review of life insurance claims practices and outcomes. While we did not find cross-industry misconduct, we did identify areas of concern in relation to declined claim rates and claims handling procedures for:
- (a) particular types of policies, notably total and permanent disability (TPD);
 - (b) particular insurers (typically for particular policy types); and
 - (c) particular causes of consumer disputes.
- 13 These concerns will be the subject of further work by ASIC. In addition to this follow-up surveillance work, we also identified five other areas of action, with a view to improving claims handling outcomes for consumers. These include potential actions by industry, regulators and government:
- (a) establishing a new public reporting regime with APRA for life insurance industry claims data and outcomes;
 - (b) recommending to Government the strengthening of the legal framework for claims handling (see paragraphs 101–106);
 - (c) recommending consumer dispute resolution for claims handling be strengthened, so principles of fairness can be given more weight;
- Note: See [ASIC's Supplementary Submission](#) to the Government's Review of the financial system external dispute resolution framework (Ramsay review): www.treasury.gov.au/ConsultationsandReviews/Consultations/2016/FS-external-dispute-resolution/Submissions.
- (d) undertaking a new major review of life insurance sold directly to consumers without personal advice; and
 - (e) strengthening industry standards and practices, including through extension and enhancement of the new Life Insurance Code of Practice.
- 14 We are also undertaking an investigation into claims handling and related practices of the Colonial Mutual Life Assurance Society Limited (CommInsure).

Insurance through superannuation

- 15 Millions of Australians have access to insurance coverage through their compulsory superannuation. ASIC has been working with APRA and the

insurance and superannuation sectors to consider how improvements can be made to the provision of insurance through superannuation.

- 16 In the 2016–17 financial year, we will start a new project looking specifically at insurance in superannuation, including issues around disclosure and complaints handling, as well as conflicts of interest and culture. Our future work will focus on areas such as:
- (a) promoting consolidation of multiple accounts to avoid erosion of superannuation benefits through insurance premiums and associated issues of claiming on multiple insurance policies;
 - (b) increasing consumer awareness of insurance cover, which is connected to broader issues with vulnerable and/or disengaged consumers; and
 - (c) highlighting adequacy and/or appropriateness of insurance cover.
- 17 ASIC has already started updating content on the MoneySmart website to include further information about insurance in superannuation. Our surveillance and review work will focus on ensuring that trustees are meeting their disclosure obligations to members and other consumers. We also support the industry in its development of a working group to look at developing a code of conduct for insurance in superannuation.

Life insurance add-on products through car dealerships

- 18 We have also been actively reviewing other practices in the life insurance industry, both on an industry-wide basis and through individual enforcement actions. We recently released a major review of the sale of life insurance products through car dealerships, providing cover to meet repayments under car loans should the consumer die: see [Report 471](#) *The sale of life insurance through car dealers: Taking consumers for a ride* (REP 471). The report used data from the major life insurers in this market, covering commissions, premiums and claims data over a five-year period (2010–14).
- 19 REP 471 found systemic problems with the sale of life insurance through this channel, including:
- (a) *low claim payouts relative to premiums*—we found that, across all car yard life insurance products over a five-year period, the gross amount paid in claims was \$6 million, or only 6.6% of gross premiums of just over \$90 million; and
 - (b) *higher commissions to car dealers and higher premiums for small business borrowers*—we found that small business insureds can pay up to 80% more for exactly the same cover from the same insurer, given that at least some of these insureds are not price-sensitive.
- 20 As a result of ASIC’s scrutiny of the practice of higher prices for small business borrowers in REP 471, life insurers in the car dealer market agreed

to abandon the practice of paying higher commissions to car dealers and charging a higher cost for small business borrowers. ASIC is continuing to work with industry on a range of other reforms in this sector, relating to value, design of products and sales practices.

Enforcement action on life insurance

- 21 We have taken and will continue to take regulatory and enforcement action against both individuals and firms where we see misconduct in relation to life insurance. Examples of our enforcement activities against Australian financial services (AFS) licensees (including advisers) are set out in Appendix 1. Outcomes have included the imposition of licence conditions, enforceable undertakings and bannings. We will continue to take action where we see significant breaches of the law.

Upcoming review of direct insurance

- 22 Earlier this year the Government announced extra funding for ASIC. This funding will enable us to undertake additional surveillance and industry reviews in the life insurance sector, as well as ensuring that the further work we have identified in REP 498 can be undertaken and the additional surveillance and data-gathering ASIC is conducting as part of the proposed life insurance advice reforms.

Note: See the Hon Scott Morrison MP, Treasurer of the Commonwealth of Australia and the Hon. Kelly O'Dwyer MP Minister for Small Business and Assistant Treasurer, Media Release No. 042, *Turnbull Government bolsters ASIC to protect Australian consumers* (20 April 2016). Funding has now been confirmed by the passage of the Appropriation Bill (No. 2) 2016-2017.

Further reform and improved oversight

- 23 ASIC's powers to address poor practices in the life insurance sector are limited compared to our powers in relation to other financial products and services. For example, there are limitations in relation to claims handling, the duty of utmost good faith, the upgrading of policy definitions, and the application of unfair contract term provisions to insurance. These factors limit the role that ASIC, dispute resolution schemes and the courts may play in this sector.
- 24 These limitations, however, could be addressed by legislative and regulatory reforms. The key areas of reform we have identified, many of which are yet to be implemented, are critical to improving consumer outcomes and industry practice: see Section A.

- 25 Reforms that can be undertaken by ASIC in conjunction with other regulators, industry and/or external dispute resolution (EDR) schemes include:
- (a) strengthening the dispute resolution framework for claims handling, to enable better and more effective consideration of issues of fairness to supplement the existing jurisdiction, and to give better access and remedies to consumers with complaints about delays; and
 - (b) implementing public reporting of life insurance claims data, with a view to improving public trust in claims processes and outcomes.

- 26 Reforms that would require legislative amendments include:
- (a) removing the exclusion relating to claims handling from the definition of a financial service in the Corporations Act, so that ASIC has an enhanced capacity to seek improvements in insurers' claims handling practices;
 - (b) strengthening ASIC's enforcement regime, which could, for example, enable us to seek civil penalties where insurers have breached the duty of utmost good faith under the *Insurance Contracts Act 1984* (Insurance Contracts Act);

Note: Currently ASIC cannot seek penalties for such breaches.

- (c) introducing amendments so that insurance contracts are no longer excluded from the unfair contract terms provisions in the *Australian Securities and Investments Commission Act 2001* (ASIC Act); and
 - (d) facilitating the rationalisation of legacy products in the life insurance and managed investments sectors (which could involve legislative reform as well as industry's own proactive changes to systems).
- 27 The introduction of the broader reforms (which would cover financial services more generally) that are currently being consulted on, such as the proposed product intervention power, would also help ASIC take action in this area.

- 28 In the area of life insurance advice, legislation to give effect to key aspects of the Government's reform package has been introduced into Parliament. We will monitor the effect of these reforms, and as requested by the Government, review the effectiveness of the reforms in 2021. The Government has foreshadowed that it will move to a level commission model, as recommended by the Financial System Inquiry (FSI) and by John Trowbridge in his industry-commissioned report, if the 2021 ASIC review shows that advice for the sale of life insurance has not improved.

Note: See FSI, [Financial System Inquiry: Final report](#) (FSI report), December 2014, and J. Trowbridge, *Review of retail life insurance advice* (Trowbridge report), Financial Services Council, March 2015.

- 29 In addition, the new Life Insurance Code of Practice (Code), which was launched in October 2016, contains provisions which set minimum standards for insurers on matters including policy terms and disclosure, claims handling, sales practices and internal complaints and dispute processes. We expect that insurers will implement a number of steps to ensure compliance with the Code, which should improve industry outcomes.
- 30 We also expect that further enhancements will be made to the Code, to address issues identified by us and industry, and with a view to industry seeking ASIC approval of the Code. ASIC supports the industry's commitment to further enhance the Code and will continue to work with industry, including if industry seeks ASIC approval of the Code.
- 31 ASIC's approval of an industry code is a signal to consumers that it is a code they can have trust in, and that it meets the standards set out in ASIC's [Regulatory Guide 183](#) *Approval of financial services sector codes of conduct* (RG 183).
- 32 The Minister has also announced, as part of the Enforcement Review Taskforce, that the terms of reference will 'allow for a thorough but targeted examination of the adequacy of ASIC's enforcement regime, including in relation to industry Codes of Conduct, to deter misconduct and foster consumer confidence in the financial system.'
- Note 1: See the Hon. Kelly O'Dwyer MP Minister for Small Business and Assistant Treasurer, Media Releases, *Release of ASIC report on claims handling in life insurance industry* (12 October 2016) and *ASIC Enforcement Review Taskforce* (19 October 2016).
- Note 2: See the Joint Media Release: Insurance in Superannuation Industry Working Group, 2 November 2016 from the Association of Superannuation Funds Australia (ASFA), Financial Services Council (FSC), Australian Institute of Superannuation Trustees (AIST), Industry Funds Forum (IFF) and Industry Super Australia (ISA).
- 33 The Productivity Commission is also currently considering the competitiveness and efficiency of superannuation. In its issues paper on alternative default models in superannuation, released in September 2016, the Productivity Commission queried what the advantages and disadvantages are of allocating insurance through a separate competitive process (as well as what the key features of this default insurance product might be). The review by the Productivity Commission may result in changes to the offering of group insurance in superannuation.

Benefits and risks of different distribution channels

- 34 Life insurance is distributed in three main ways:
- (a) direct or non-advised (where policies are sold directly by insurers or their partners or affiliates without personal advice);

- (b) retail (policies sold via financial advisers); and
- (c) group (group policies purchased by superannuation fund trustees or employers, with fund members/employees given the benefit of the cover under the policy).

35 ASIC considers that a choice of channels and the related choice of life insurance products and features is an important part of the market and provides benefits to consumers. The financial circumstances and needs of consumers are diverse, and a range of channels helps to ensure these needs are met.

36 Our work, as well as the work of others, also demonstrates that there are risks or problems across all channels. Some of these risks are common across channels, while other risks will be greater in some compared to others. As noted earlier, ASIC has work underway across all these areas.

37 Our findings in REP 498 show that claims experiences vary across channels. For example, direct or non-advised life insurance had a 12% declined claim rate compared to 7% for retail and 8% for group.

38 We have targeted one area of our future work on direct sales, with a view to improving consumer outcomes and experiences in this particular area.

39 We have also identified that risks can arise in other channels, including:

- (a) poor quality life insurance advice, which results in considerable detriment to consumers (retail);
- (b) lack of member awareness of insurance cover obtained via superannuation funds (group); and
- (c) sales of low-value and high-priced life insurance cover with car loans.

40 We are currently undertaking follow-up work in these areas to address these risks.

41 In Section B of this submission, we have included a more comprehensive examination of the relative benefits and risks of life insurance acquired through the different distribution channels.

Claims handling

42 ASIC's recent report on claims handling (REP 498) sets out in considerable detail our understanding of claims handling practices and outcomes across the sector. We have provided a copy of that report to the Committee.

43 Generally ASIC's regulatory remit is limited to addressing unlawful practices. However, the concept of fairness often underpins regulatory

settings, and the legislative environment and it also informed our key findings and recommendations in REP 471 and REP 498.

44 On this point, we made this observation at paragraphs 22–23 of REP 498:

... a key challenge for the life insurance sector is how to deal with that small number of claims that may not be technically covered under the ‘fine print’, but under any reasonable consumer or community expectation should be paid. We found that ex-gratia (i.e. goodwill) payments were inconsistently applied across the sector.

Poor and/or inconsistent management of these relatively small numbers of claims can lead to very poor outcomes for consumers and significant reputational damage for insurers. This issue highlights the importance of an insurer’s ‘claims philosophy’ and how the philosophy aligns with the need to put policyholders first.

45 While REP 498 did not find cross-industry misconduct, significant shortcomings were identified. In some instances, this included issues of ‘fairness’, where we identified that claims may not always be paid in the ‘spirit’ or ‘intent’ of the policy.

46 ASIC’s further work will target those insurers with higher denied claims outcomes, to determine whether there are issues with their approach to claims handling that require regulatory action.

47 Specifically, we will:

- (a) target insurers with ‘high’ declined and withdrawn claim rates and high levels of disputes;
- (b) conduct an industry-wide review of TPD claims outcomes and processes; and
- (c) further examine issues such as remuneration practices and incidences of ex-gratia payments.

48 In undertaking our further work, we also note the limitations of our regulatory powers and have identified key areas of reform to expand our powers in this regard: see Section A.

49 Some of these areas include measures to address potentially unfair practices, such as our recommendation to enable EDR bodies to better and more effectively consider issues of fairness, and the public reporting of insurance claims data.

50 Further, our recommendation to remove the exclusion of certain activities from the definition of financial services in the Corporations Act when carried on in relation to claims handling will give us greater ability to take action in relation to conduct which is not efficient, honest and fair.

Note: Under s912A(1)(a) of the Corporations Act, an AFS licensee must do all things necessary to ensure that the financial services covered by its licence are provided efficiently, honestly and fairly.

- 51 We also note that the Life Insurance Code sets minimum industry standards. It includes standards relevant to claims handling practices.
- 52 Further, we note the provisions in the *Superannuation Industry (Supervision) Act 1993* (SIS Act) that require a trustee to do everything that is reasonable to pursue an insurance claim for the benefit of a beneficiary, if the claim has a reasonable prospect of success: see s52(7)(d) of the SIS Act.

Sales practices

- 53 REP 413 identified different ways in which advisers are remunerated by life insurers and showed that high upfront commissions influenced the provision of advice for the sale of life insurance products. The reforms proposed by Government and introduced into the Parliament are intended to reduce the incentive for advisers to write new businesses for clients even when it is not in their best interests.

Note: See the Corporations Amendment (Life Insurance Remuneration Arrangements) Bill 2016, which was introduced into Parliament on 12 October 2016.

- 54 We have considered the use of approved product lists (APLs) by advisers. ASIC cannot mandate the composition of APLs. We acknowledge the basis for the proposal to mandate wider APLs and agree that this could help to improve competition. However, an expansion of insurance products on APLs will not on its own address the risks of poor-quality life insurance advice.
- 55 We note that the Government has announced that its proposed reforms on commissions will also now apply to direct or non-advised life insurance sales. This may also address some of the potential issues we identified in REP 498 about the sale of these policies.

Note: See the [exposure draft](#), which was released for public consultation on 19 October 2016.

- 56 While the focus of REP 498 was on life insurance claims, we identified potential issues in sales practices for direct or non-advised policies. This distribution channel had the highest average declined claim rates (compared to retail and group policies) and generally higher lapse rates, which may indicate that inappropriate sales tactics are being used to sell these products to consumers.
- 57 Due to these concerns, we will conduct a thematic industry review of life insurance sales practices, focusing on direct or non-advised policy sales. This review will commence in early 2017.
- 58 The 2021 ASIC review will also consider whether the life insurance advice reforms have been effective in improving the quality of advice about life insurance.

Effectiveness of internal dispute resolution

59 As part of our review of claims handling, we collected data on the number of claims and disputes, as well as their outcomes in individual insurers' internal dispute resolution (IDR) systems, the Financial Ombudsman Service (FOS) and the Superannuation Complaints Tribunal (SCT).

Note: 'Outcome' in this context was whether an original claims decline decision was overturned, affirmed in full or in part, an ex-gratia payment was made, and whether an IDR dispute was withdrawn or was still undetermined.

60 FOS publishes the likelihood of a dispute being referred to EDR. We note that life insurance disputes are 1.5 to 6 times less likely than general insurance disputes to be referred to FOS, on a per policyholder basis.

Note 1: This range varies due to FOS reports being based on distinct general insurance product lines (e.g. home, car, sickness and accident).

Note 2: See FOS, *Comparative tables 2014–2015*, Final report.

61 The data we collected on IDR for REP 498 showed that the FOS/SCT overturned decision rates were lower than the IDR overturned decision rates. However, three insurers had FOS/SCT overturned decision rates at least twice as high their IDR overturned rates. This is being reviewed as part of our further work.

62 Additionally, we recommended more effective considerations of fairness in EDR, which we expect to lead to improved IDR outcomes and processes.

63 On the issue of IDR timeframes, in this submission, we propose that the Government consider whether the IDR timeframe for superannuation claims-related disputes (90 days legislative timeframe) should be more closely aligned with the 45 days timeframe in ASIC's [Regulatory Guide 165](#) *Licensing: Internal and external dispute resolution* (RG 165) for disputes about claims that are not related to superannuation.

64 For group insurance through superannuation, ASIC is also aware of some issues relating to trustees' communication with consumers. In particular, trustees may not always be providing written reasons for decisions in relation to death benefit complaints. The provision of adequate written reasons for decisions in relation to complaints is essential for a consumer deciding whether to pursue a matter through EDR.

Note: See ASIC's [Superannuation FAQ E1](#) on complaints handling.

65 Further work on IDR is planned as part of our follow-up work to REP 498. As part of our data reporting work with APRA, we also intend to collect and publish data on dispute resolution including, among other things, insurers' IDR timeframes and the number and proportion of certain claims outcomes in IDR.

Roles of ASIC and APRA

- 66 ASIC and APRA have complementary roles in the regulation of the life insurance industry and the identification of particular areas for reform. ASIC maintains a close working relationship with APRA through regular liaison meetings and issue-specific meetings.
- 67 Broadly, ASIC is responsible for licensing, conduct, product disclosure, distribution, marketing and dispute resolution, and APRA is responsible for prudential regulation in relation to both life insurance and superannuation.
- 68 Where ASIC and APRA have complementary roles, such as in the regulation of life insurance, where possible, we work collaboratively to achieve appropriate outcomes. Our joint work on the public reporting of claims data will be a major piece of work for regulators and industry.
- 69 ASIC's recent reviews of the life insurance industry, in the area of claims handling, add-on insurance and financial advice, illustrate the breadth of our regulatory remit. They also provide examples of how our work can lead to recommendations for law reform where the issues we have identified are unable to be addressed through regulatory action using our existing powers.
- 70 We anticipate our powers being further expanded in the future, as outlined in paragraphs 71–76, when the areas of reform we have identified are implemented, as well as reforms generated from the FSI recommendations.

A Potential further reform and improved oversight of the life insurance industry

Key points

This section provides our feedback on the need for further reform and improved oversight of the life insurance industry.

Recent ASIC reviews have identified areas for reform of the life insurance industry in the areas of advice and claims handling.

Our further work may identify additional areas for reform.

The Life Insurance Code of Practice (Code) also contains provisions which should help to improve industry standards and practices if properly administered.

Identified areas of reform

- 71 There have been a series of reviews in the financial services industry in recent years that have identified the need for both general reforms to financial services regulation and specific reforms to the life insurance sector. These include the need for reform in the life insurance sector, particularly in the provision of life insurance advice. The reforms proposed by the Government and introduced into the Parliament are directed at improving the quality of advice in the sale of life insurance, and providing better outcomes for consumers: see paragraphs 77–84.
- 72 Other reforms have been proposed that aim to lift standards and strengthen consumer protections in this area. These include further reforms in the areas of financial product advice, the review of penalties and the application of laws relating to unfair contracts terms to insurance contracts.
- 73 As part of our work in REP 498, we have suggested legislative and regulatory reform that specifically relates to life insurance claims handling, with the aim of improving claims processes and outcomes for consumers: see paragraphs 99–124.
- 74 These recommended reforms will be supplemented by the industry's adoption of the Code. As part of the ongoing development of the Code, industry could consider seeking approval of the Code under ASIC's [Regulatory Guide 183](#) *Approval of financial services sector codes of conduct* (RG 183).
- 75 Table 1 summarises the status of each of these reforms, and paragraphs 77–130 sets out specific details about the reforms.

76 We may also be able to identify the need for further reform when we conduct further work across the industry, particularly in the area of claims handling and sales practices.

Table 1: Life insurance reforms

Area of reform	Status
Life insurance advice	
Removal of the exemption for life insurance from the ban on conflicted remuneration, except where ASIC has permitted benefits (commissions) to be paid if requirements are met relating to: <ul style="list-style-type: none"> the maximum level of commission paid compared to the premium payable (i.e. caps on upfront and ongoing commissions); and clawback arrangements (i.e. the amount of upfront commission an advice licensee or its representatives must repay to a life insurer under certain circumstances over a two-year retention period) 	Bill introduced into Parliament on 12 October 2016
Best interests duty	Already introduced as part of the Future of Financial Advice (FOFA) reforms
Financial advisers register	Already introduced
Development of professional, ethical and education standards	Bill introduced into Parliament on 23 November 2016
Claims handling	
Removal of claims handling exemption	Formal consultation being undertaken
Review of ASIC's enforcement and penalties regime	Formal consultation being undertaken
Review of the application to insurance contracts of the unfair contracts terms provisions in the Australian Consumer Law	Formal consultation being considered
Changes to s9A of the <i>Life Insurance Act 1995</i> (Life Insurance Act), relating to the upgrade of policies	Yet to be considered
Ramsay review	Consultation undertaken. An interim report was released in December 2016, which is closing for comment on 27 January 2017. The final report is due at the end of March 2017

Area of reform	Status
Insurance in super	
Productivity Commission review of the efficiency and competitiveness of the superannuation system after 1 July 2017. Alternative default models being considered	Consultation and report on assessment approach for the future review has been undertaken, with the report released in November 2016. Consultation has also been undertaken on alternative default models, with the draft report due in March 2017 and final report due in August 2017
Interim report of the Ramsay review recommends the SCT transition to an industry ombudsmen scheme for superannuation disputes	Consultation undertaken. An interim report was released in December 2016, which is closing for comment on 27 January 2017. The final report is due at the end of March 2017
Product and distribution reforms	
Product design and distribution obligations for product issuers and distributors	Formal consultation being undertaken
Product intervention power for ASIC	Formal consultation being undertaken
Facilitating the rationalisation of legacy products	Formal consultation yet to be undertaken

Life insurance advice

- 77 There have been a number of recent and proposed reforms that apply to the financial services industry more broadly, but which will nonetheless have a significant impact on standards in the life insurance advice sector.

Recent reforms affecting life insurance advice

FOFA reforms

- 78 While life insurance was exempted from the ban on conflicted remuneration provisions in FOFA, other elements of the FOFA reforms, such as the best interests duty, apply to life insurance advice.

Financial advisers register (launched on 30 March 2015)

- 79 In the past, advisers who have provided poor advice on life insurance have moved between firms in ways that have not been straightforward to identify and track. The register helps address this issue by assisting AFS licensees to improve recruitment practices and manage risks, as well as assisting ASIC to identify, track and monitor financial advisers. In addition, the register provides consumers with information that is relevant to their choice of life insurance adviser.

Current reforms affecting life insurance advice

80 There are a number of reforms that are important to the provision of life insurance advice that are still underway and require support for their implementation.

Professional, ethical and education standards

81 This includes the proposed development of legislative amendments to raise the professional, ethical and education standards of financial advisers. Key elements of the proposed reforms include requirements for advisers to hold a degree, pass an exam, undertake continuing professional development (CPD) and subscribe to a code of ethics.

82 The Government also agreed to establish an independent, industry-funded body, recognised in legislation, to set the details of the new standards.

83 On 23 November 2016, the Government introduced the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2016 into Parliament. The proposed commencement date for the new regime is 1 January 2019.

84 ASIC has long advocated for stronger education standards for advisers and we consider that the proposed stronger professional standards framework for financial advisers, including those who provide advice on life insurance, will also assist in improving the quality of advice on life insurance.

Reviews leading to life insurance reforms

85 In response to several reviews into the life insurance advice industry, including ASIC's [Report 413](#) *Review of retail life insurance advice* (REP 413) published in October 2014, the Government called on industry to address the problems in life insurance.

86 In REP 413, we found that 37% of the personal advice we reviewed failed to comply with the quality of advice conduct obligations in the Corporations Act. We also found that there was a positive correlation between high upfront commissions and poor-quality advice to consumers. We made a number of recommendations, including that insurers change their remuneration arrangements and that advisers review their business models to address structural barriers to the provision of compliant life insurance advice.

87 There has been a broad recognition of the need for a change to remuneration arrangements. Since REP 413, the Trowbridge report found that problems existed in the remuneration structures for advisers and proposed a new 'reform model' for adviser remuneration, with a 20% level commission structure. The FSI report also recommended a level commission structure to address the problem of misaligned interests of advisers and consumers.

Note: See Recommendation 24, FSI report.

88 In response to these reviews, the Government announced a reform package on 6 November 2015 that was agreed to by key industry bodies.

89 This package included proposals on remuneration of life insurance advisers who give personal or general advice, including:

- (a) limiting the upfront and ongoing commissions paid to advisers;
- (b) requiring the repayment of commissions to insurers by advisers over a two-year retention period, if a policy lapses or a premium is reduced (subject to some exceptions); and
- (c) banning other forms of conflicted remuneration, consistent with the FOFA reforms.

Proposed legislation

90 On 12 October 2016, the Corporations Amendment (Life Insurance Remuneration Arrangements) Bill 2016 was reintroduced into Parliament. It had initially been introduced to Parliament earlier in the year (11 February 2016), but had lapsed.

91 The Bill gives ASIC the power to set the maximum level of benefits (commissions) to be given to licensees and their representatives, as well as allowing ASIC to set the amount of repayment of commissions by advisers to insurers (clawback) where the policy lapses. The Government is also currently consulting on regulations to apply the package to both advised and direct or non-advised sales of life insurance, whereas previously it had been proposed to apply only to advised sales of life insurance. Applying the reforms to both advised and direct or non-advised sales will ensure consistency across the industry regardless of the distribution channel.

92 We consulted on our proposals to implement the reforms in December 2015: see [Consultation Paper 245](#) *Retail life insurance advice reforms* (CP 245). We are continuing to work on the legislative instrument, the release of which is dependent on the legislation passing.

Monitoring and enforcement, and 2021 ASIC review

93 The Government also stated there would be ongoing reporting by life insurance companies to ASIC of policy replacement data, to commence from 1 July 2016. It is envisaged that we will collect data for two purposes:

- (a) *Monitoring and enforcement*—The ongoing reporting to ASIC about policy replacement data will enable us to conduct better and more targeted monitoring and enforcement of advisers who provide life insurance advice.

- (b) *2021 ASIC review*—We will need to collect data from life insurers to inform the 2021 ASIC review.

94 We sought feedback in CP 245 on both aspects of the data collection we plan to undertake.

95 We started to collect policy replacement data from insurers in September 2016 to inform our monitoring and enforcement work.

96 During 2016, we also engaged in discussions with industry, Treasury, APRA and external providers about the type and breadth of information we are seeking, as well as how we might best collect this data to inform a post-implementation review of the life insurance advice reforms (when we consulted we indicated that the review would be in 2018 reflecting an earlier proposed transitional timetable). The timing to start collecting this data and finalisation of the questions we will ask is dependent on the legislation passing.

SOA review

97 As part of these reforms, we are also conducting a review of SOAs for life insurance advice. We have previously published guidance for industry on our expectations for producing simple and effective SOAs: see [Regulatory Guide 90](#) *Example Statement of Advice: Scaled advice for a new client* (RG 90) and [Regulatory Guide 175](#) *Licensing: Financial product advisers—Conduct and disclosure* (RG 175). Our SOA review will build on this work.

98 We recognise the role that good design and an understanding of the principles of behavioural economics can play in effective communication and will include a focus on this in our review. We will also specifically consider whether remuneration disclosure should be strengthened by including prominent upfront statements about commissions in the SOA.

Claims handling

99 REP 498 sets out the findings of an industry-wide review of claims handling in the life insurance industry that we conducted this year. Our review found that while life insurers are paying the majority of claims, there are significant shortcomings in a number of areas of life insurance claims handling.

100 To address the conduct of these insurers and the areas of concern that we identified, we will be conducting follow-up targeted surveillance work: see paragraphs 171–175. We also made a number of recommendations to raise claims handling standards, encompassing legislative and regulatory reforms.

Proposed removal of claims handling exemption

- 101 Currently, certain activities carried on while handling or settling an insurance claim are subject to an exclusion from the definition of a financial service in the Corporations Act: see s766A(2)(b) and reg 7.1.33(1)–(2) of the Corporations Regulations 2001 (Corporations Regulations). This means that ASIC’s powers under the Corporations Act generally do not apply to claims handling.
- 102 Insurers are therefore not subject to a number of broad standards of conduct in relation to claims handling that apply to other parts of their business (e.g. the distribution and sale of their policies).
- 103 The excluded obligations include requirements on the insurer to (in relation to claims handling):
- (a) do all things necessary to ensure that it provides financial services efficiently, honestly and fairly;
 - (b) have in place adequate arrangements for the management of conflicts of interest that may arise in the provision of financial services; and
 - (c) take reasonable steps to ensure that its representatives comply with the financial services laws.
- 104 These limitations restrict ASIC’s capacity to take action for conduct such as:
- (a) an insurer relying on the terms of the contract to deny a claim (even where the exclusion clause relied on may be outdated or restrictive);
 - (b) unnecessary or extensive delays in handling claims;
 - (c) incentives for claims handling staff and management, including whether they are in conflict with the insurer’s obligation to assess each claim on its merit; and
 - (d) surveillance practices by investigators, particularly for mental health claims.
- 105 The exclusion of certain activities from the definition of financial services in reg 7.1.33 when carried on in relation to claims handling limits ASIC’s capacity to seek changes in insurer conduct from inappropriate incentives or the way an investigator operates. Our view is that removing the exemption in reg 7.1.33, and ensuring those financial services provided in the course of handling or settling an insurance claim are covered by the definition of a financial service, would enhance our capacity to seek improvements in claims handling practices.
- 106 To this end, Minister O’Dwyer announced on 12 October that Treasury would undertake a targeted consultation on the merits of removing this exclusion.

Penalties

- 107 A review of ASIC's enforcement regime is underway. This process could consider changes that seek to deter poor conduct by life insurers through enhanced sanctions including by:
- (a) enabling ASIC to seek civil penalties where insurers have breached the duty of utmost good faith under the Insurance Contracts Act; and
 - (b) aligning penalties for breaches by directors of life insurance companies of their duties to policyholders with the civil and criminal penalties that apply to directors of managed investment schemes.

- 108 We also note that the Insurance Contracts Act places significant restrictions on what enforcement action we can take in relation to life insurance, and this could also be considered as part of this review.

Note: Section 15 of the Insurance Contracts Act expressly excludes insurance contracts from the operation of any Act (Commonwealth, State or Territory) that provides relief in the form of judicial review of harsh or unfair contracts. It also excludes relief under other Acts for insureds from the consequences in law of making a misrepresentation, except for relief in the form of compensatory damages.

- 109 On 19 October 2016, Minister O'Dwyer announced the terms of reference and taskforce members of the ASIC Enforcement Review Taskforce. The Taskforce will review the enforcement regime of ASIC to assess the suitability of the existing regulatory tools available to us to perform our functions adequately. The Minister foreshadowed that the terms of reference allow for a thorough but targeted examination of the adequacy of ASIC's enforcement regime, including in relation to industry Codes of Conduct, to deter misconduct and foster consumer confidence in the financial system.

- 110 The terms of reference include an examination of legislation dealing with financial services and insurance, in particular:
- (a) the adequacy of civil and criminal penalties for serious contraventions relating to the financial system (including corporate fraud); and
 - (b) the adequacy of existing penalties for serious contraventions, including disgorgement of profits.

Note: See the Hon. Kelly O'Dwyer MP Minister for Small Business and Assistant Treasurer, Media Release, *ASIC Enforcement Review Taskforce* (19 October 2016).

Review of the application to insurance contracts of the unfair contract terms provisions in the Australian Consumer Law

- 111 Consumer Affairs Australia and New Zealand (CAANZ) is currently reviewing the Australian Consumer Law, as well as the corresponding laws in the ASIC Act. After receiving submissions, an Interim Report has been released for public consultation. Submissions closed on 9 December 2016.

112 One option identified in the Interim Report is applying the unfair contract terms laws in the ASIC Act to insurance contracts. These provisions (and the corresponding provisions in the Australian Consumer Law) apply broadly to standard-form contracts for other goods and services.

113 Stakeholders have expressed views about the appropriateness of the various exemptions in the Australian Consumer Law in the context of a generic national consumer law. CAANZ notes in the Interim Report that, given the economy-wide application of the Australian Consumer Law, each ‘carve out’ has the potential to undermine the benefits of a nationally consistent approach to consumer protection. It has identified the specific exemption for insurance contracts and unfair contract terms as a priority area to consider.

Note: see Australian Consumer Law Interim Report, October 2016, pages 117-132.

114 An economy-wide approach to unfair contract terms has been considered over the years, including in the Productivity Commission’s *Review of the Australian consumer policy framework* in 2008. Several other reviews have recommended that unfair contract terms laws be applied to insurance contracts, including the 2011 Natural Disaster Insurance Review and a 2012 House of Representatives Standing Committee on Social Policy and Legal Affairs inquiry into the operation of the insurance industry during disaster events.

115 ASIC supports the extension of the unfair contract terms laws to insurance contracts. We consider it timely to address this longstanding issue of consistency of approach to help alleviate concerns about fairness in insurance contracts and broaden the range of tools available to ASIC to address poor practices.

116 CAANZ will provide a final report to the Legislative and Governance Forum on Consumer Affairs by March 2017. The final report will make findings and identify options to improve the efficiency and effectiveness of the Australian Consumer Law.

Upgrading policies

117 The FSI report included a recommendation that the Government should introduce a mechanism to facilitate the rationalisation of legacy products in the life insurance and managed investments sectors: see paragraph 129. We consider that this process will also require industry to make its own changes to its systems, including investment in systems and resources to ensure that this can occur.

118 This process may also provide an opportunity to consider the effect of s9A of the Life Insurance Act, which provides that an insurer can only pass on the benefit of a change to a policy if they do not charge the consumer more as a result.

- 119 Currently the effect of s9A is that an insurer can provide increased benefits (e.g. through updating a definition) but cannot change the price to cover that increased risk. The insurer can only pass on the cost of the increased benefits by asking existing policyholders to upgrade to a new policy, which is a costly and inefficient way of achieving this outcome. Policy reform may allow insurers to upgrade existing life insurance policies on a portfolio basis to incorporate current medical definitions, where this benefits policyholders, with any premium impact to be spread across the portfolio.

External dispute resolution

- 120 In May 2016, the Government established a review of the EDR and complaints framework in the financial services sector (EDR review). Relevant to consumer disputes about life insurance claims (inside and outside the superannuation environment), the panel conducting the review is tasked with making recommendations on the extent of gaps and overlaps between each of the bodies (including considering legislative limits on the matters each body can consider) and their impacts on the effectiveness, utility and comparability of outcomes for users. A final report will be provided to the Government in March 2017.
- 121 ASIC recommends consideration of the jurisdiction of EDR schemes over life insurance claims. In particular, we have highlighted the need to:
- (a) ensure better and more effective consideration of issues of fairness to supplement the existing jurisdiction; and
 - (b) give better access to consumers with complaints about delays in claims handling and ensure better remedies when these complaints are found in favour of the consumer.
- 122 In early November 2016, we lodged a Supplementary Submission to the EDR review covering the following issues:
- (a) how FOS applies ‘fairness’;
 - (b) fairness and outdated medical definitions;
 - (c) giving better access to consumers with complaints about delays in claims handling and ensuring better remedies when these complaints are found in favour of the consumer;
 - (d) compensation for consequential loss; and
 - (e) the different monetary limits of FOS and the SCT.

Public reporting of life insurance claims data

- 123 In REP 498, we identified that to improve public trust, there is a clear need for better quality, more transparent and more consistent data on life insurance claims.

- 124 ASIC has already commenced work with APRA to establish a consistent public reporting regime for claims data and claims outcomes, including claims handling timeframes and dispute levels across all policy types. Data will be made available on an industry and individual insurer basis.

Insurance in superannuation

- 125 We are also undertaking the following work, which specifically considers issues associated with insurance in superannuation:
- (a) *Member Experience project*—This project, which started in 2015, focuses on points at which policyholders are most vulnerable in the superannuation system, particularly disengaged members. Many points of vulnerability involve issues with insurance (e.g. being covered by insurance and not being aware of it, eligibility for cover ceasing, or a misalignment between actual cover and what was understood).
 - (b) *Effective Disclosure project*—This project, which started in the 2015–16 financial year, involves a review of disclosures by superannuation trustees to members, including significant event notifications, Product Disclosure Statements (PDSs), and written reasons for decisions. It covers aspects of disclosure to members about insurance.
- 126 We are also undertaking a specific ‘insurance in superannuation’ project in this current financial year that will look at complaints handling and disclosure, as well as aspects of culture and conflicts.
- 127 In ASIC’s updated [Regulatory Guide 97](#) *Disclosing fees and costs in PDSs and periodic statements* published in November 2015, we gave industry guidance on the disclosure of fees and costs which included new guidance to improve insurance disclosure (e.g. in relation to premiums and matters affecting premiums).
- 128 We are encouraging industry to develop industry guidance on fees and costs disclosure. Once developed, we will ask industry to consider extending the guidance to insurance disclosure.

Product and distribution reforms: FSI

- 129 There are a number of proposed reforms arising from this inquiry that affect life insurance. These reforms include:
- (a) increasing the obligations of product issuers and distributors to act in the interest of consumers by introducing a targeted and principles-based product design and distribution obligation, a serious breach of which would be subject to a significant penalty;

- (b) providing ASIC with a product intervention power that would enable us to modify or, if necessary, ban harmful financial products where there is a risk of significant consumer detriment;
- (c) reviewing ASIC's penalties and powers to ensure that the enforcement regime provides a credible deterrent for poor behaviour and breaches of financial services laws (e.g. giving ASIC greater ability to ban individuals from the management of financial services firms); and
- (d) facilitating the rationalisation of legacy life insurance products.

130 When implemented, these reforms will enhance ASIC's capacity to mitigate the risk of unfair practices, or address adverse consumer outcomes.

Note 1: The Government has recently commenced consulting on these reforms—see The Hon. Kelly O'Dwyer MP Minister for Small Business and Assistant Treasurer, Media Release No. 111, [*Increasing the accountability of financial product issuers and distributors*](#) (13 December 2016).

Note 2: For a discussion of the rationalisation of legacy life insurance products, see paragraphs 117–119, particularly the impact on policy definitions and the interplay with s9A of the Life Insurance Act.

Life Insurance Code of Practice

131 The Life Insurance Code of Practice (Code) was launched by the Financial Services Council on 11 October 2016.

Note: The Code was established by the life insurance industry largely in response to the Trowbridge report, following the issue of ASIC's REP 413, which recommended that a Life Insurance Code of Practice be developed, modelled on the General Insurance Code of Practice.

132 The Code provides minimum standards for life insurers in many areas including policy terms and disclosure, claims processes (including timeframes, evidence and surveillance), sales practices and internal complaints and dispute processes.

133 In REP 498, we encouraged the FSC to make a formal application to ASIC for approval of the Code, in light of our guidance in RG 183.

Note: ASIC has the power under s1101A of the Corporations Act to approve codes of conduct. It is not mandatory for any industry association to seek ASIC approval of its code; however, approval by ASIC indicates that a code responds to identified and emerging consumer issues, is robust, and delivers substantial benefits to consumers. ASIC approval of codes alone, however, does not make them enforceable.

134 The Government has also stated that it expects the FSC and industry to take the necessary steps to gain ASIC approval of the Code.

Note: See the Hon. Kelly O'Dwyer MP Minister for Small Business and Assistant Treasurer, Media Releases, *Release of ASIC report on claims handling in life insurance*

industry (12 October 2016) and *ASIC Enforcement Review Taskforce* (19 October 2016).

Further work

135 In addition to the reforms already underway and proposed, the current and future work ASIC is undertaking will help to inform us whether any further areas of reform and improvements to the industry are required, and if so, how they can be achieved. A summary of our ongoing work is set out below.

Claims handling

136 The next stage of our work on claims handling will examine insurers' practices in more detail, which may identify further issues that could be addressed through law reform or improved oversight of the industry.

137 Examples of the areas where *possible* changes may be identified include:

- (a) the relationship between sales practices and adverse claims outcomes (particularly where the claim outcome suggests either unfair practices at the point of sale or a need to revise the design of a life product);
- (b) whether there could be improvements to sales practices, including disclosure, so that the way in which policies operate is better aligned with the consumer's expectations;
- (c) whether an opt-in requirement for direct life insurance sold via outbound call centres is appropriate; and
- (d) whether the use of standard definitions (particularly for complex medical definitions used in trauma policies and for TPD policies) would improve consumer outcomes.

Life insurance advice

138 As noted earlier, the purpose of the 2021 ASIC review is to establish whether the reforms have improved industry practice and consumer outcomes. If the reforms are implemented, we consider that this review is critical to identifying any remaining concerns with life insurance advice following the reforms and any new emerging concerns.

139 As part of the 2021 ASIC review, we will seek to collect data from a range of areas, including changes to lapse rates and product structures and whether there have been changes in distribution channels.

140 The Government has already flagged that it will move to the level commission model recommended in the FSI report if there is no significant improvement shown in the review.

Note: See The Hon Kelly O'Dwyer MP, Minister for Small Business and Assistant Treasurer, Media Release No. 024, [*Government announces significant improvements to life insurance industry*](#) (6 November 2015).

B Different insurance channels—Direct, group, and retail insurance

Key points

Life insurance in Australia is distributed in three main ways: direct or non-advised, group (such as via a superannuation fund trustee), and retail (via a financial adviser).

ASIC supports a diversity of channels in the life insurance sector as this improves consumer choice and competition.

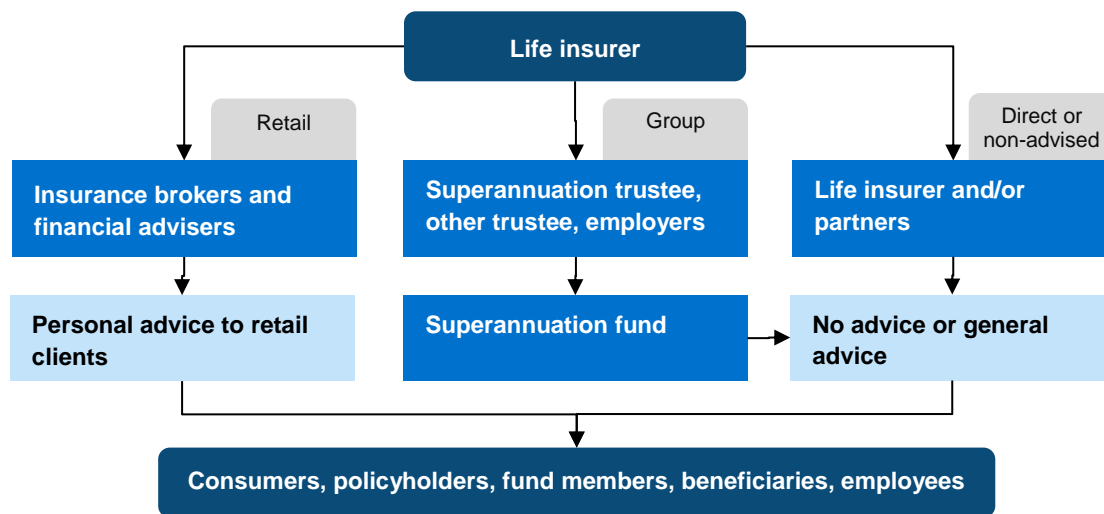
Each channel may have particular benefits and risks that correspond to the features of the channel. ASIC has identified scope for improvements in all channels.

Given the complexity of life insurance products, and the fact that there are often significant differences between products sold within each channel, we make broad and general comments about this issue. It is also important in considering the difference between these channels to properly take into account the different characteristics of the predominant consumer segments across the channels.

Our ongoing work in relation to financial advice and direct life insurance will assist to inform general understanding of the relative risks and benefits of these channels.

Overview of distribution channels

- 141 Life insurance is distributed in three main ways:
- (a) *Direct or non-advised*—Directly by insurers or their partners / affiliates without any personal advice. This is a diverse segment including, for example, both outbound and inbound sales;
 - (b) *Group*—As a group policy (e.g. purchased by the trustee of a superannuation fund, or an employer, with fund members / employees ultimately given the benefit of the cover under the policy).
 - (c) *Retail*—By financial advisers.
- 142 ‘Direct or non-advised’ refers to sales made other than through personal advice—that is, where the consumer is either given general advice or factual information. General advice transactions are included in the ‘non-advised’ distribution channel.
- 143 Figure 1 shows the operation of these distribution channels and the types of advice and methods of sale that are typically involved for each channel.

Figure 1: Distribution channels for life insurance in Australia

Note: See paragraphs 141–142 for the text equivalent of this flowchart (accessible version).

Features and risks of distribution channels

- 144 We have outlined the key features of the different channels below:
- (a) *Direct or non-advised*—The life insurance provided through this channel is considered to be a simpler product which consumers who choose not to seek advice may be able to understand and access themselves.
 - (b) *Group*—The default nature of the cover provided through this channel gives access to life insurance to the largest number of consumers, many of whom would not be able to afford premiums if they were individually underwritten or were not paid from their superannuation fund account, although cover is not tailored to a particular member’s circumstances.
 - (c) *Retail*—If appropriate personal advice is provided, consumers should be able to source a life insurance product through this channel that is in their best interests based on their relevant circumstances.

145 We have identified a number of ‘key risks’ arising from each distribution channel. Our assessment of this issue is based on the data we have collected from the work we have done in the areas of claims handling, life insurance advice and superannuation.

Direct or non-advised insurance: Risks

Potential problematic sales practices

- 146 In REP 498, we found that declined claim rates were higher for direct or non-advised policies, compared with group and retail policies. The average declined claim rates in the retail and group channels were lower than for direct or non-advised sales (7% and 8% compared to 12%). For some insurers, the difference was particularly marked.
- 147 Our analysis of disputes in REP 498 found that of all disputes, 3% specifically involved sales practices, with other disputes involving eligibility (5%) and pre-existing conditions (3%), both of which are closely related to sales practices in that they are likely to involve representations made to policyholders at the point of sale that do not align with the claims outcome. This usually only becomes apparent when a claim is declined. We consider that disputes about claims (particularly the ineligibility to claim) may indicate problematic sales practices for direct or non-advised life insurance policies.
- 148 In REP 498, we also found that lapse experience was generally higher for direct or non-advised distribution channels. Lapse rates for direct or non-advised policy sales ranged from below 12% to 35.9%.
- 149 Some insurers reported substantially higher lapse rates for particular distributors and products (ranging from 34.1% to 65%). Some of these insurers recognised that these high lapse rates were associated with products distributed by outbound sales calls. Others attributed higher lapse rates to particular demographics (e.g. those under 25 or over 60).
- 150 We are concerned that these lapse rates may be a result of inappropriate sales tactics that target consumers who do not need or want the product. We will explore these issues as part of our further work on direct or non-advised sales practices.
- Note: The Government has announced that its proposed reforms on commissions will also now apply to direct or non-advised life insurance sales. This may address some of these potential issues.
- 145 Another issue specific to the sale of life insurance through car dealers is sales to small business borrowers to meet repayments under a related loan. Most consumers pay a single premium for the life of the loan, and are therefore entitled to a rebate if they repay the loan early.
- 146 Under the *National Consumer Credit Protection Act 2009* (National Credit Act), the lender is required to credit the borrower with the amount of this rebate in calculating a payout figure (and they then seek reimbursement of this sum from the insurer). However, this obligation does not extend to persons borrowing money for business use who have taken out this cover.

Our inquiries suggest that lenders have inconsistent, and in some instances, inadequate arrangements in place to ensure consumers are aware they are entitled to rebates in these circumstances, and can claim them from insurers.

- 147 We will review the direct channel in 2017. The review will assess what changes could be made to sales practices, including disclosure, so that the way in which policies operate is better aligned with consumers' expectations. We will review product design and claims issues, particularly for those insurers with higher declined claim rates.

Retail insurance: Risks

Poor-quality advice

- 148 Poor quality life insurance advice can result in considerable detriment to consumers. It can lead to situations where consumers receive inferior policy terms, pay for more cover than they need, have certain health issues excluded and in some cases have claims denied where they previously had cover.
- 149 In REP 413, we identified a range of factors that affected the quality of advice. They included:
- (a) adviser incentives;
 - (b) inappropriate scaling of advice;
 - (c) lack of strategic life insurance advice;
 - (d) weak rationales for replacement advice; and
 - (e) failure to consider the relationship between life insurance and superannuation.

Case Study: Post-FOFA advice that did not comply with the law

The policyholder is 50 and married. She is employed full time and earns \$56,800 per annum. There was no information about her spouse or dependants on her file.

The policyholder jointly owns a home valued at \$800,000 and an investment property valued at \$500,000. The mortgages on these properties total \$600,000. She has a cash account of \$10,000, but no other cash savings or investments. Her superannuation balance is \$80,000.

The policyholder has life and TPD cover of \$406,000 and trauma cover of \$100,000. Her current annual premium is \$1,676, with \$502 paid from her superannuation benefits and the balance of \$1,174 from her personal cash flow. She wants her life cover to be paid from her superannuation benefits and not from her personal cash flow.

The adviser recommended that the policyholder increase her insurance and take out life cover of \$588,100, TPD cover of \$578,100,

trauma cover of \$667,469, and income protection cover of \$3,879 per month, with a 30-day waiting period and a benefit payment period to age 65. The new total annual premium was \$10,772, of which \$5,353 was paid from her superannuation benefits and the balance of \$5,419 from her personal cash flow.

The adviser received a commission of 110% or \$11,849. This was a gross figure, less fees payable to the AFS licensee.

The advice to the policyholder failed to comply with the law:

The \$5,353 annual premium for the life, TPD and income protection policies that she will pay from her superannuation benefits exceeds her superannuation guarantee contributions of \$5,254 per year.

Although the assets are jointly owned, the adviser did not identify her spouse's personal details (age and employment status or income). Without this information, the adviser cannot demonstrate why the insurance recommendations are appropriate and in the policyholder's best interests.

The adviser did not consider retaining her existing life insurance cover in her superannuation, where the premium is cost effective.

The \$5,419 annual premium for the trauma policy that the policyholder will pay from her personal cash flow represents 9.5% of her gross income. This is a large financial commitment, particularly when it is unclear from the file how necessary and appropriate this insurance cover is for her.

The advice did not address the policyholder's stated objective, which is to reduce the impact of her existing premium on her current personal cash flow.

Note: This case study originally appeared in REP 413.

- 150 As noted above in paragraph 86, we found that 37% of the personal advice we reviewed failed to comply with the quality of advice conduct obligations in the Corporations Act. We also found that there was a positive correlation between high upfront commissions and poor-quality advice to consumers.
- 151 The reforms proposed by the Government and introduced into the Parliament are intended to improve the quality of advice by imposing a maximum level of upfront commission that can be paid to licensees and their representatives (and also apply to commissions paid on direct or non-advised sales).
- 152 The range of work we are undertaking as part of the reforms (e.g. the 2021 ASIC review and the policy replacement data we are receiving from life insurers) will assist us in determining whether the reforms are successful and the quality of advice has improved. We will continue to take regulatory action when we see that advisers are providing improper advice.

Unnecessary switching

- 153 Another risk in advised sales is the potential for unnecessary switching of client policies by advisers who are incentivised to write new business due to

high upfront commissions. This can lead to advisers not acting in the best interests of their clients, and the potential for consumers to be without life insurance due to exclusion periods or inappropriate products for their circumstances.

154 REP 413 found that high upfront commissions are more strongly correlated with non-compliant advice, including in situations where the recommendation is to switch products.

155 We anticipate that the Government's proposed reforms will reduce incentives to advisers to inappropriately switch client policies

156 ASIC is also collecting data from life insurers to monitor advisers with a high switching rate. We will continue to take regulatory action when we see that advisers are inappropriately switching consumers.

Group insurance through superannuation: Risks

Trustee communication and member (consumer) awareness of cover

157 Members of a superannuation fund may often be unaware that they have insurance cover through the fund, how to claim or that the cover may change or even cease in certain circumstances. Inconsistent information in disclosure as a result of administration and other issues (e.g. trustees relying on data coming from employers) can exacerbate member confusion. In some instances, members may approach lawyers for assistance with the claims process due to this ambiguity, which can add cost.

158 This issue is potentially exacerbated when a superannuation trustee changes their insurance arrangements, which can occur every three years. This can result in fund members not being aware of the details of the current cover, and of any relevant changes to the claims process.

159 We are undertaking a review of the information provided to consumers by the superannuation trustees, when compared to the underlying insurance policy that is entered into by the insurer and the superannuation trustee.

Impact on superannuation balance for casual or intermittent workers

160 When a member ceases employment for a period of time, the default nature of the payment of insurance premiums will generally continue until a designated account balance limit has been reached. This limit is usually set by the trustee and represents the point below which the trustee considers benefits are being unnecessarily eroded by the premium payment.

161 Some members with small balances (e.g. students with casual employment) may find that their superannuation balance has not significantly increased beyond this limit. A public policy question to be considered for this group of

consumers is whether they should have to choose to be covered in the first instance, or whether only limited cover (such as TPD) should be offered.

No cover despite payments

162 In some instances, consumers are charged premiums when they no longer have cover (this is in part an administration and a disclosure issue). In these cases, the charging of premiums would tend to lead a person to understand that they have cover when in fact they do not.

163 For example, cover may cease after a person has left a particular employer. However, because the notification from the employer is not sent to the trustee (noting that sometimes it is not clear whether a person has 'left' employment, particularly for casual workers), premiums continue to be deducted from the member's account balance. The member would reasonably infer from this that they have cover. The fact that the member has left the employer may only become known when a claim is lodged. While premiums may be refunded, the claim is likely to be declined and the consumer is left without cover.

164 ASIC will seek to raise awareness and seek better industry practices around this issue, through our ongoing engagement with the industry and our regulatory work such as review of the information provided to consumers by superannuation trustees

Cover ceases but no communication to member

165 As noted, many superannuation funds have monetary limits so that when the account for the member drops below this amount, premiums will cease to be deducted so that retirement benefits are not unnecessarily eroded by premium payments. However, members may not always be advised or aware that their cover is ceasing as a result.

166 ASIC will seek to raise awareness and seek better industry practices around this issue, through our ongoing engagement with the industry and our regulatory work such as review of the information provided to consumers by superannuation trustees.

C Claims handling

Key points

Overall, our findings from REP 498 showed that around 90% of claims are paid in the first instance. However, there were some areas of high declined claim and dispute rates.

In response to these findings, we will be conducting:

- targeted surveillances of insurers with high declined claim and dispute rates; and
- an industry-wide review of TPD claims outcomes and processes (TPD had the highest rate of declined claims for all life insurance products).

This further work will enable us to draw conclusions on insurers' practices and take regulatory action if and where appropriate.

We will also use the results of insurers' independent reviews to inform any further action we take.

We have also made a number of recommendations for reform (see Section A) which address issues of fairness in claims handling.

The Life Insurance Code of Practice is also likely to have an impact on insurers' practices, particularly if ASIC is given the power to enforce it.

ASIC's regulatory role

- 167 REP 498, our recent report on life insurance claims handling, sets out in detail ASIC's role and powers in this area as well as industry trends and consumer outcomes. It sets out clearly that we expect higher standards for and improvements to claims handling, given its critical importance to consumers.
- 168 Generally, we do not have the regulatory remit to address 'unethical' practices across financial services, unless these practices are also unlawful. As outlined in Section A, we have made a number of recommendations for reform that would expand ASIC's powers to help to improve claims outcomes and enable us to take broader actions to address potentially unfair practices. These recommendations include:
- (a) removal of the exclusion of certain activities from the definition of financial service in the Corporations Act when carried on while handling or settling an insurance claim, which will assist us to take action on claims handling conduct which does not meet the requirement to provide financial services efficiently, honestly and fairly;
 - (b) a review of ASIC's powers, particularly in relation to the ability to enforce the duty of utmost good faith;

- (c) the ability for EDR bodies to ensure better and more effective consideration of issues of fairness;
- (d) public reporting of life insurance claims data; and
- (e) introduction of amendments so that insurance contracts are no longer excluded from the unfair contract terms laws in the ASIC Act (these provisions otherwise apply generally to financial services contracts).

169 In addition, the Government has stated that it will consider empowering ASIC to enforce the Code.

170 The Code provides minimum and binding standards for life insurers in many areas including policy terms and disclosure, claims processes (including timeframes, evidence and surveillance), sales practices and internal complaints and dispute processes. ASIC's ability to enforce the Code will enable us to address breaches of the Code which may also amount to unfair practices.

Findings from REP 498

Declined claim rates

171 While REP 498 did not find evidence of cross-industry misconduct, some significant shortcomings were identified. In some instances, this included considerations of 'fairness', where we identified that claims may not always be paid in the 'spirit' or 'intent' of the policy. We found that declined claim rates varied by insurer, product type and distribution channel. Specifically, these variations were:

- (a) by insurer (3% to 16% across all products);
- (b) by product:
 - (i) TPD, average 16% (range 7% to 37%);
 - (ii) trauma, average 14% (range 6% to 31%);
 - (iii) income protection, average 7% (range 3% to 16%); and
 - (iv) life, average 4% (range 1% to 13%); and
- (c) by distribution channel:
 - (i) direct or non-advised, average 12% (range 4% to 29%);
 - (ii) group, average 8% (range 7% to 23%); and
 - (iii) retail, average 7% (range 2% to 11%).

172 We also identified some substantial variations across insurers in withdrawn claim rates, with three insurers having rates of 20% or more.

Note: 'Withdrawn' claims are claims notified to the insurer but which, for various reasons, do not proceed to an acceptance or decline decision.

173 High declined claim rates (or withdrawn claim rates) *may* be indicative of unfair and/or unlawful practices, if claims are not being paid:

- (a) in accordance with the policy terms; or
- (b) in accordance with the ‘spirit’ or ‘intent’ of the policy, in circumstances where the technical policy terms preclude payment of the claim.

Note: An example of this is where an outdated or narrow medical definition is relied on by an insurer to decline a claim, particularly where the event causes a significant impact on the life of the policyholder.

174 However, conclusions cannot be drawn from the rates and incidences of declined claims alone. Care must be taken until issues such as the classification of claims are considered—currently, definitions that insurers use for decline rates can vary (e.g. they may or may not include claims declined for eligibility purposes or those that involve fraud). ASIC and APRA will work with insurers and other stakeholders during 2017 to establish a consistent public reporting regime for claims data and claims outcomes, including their classification.

175 We are focusing our further surveillance work on insurers with substantially higher than average declined and withdrawn claim rates, and also on TPD cover across the whole industry, given that this had the highest industry-wide declined claim rates.

Trends in disputes

176 Our review found that the highest proportion of claims-related disputes related to procedural issues rather than the decision itself. For example:

- (a) 25% of claims related disputes related to the evidence the policyholder was required to provide to the insurer to assess their claim (which can also lead to a declined claim); and
- (b) 22% of claims-related disputes related to the timeframes taken by an insurer to assess a claim.

Note: Other reasons for disputes included claim underpaid (16%), policy definitions (12%), eligibility (7%), non-disclosure (5%) and general denial (5%) with a number of other reasons at 2% or less.

177 The data also showed that disputes were concentrated: a substantial number of disputes about evidence and delay involved only a small number of insurers.

178 We have provided a summary of one of these disputes below to illustrate that problematic practices may not just relate to declining a claim, but also procedural issues in insurers considering a claim.

Case study: Claim delayed

The policyholder made a TPD claim after being diagnosed with severe depression. At the time of the complaint they had been unable to work for the last two years and had relied on Centrelink and their superannuation. The claim was supported by the claimant's doctors and psychologist. The original case manager left and the new case manager had to start the assessment again, requesting new copies of all documentation including the original TPD claim (one year after original submission). The policyholder felt that this all added to their debilitating depression and high anxiety.

The dispute was lodged with EDR and was resolved by the insurer.

179 As noted in paragraph 188, our further targeted surveillance work will involve reviewing claims files and dispute files. This will enable us to draw conclusions on insurers' practices, and take regulatory action if and where appropriate.

Ex-gratia payments

180 Our review also looked at the circumstances in which insurers make 'ex gratia' (or goodwill) payments, which may be made to meet a claim where the strict policy terms are not met.

181 In REP 498, we included a case study (Case Study 6) where a metal object was accidentally lodged in a policyholder's heart leading to cardiac arrest and requiring open heart surgery. This did not meet the trauma policy definition of heart attack as under the policy, as only heart conditions relating to congenital conditions and/or out of hospital cardiac arrests caused by arrhythmia were covered. A dispute was lodged with EDR and the insurer made a goodwill payment outside of the policy terms and conditions.

182 We found that incidences of ex-gratia payments by insurers varied across the industry in the following ranges:

- (a) 0% to 1% of all claims;
- (b) 0% to 14% of claims decisions (average 2%) considered by insurers' IDR systems;
- (c) 0% to 43% of all claims decisions (average 10%) considered by EDR schemes; and
- (d) 51% of all claims that became the subject of litigation brought by the policyholder against the insurer.

183 We consider that the payment of claims on an 'ex gratia' basis can be one way for insurers to address circumstances where an event may not be covered by the technical policy terms, but is still within the 'spirit' or 'intent' of the policy.

184 However, as outlined above, we note that some insurers are making minimal
or no ex-gratia payments. We will review these insurers as part of our
follow-up surveillance work.

Remuneration structures

185 Our review indicated that two insurers provided performance benefits to
staff based on a number of differently weighted criteria. This approach is
referred to as a ‘balanced scorecard’ approach.

186 One of the weighted criteria for claims staff was a measurement of the
‘decline rate’ of the claims they assess (which could account for up to 15%
of the ‘balanced scorecard’). We consider that this is a conflict of interest
that could have a detrimental effect on the appropriate assessment of claims,
because the inclusion of this criterion is in conflict with a claim assessor’s
responsibility to assess each claim on its merit.

187 We understand that these particular insurers have now ceased this practice,
in order to comply with their obligations under the Code.

Note: The Code states that remuneration and entitlements to bonuses will not be based
on claims decisions or deferrals of decisions: see clause 8.20.

Further work

Independent reviews

188 Related to our claims-handling review, insurers are currently completing
independent reviews of their claims handling practices and their claims files.
We will also use the findings from these reviews to inform our further work,
particularly if they provide evidence of poor claims handling outcomes or
practices.

Targeted surveillances

189 As outlined in paragraphs 171–175, our further work will include targeted
surveillances of the insurers with high rates of declined claims, withdrawn
claims, and disputes.

190 This may also provide evidence of problematic claims handling practices.
We plan to commence this surveillance work in January 2017.

Collection of data

191 There is a clear need for better quality, more transparent and more consistent
data on life insurance claims. Our review found that data limitations,
including inconsistent policy definitions across insurers, mean that care must

be taken with current comparisons, and follow-up work will be required to better understand the claims performance of particular insurers or policies.

192 ASIC and APRA will work with insurers and other stakeholders during 2017 to establish a consistent public reporting regime for claims data and claims outcomes, including claims handling timeframes and dispute levels across all policy types. Data will be made available on an industry and individual insurer basis.

D The sales practices of life insurers and brokers, including the use of APLs

Key points

In this section we set out our observations on the sales practices of life insurers and brokers, including the use of Approved Product Lists (APLs).

We note the following:

- Where life insurance is distributed through financial advisers, remuneration arrangements can affect the quality of advice received by clients. High upfront commissions are more likely to lead to poor quality financial advice.
- ASIC supports the recommendation in the Trowbridge report to expand APLs. However, this will not on its own improve the quality of financial advice and competition in the life insurance industry.
- In REP 498, we found that indicators of poor sales practices, such as declined claim rates and lapse rates, were generally higher in the direct or non-advised distribution channel.
- In 2017, ASIC will commence a thematic industry review of life insurance sales practices, focusing on direct or non-advised policy sales. Starting in 2021, we will also conduct a post-implementation review of the life insurance advice reforms.

Sales practices of brokers/advisers

193

When life insurance is distributed under personal advice models, advisers are typically paid using commission arrangements. In REP 413, we found that insurers have the following types of remuneration arrangements with advisers:

- Upfront commission*—An upfront commission from 100% to 130% of the new business premium and an ongoing commission of around 10% of renewal premiums.
- Hybrid commission*—An upfront commission of around 70% of the new business premium and an ongoing commission of around 20% of renewal premiums;
- Level commission*—A flat rate upfront commission of around 30% on the new business premium and an ongoing commission of around 30% of renewal premiums.
- No commission*—Usually a fee-for-service arrangement, where typically the adviser would rebate any commission paid by an insurer back to the client and the client would pay a fee for service, as negotiated between the adviser and the client, which varied depending on the nature, scope and complexity of the advice provided to the client.
- Salaried employee*—No commission paid to the adviser.

- 194 In REP 413, we found that the way an adviser was paid (e.g. under an upfront commission model compared to a hybrid, level or no commission model) had a statistically significant bearing on the likelihood of their client receiving advice that did not comply with the law.
- 195 We noted in REP 413 that, along with policy terms and claims experience, the remuneration arrangements offered by different insurers can have a significant bearing on which insurance product an adviser is likely to recommend to their client. We found that a majority of insurers (82% of the industry) had in place upfront commission arrangements with advisers, and that high upfront commissions gave advisers an incentive to write new business, increase the sum insured or level of cover the client holds and give product replacement advice to clients with existing insurance arrangements.
- 196 Our findings in REP 413 indicated that the quality of advice for the sale of life insurance was often shaped by the incentives for the advisers rather than giving advice to consumers that was in their best interests. Our analysis showed that high upfront commission models were correlated to advice that failed to comply with the law.
- 197 We welcome the reforms that the Government has introduced into Parliament, which are intended to more closely align the interests of advisers and consumers. The reforms will contribute to an improvement in the quality of advice about life insurance and better outcomes for consumers.

Sales practices influenced by APLs

- 198 An APL is a pre-selected product list maintained by an AFS licensee, which contains the range of financial products that advice providers acting under that AFS licence can recommend. APLs are not mandated by the Corporations Act or ASIC regulatory policy but are commonly used throughout the industry.
- 199 APLs are often used by AFS licensees as a risk management tool to assist:
- (a) licensees in meeting their legal obligations when providing financial product advice; and
 - (b) their representatives in complying with their legal obligations.
- 200 Potential benefits of an APL include the following:
- (a) *Higher quality/better value products*—The quality of the products included on an APL is usually assessed before their inclusion and APLs should be regularly reviewed. If this due diligence process is effective, it should ensure that all of the products that advice providers can recommend are of a relatively high quality and are not products which provide poor value for money. In the case of life insurance products, factors such as claims payment and handling are relevant.

- (b) *More appropriate advice*—Advisers who can only recommend a limited number of products may be more likely to know and understand the features of the products they recommend. This may reduce the risk that information they provide to consumers is incorrect or that financial product advice they provide to consumers is not appropriate.

- 201 The best interests duty does not prevent or require the use of APLs.
- 202 It is common for AFS licensees that provide personal advice to retail clients about life insurance products to maintain an APL. There is no standard number of financial products or product issuers represented on an APL. An APL for life insurance products may contain products of only one life insurance product issuer, or some, or all of them.
- 203 Many AFS licensees have arrangements that allow advisers to advise on products not on the APL in certain circumstances. In some cases, an advice provider will need to investigate and consider a product that is not on their AFS licensee's APL to show that they have acted in the best interests of the client when providing them with personal advice. If an advice provider is unable to recommend products outside their AFS licensee's APL and they need to do this to meet their obligations, the advice provider must not provide the advice.
- 204 In March 2015, the Trowbridge report recommended that policy settings for the retail life insurance advice sector should:
 - Ensure competitive access and choice for all advisers and their clients to available life insurance products by means of every licensee including on its Approved Product List (APL) at least half of the authorised retail life insurance providers.
- 205 The Trowbridge report notes that this recommendation seeks to ensure that quality advice is provided to consumers and that competition between life insurers flows through to consumers.
- 206 Expanded APLs may help to address the following risks that are associated with AFS licensees maintaining narrow APLs:
 - (a) *Lower quality/poor value products*—Advice providers who can only recommend a limited number of products from an APL will be less able to give quality advice which complies with their conduct obligations (e.g. the best interests duty in s961B and the obligation to provide appropriate advice in s961G) if the products on the APL are too restricted, not suitable, or of poor quality.
 - (b) *Conflicts of interest*—APLs that favour products issued within the vertically integrated group (i.e. 'in-house products') will not allow effective management or avoidance of conflicts of interest, which can lead to poor outcomes for consumers.

- (c) *Lack of innovation*—APLs that are too narrow or static may prevent consumers from accessing new and innovative products with features that are better for them (e.g. improved underwriting or claims services).

207 Overreliance on APLs may lead to poor advice if advisers do not conduct proper research on the client’s existing non-APL products before providing ‘switching advice’.

208 In ASIC’s view, an expansion of APLs can contribute to greater competition and better consumer outcomes. However, a mandated expansion of APLs will not, of itself, address the risks identified above. This is because:

- (a) our regulatory experience suggests that advice providers operating within a vertically integrated group tend to recommend in-house products over non-related products even where their APL includes a wide range of non-related products;
- (b) even in circumstances where an advice provider does not operate within a vertically integrated group, a wider APL may not protect consumers from the poor outcomes that can result where the adviser has a conflict of interest; and

Note: For example, if an advice provider receives remuneration to recommend one product on their APL over others, this may provide an incentive that is not aligned with the adviser’s obligation to the client, i.e. the best interests duty.

- (c) in REP 413, we concluded that the drivers of poor quality retail life insurance advice were adviser incentives and failure to consider the relationship between life insurance and superannuation.

209 Therefore, while ASIC supports the recommendation for broader APLs, we note that this move on its own is unlikely to improve the quality of advice.

Sales practices of insurers in direct or non-advised sales

210 Based on industry data, direct or non-advised sales of life insurance (e.g. through branches, call centres and mail-outs) are on the rise, with sales and in force premiums expected to substantially increase by 2024.

Note: See Plan for Life Actuaries and Researchers, *Life Insurance report*, December 2014.

211 In REP 498, we found that between 2013 and 2015 there was an increase in life insurance policies sold through the direct or non-advised distribution channel of 9%, to 3.9 million policies: see Figure 13 and Table 5 in REP 498.

212 Our report also found that declined claim rates were higher for direct or non-advised policies, compared with group and retail policies. The decline rates for direct or non-advised policies ranged from 4% to 29% and the industry average was 12%: see Table 12 in REP 489. The average declined claim

rates in the retail and group channels were lower than for direct or non-advised sales (7% and 8%).

- 213 High declined claim rates can indicate issues with sales practices, particularly in relation to eligibility. Consumers may purchase a policy without understanding the extent or limits of coverage and/or may have been misled about coverage. In some circumstances, insurers may be using pressure selling tactics or providing misleading information.
- 214 In our analysis of disputes in REP 498, of all disputes, 5% involved eligibility which is closely related to sales practices in that it is likely to involve representations made to policyholders at the point of sale that do not align with the claims outcome.
- 215 Our review also indicated that 3% of disputes related specifically to consumers raising concerns alleging poor sales practices.
- 216 This case study from REP 498 gives an example of a dispute we reviewed where an alleged poor sales practice ultimately resulted in the policyholder's claim being declined.

Case study: Sales representation about policy coverage

The policyholder received a sales call from a life insurer and told the representative that they had a medical condition that made them uninsurable.

The sales representative assured the policyholder that they would be covered, after checking with others in the company. The policyholder felt the representative used forceful sales techniques and encouraged them to take out insurance to protect their family if something happened. A follow-up call from the company also reassured the policyholder that they were covered.

On that basis, the policyholder decided to continue the policy.

The policyholder later found out that their medical condition had progressed and no further treatments were available. They attempted to claim under the terminal illness benefit of the policy; however, they were declined due to a pre-existing medical condition.

The dispute was resolved by settlement after the policyholder lodged it with EDR.

- 217 Also, as outlined in paragraphs 148–150, high lapse rates may also be an indicator of mis-selling of policies to consumers for whom the cover is unaffordable or not suitable.
- 218 In relation to the sale of life insurance through car dealers, in REP 471 we referred to data on the sales patterns of caryard life insurance which suggests that it is being sold to consumers who:

- (a) are unlikely to need the product—11% of all sales were to young consumers (aged 21 and under) who, as a class, are less likely to have dependants and will also usually have life insurance through their superannuation fund; or
- (b) did not want the product—consumers who were sold the product at the point of sale, but realised they did not want life insurance once they left the car dealership and so cancelled in the cooling-off period. For sales by all insurers across the 2010–14 financial years, 10% of consumers cancelled in the cooling-off period.

Note: The sale of these products is typically bundled with other cover provided by general insurers. The general insurer may be responsible for conduct at the point of sale rather than the life insurer.

Further work

- 219 In early 2017, ASIC will commence a thematic industry review of direct policy sales. This work may consider matters such as whether the incentives for sales staff in distribution channels such as call centres or car dealerships can be balanced by an appropriate level of supervision.
- 220 This project will also examine how well consumers understand life insurance products. We will consider whether we can improve our consumer education in this area and the information that the life insurance industry makes available to consumers at the point of sale.
- 221 We will also monitor the effect of the life insurance advice reforms, and as requested by the Government, review the effectiveness of the reforms in 2021. The Government has foreshadowed that it will move to a level commission model (as recommended in the FSI report and Trowbridge report) if the 2021 ASIC review shows that advice for the sale of life insurance has not improved.
- 222 In relation to the sale of life insurance through car dealers, we are working with insurers on changes to product design, price and sales practices to improve consumer outcomes.

E The effectiveness of internal dispute resolution in life insurance

Key points

Insurers issuing life insurance to retail clients must have an IDR system that complies with the standards set by ASIC.

Our recent industry claims review examined insurers' IDR statistics for disputes about declined claims. Although at an industry level, IDR overturned rates were the same as the overturned rates for FOS and the SCT, we found that at an insurer level, most insurers' IDR systems were effective in reducing the rate at which claims decisions were overturned by FOS and the SCT.

We did, however, find three insurers with FOS and SCT overturned rates at least double their IDR overturned rates. We will be following up with these insurers to review the reasons for this as part of our further work.

Our review also found that multi-tiered IDR systems exist in life insurance. In this submission, we are raising for consideration whether the IDR timeframe for superannuation claims-related disputes (90 days legislative timeframe) should be more closely aligned with the 45 days timeframe in ASIC's guidance in RG 165 for disputes not related to superannuation.

We also welcome the recommendations recently made in the Interim Report of the Review of the financial system external dispute resolution and complaints framework, particularly in relation to the publication and reporting of IDR data.

We also made a number of suggested reforms to the EDR framework, including the ability to give greater weight to a consideration of fairness.

Summary of IDR and EDR obligations

IDR obligations

- 223 Under s912A(1)(g) and 912(A)(2) of the Corporations Act, AFS licensees must have an IDR system available for retail clients that complies with the standards and requirements made or approved by ASIC.
- 224 The requirement to have an IDR system applies to insurers who issue life insurance to retail clients as well as superannuation trustees, whether they hold an AFS licence or not: see s912A(1)(a), 912A(1)(g) and 1017G(2)(a) of the Corporations Act. Superannuation trustees also have IDR obligations under s101 of the SIS Act. ASIC is responsible for the administration of this section of the SIS Act: see s6 of the SIS Act.

- 225 The disputes considered by an IDR system include those where consumers seek a review of an insurer's or superannuation trustee's decision to decline a claim, or complain about an insurer's conduct or services.
- 226 Within this legislative framework, ASIC is responsible for setting or approving standards for IDR systems.
- 227 ASIC's [Regulatory Guide 165](#) *Licensing: Internal and external dispute resolution* (RG 165) sets out, among other things, the standards that ASIC expects from licensees in relation to their IDR systems. Specific standards are discussed in the following paragraphs where they are relevant to the Inquiry's Terms of Reference.

EDR obligations

- 228 FOS and the SCT are the EDR bodies that assist consumers to resolve disputes with, relevantly, life insurers and superannuation fund trustees. While FOS is an EDR scheme approved by ASIC, the SCT is a statutory tribunal established under s6 of the *Superannuation (Resolution of Complaints) Act 1993*.

Relevant findings from REP 498

- 229 Some of the findings in REP 498 are relevant to the effectiveness of IDR in life insurance. These relate to:
- (a) the rates of claims-related disputes being overturned in IDR compared to FOS and the SCT;
 - (b) the outcome of claims-related disputes in IDR; and
 - (c) the existence of multi-tiered IDR systems in life insurance.

Comparison of overturned rates for IDR, FOS and SCT

- 230 Our review considered the outcomes of claims-related disputes in IDR and FOS and SCT for 15 life insurers between 2013–15. A dispute is first raised in an insurer's IDR system. If the original decision about the complaint is upheld in IDR, a consumer may then lodge a dispute with FOS or the SCT.
- 231 Across the industry, we found that IDR rates were, as an industry average, the same (24%) as those in FOS and the SCT combined, in terms of overturning an insurer's original decision to decline a claim. A lower proportion of declined claim decisions were upheld in FOS and the SCT compared to declined claim decisions upheld in IDR.
- 232 Insurers should focus on an accurate and efficient claims handling process, to seek to reduce the number of claims that need to be overturned during the dispute resolution process. However, we consider that more IDR (rather than EDR) decisions being overturned in favour of the consumer is consistent

with how a well-functioning IDR and EDR process should operate. We consider this indicates that the insurer is identifying and resolving inappropriately declined claims at the time of the IDR process, rather than when they are escalated to EDR. It should be noted that the decision to overturn the original decision may be due to further information being available during the dispute resolution process, and not just that the original decision was incorrect.

233 Although this comparison on an industry average level appeared to show that FOS and the SCT had overturned the same proportion of claims disputes as IDR, analysis on an insurer-by-insurer level was more revealing. Of the 15 insurers, 10 had overturned decision rates lower than those of FOS and the SCT.

234 However, five insurers had higher overturned decision rates than FOS and the SCT suggesting that IDR may not have been effective in identifying and approving valid claims for these insurers. In fact, three of these insurers had FOS and SCT overturned decision rates that were at least double their IDR overturned decision rates.

IDR outcomes

235 For claims-related disputes considered by insurers' IDR systems, our review found that, across the industry in relation to declined claims:

- (a) in an average of 24% of cases, life insurers' IDR systems overturned the original decision to decline a claim (this ranged between insurers from 2% to 60%; two insurers had overturned rates over 50% and another two had overturned rates below 10%); and
- (b) in an average of 46% of cases, life insurers' IDR systems upheld the original decision to decline a claim (this ranged between insurers from 0% to 89%).

236 Although we did not review the quality of decision making in the claims handling process, we encouraged insurers to consider the implications of relatively high or low overturned rates, possibly as indicators of the quality of both claims decision making and IDR. This will be an area for ASIC's further work.

237 Of the remaining claims-related disputes considered by insurers' IDR systems, 3% were withdrawn, 2% were paid by insurers as 'ex-gratia' payments, and 25% were yet to be determined, unspecified or 'other'. For two insurers, the undetermined IDR disputes were remarkably high at 83% and 87%. The reason why these insurers had such high proportion of undetermined claims-related disputes will need to be explored, as the data collected did not capture the nature of the dispute or the reasons for delay.

238 We also found that across the life insurance industry, there is a 2% likelihood that a claims-related issue will be dealt with through the insurer's

IDR system and a 0.9% chance that a dispute will be considered by FOS or the SCT. Generally these disputes relate primarily to a declined claim or an alleged delay in a claims assessment: see paragraph 173 of REP 498.

- 239 FOS has published data that shows that, compared to general insurance, life insurance disputes are 1.5 to 6 times less likely than general insurance disputes to be referred to FOS, on a per policy basis: see FOS, *Comparative tables 2014-2015*, Final report.

Multi-tiered IDR and IDR timeframes

- 240 Our review found that when a claim is declined, some insurers provide a formal mechanism for it to be reviewed in addition to the IDR system.
- 241 Such multi-tiered IDR systems are not necessarily an indication of ineffective IDR, but they can cause confusion for consumers about what should be a clear process for resolving disputes. That is, consumers should begin a dispute in IDR then lodge with FOS or the SCT if the dispute remains unresolved or has not been resolved in the consumer's favour. Multi-tiered IDR can also cause delay which we found to be the second most common category of claims handling disputes: see paragraphs 296–319 of REP 498.
- 242 Our guidance in RG 165 is that the 45-day timeframe for a decision on a dispute for insurance *other than* through superannuation funds, and 90 days for insurance through superannuation fund, should not be compromised by the use of multi-tiered IDR systems. In RG 165.123, we state that:
- We believe that complainants and disputants should have the same rights to access EDR whether or not the financial services provider ... they complain to uses a multi-tiered complaints or disputes procedure.
- 243 Irrespective of the levels of escalation that a dispute goes through, an insurer's IDR system should be able to provide a decision within the above timeframes and if no decision can be made, consumers are to be given information about their right to pursue the dispute in FOS or the SCT.
- 244 The effectiveness of IDR is closely related to IDR dispute timeframes. On this point, we note that the time limit of 90 days for superannuation trustee related disputes is set out in s101 of the SIS Act and was adopted in the recently released Life Insurance Code of Practice: see clauses 9.10 and 9.11 of the Code.
- 245 Although this extended timeframe may cater for the additional interaction of a superannuation trustee, we query whether there is scope for a best practice timeframe more closely aligned with the 45-day timeframe in RG 165, which applies to disputes about claims that are not related to superannuation.
- 246 In the superannuation context, there are prescribed rules around complaints handling, including rights for members to request or be given written reasons

for decisions. We are aware of some issues with trustees not providing written reasons for decisions on some occasions in relation to death benefit complaints. The provision of adequate written reasons and documents with adequate information greatly assists consumers with the decision about whether to pursue a matter through EDR.

Note: see ASIC's [Superannuation FAQ E1](#) on complaints handling.

Further work

247 Insurers with high rates of declined claims or disputes as identified from our data will be investigated as part of our follow-up work to REP 498. We also intend to collect and publish data on dispute resolution including IDR timeframes, number and proportion of certain claims outcomes in IDR.

Areas of reform

248 In REP 498, we recommend reforms to enable EDR bodies to better and more effectively consider issues of fairness: see paragraph 62.

249 We expect that the implementation of this recommendation would also be likely to have a flow-on effect and impact on IDR outcomes and processes.

250 We also refer to the recently published Interim Report of the Review of the financial system external dispute resolution and complaints framework.

251 Relevant to this submission, one of the terms of reference of the review is to consider the linkages between EDR and IDR procedures.

252 The Interim Report sets out the following findings:

- (a) Effective EDR is supported by effective IDR;
- (b) Data on IDR outcomes is limited and inconsistent, and this means that it is difficult to determine how effective internal dispute resolution currently is and whether it is improving over time; and
- (c) Tracking by EDR bodies of disputes referred back to IDR is an important element of the framework and could assist in encouraging firms to reach a solution or identify systemic issues in IDR.

Note: *Interim Report, Review of the financial system external dispute resolution and complaints framework*, The Treasury, Commonwealth of Australia, page 141,

253 To address these findings, the Interim Report sets out a draft recommendation for financial firms to be required to publish information and report to ASIC on their IDR activity and the outcomes consumers receive in relation to IDR complaints. It states that ASIC should have the power to determine the content and format of IDR activity.

- 254 The Interim Report identifies that the implementation of this recommendation would have the benefit of:
- (a) Enabling different firms' IDR activity to be compared, creating an additional incentive for firms to invest in IDR; and
 - (b) Providing evidence to ASIC that it can utilise in developing regulatory guidance in relation to IDR.
- 255 Additionally, we consider that reporting and publishing IDR outcomes would give consumers more transparency about their insurer's IDR procedures, including timing and possible outcomes.
- 256 This data will also enable ASIC to better target our surveillance work, by enabling us to monitor trends in IDR patterns, so we can then use our resources to examine high risk firms and areas across industry.
- 257 In terms of life insurance specifically, we note that we have already commenced work with APRA to collect and publish life insurance industry data. This will include data on dispute resolution including, among other things, insurers' IDR timeframes and the number and proportion of certain claims outcomes in IDR.

F The roles of ASIC and APRA in reform and oversight of the industry

Key points

ASIC and APRA both have important and complementary roles in the regulation of life insurance.

Life insurers and advisers are subject to a range of statutory obligations.

APRA and ASIC will collaborate to implement public reporting of claims data and outcomes about life insurance.

Our recent claims handling review identified limitations on ASIC's regulatory powers over claims handling. We have recommended the removal of the 'claims handling' exemption, among other reform recommendations.

The Government supports an enforceable Code for the life insurance industry. If ASIC is responsible for enforcing the Code, our regulatory coverage will need to increase to include the relevant legislation and the Code.

ASIC's regulatory coverage of the life insurance industry

258 ASIC and APRA have important and complementary roles in the regulation of life insurance.

259 Life insurers and advisers are subject to a range of statutory obligations regulated by ASIC such as:

- (a) the Corporations Act;
- (b) the ASIC Act;
- (c) the Insurance Contracts Act; and
- (d) the Life Insurance Act and the Life Insurance Regulations 1995.

260 A summary of this legislation as well as the SIS Act and Superannuation Industry (Supervision) Regulations 1994 (SIS Regulations) is set out in Appendix 2.

261 There are currently 29 life insurers authorised by APRA to conduct life insurance business in Australia, with most of them also holding an AFS licence issued by ASIC.

Note: Some life insurers may be exempted from holding an AFS licence (e.g. where all financial services are provided via an intermediary authorisation agreement). They are still subject to ASIC's regulatory oversight under the consumer protection provisions of the ASIC Act and are still authorised by APRA.

262 ASIC plays a key role in the oversight of the life insurance sector. Broadly, ASIC is responsible for licensing, conduct, product distribution, product

disclosure and marketing, and dispute resolution in the life insurance industry. Our regulatory role places us in an important position to provide insights into opportunities for policy reform to help improve outcomes for consumers.

263 It is also important to recognise that life insurance is often part of a wider set of financial services being offered or provided to a consumer; it may be offered with holistic financial advice, with a loan, or as part of superannuation. Incorporating the regulation of conduct in life insurance within the broader regulatory framework is therefore critical.

264 ASIC also has a direct and ongoing oversight role for approval of EDR schemes. These schemes provide a more accessible and cost-effective alternative to going to court where a dispute about a financial service (e.g. life insurance) cannot be resolved by the parties through the IDR system.

265 For reference, we note that individual disputes about life insurance claims (where life insurance is held under a superannuation group life policy) are handled by the SCT. Similarly, individual disputes about general insurance claims are handled by FOS.

APRA's regulatory coverage of the life insurance industry

266 APRA is established under the *Australian Prudential Regulation Authority Act 1998* (APRA Act). APRA is the prudential regulator of the Australian financial services industry, including life insurers and superannuation funds. APRA jointly administers the Life Insurance Act and the SIS Act with ASIC.

267 Appendix 2 summarises the legislation relating to life insurance that is administered by ASIC and APRA.

268 We understand that APRA will be making its own submission to this Inquiry, which will provide more detail on this point.

269 Together, APRA and ASIC will also implement the collection and public reporting of claims data and outcomes in the life insurance industry, which was a recommendation arising from REP 498: see paragraph 124. ASIC and APRA have already started working together to facilitate this process.

270 ASIC and APRA will also continue working together on ASIC's current investigation of CommInsure. As part of this process, ASIC and APRA release information to each other as required.

ASIC's recent reviews of the life insurance industry

- 271 Our recent reviews of the life insurance industry give examples of our oversight of the industry and how we identify areas for reform.

Claims handling

- 272 As outlined in paragraphs 45–46, in our recent review for REP 498 we found that cross-industry misconduct was not a concern; however, we identified some areas of concern in relation to declined claims rates and claim handling procedures for particular types of policies, insurers and consumer disputes.
- 273 In arriving at these findings, we also identified some limitations in ASIC's regulatory coverage. In particular, our capacity to address poor conduct in relation to claims handling is limited compared to our powers in other financial products and services areas: see paragraphs 101–106.
- 274 Following our review of claims handling, we have made recommendations to promote reform and transparency in the life insurance industry. We have recommended public reporting of claims data and outcomes, as well as a strengthening of the regulatory framework for claims handling and the consumer dispute resolution framework.
- 275 We have also indicated that reform in the life insurance industry should be supported by strengthening the Code. As noted in paragraphs 29–31, the Code has not currently been approved by ASIC. However, the Government has stated that it will consider giving ASIC the powers to enforce the Code.

Life insurance advisers

- 276 ASIC's review of retail advice in the life insurance industry identified a correlation between high upfront commissions and poor quality advice. This led to separate reviews by the industry as well as the Financial System Inquiry with follow-up work done by industry with the Government to produce the current proposed reforms that are underway.
- 277 We have used, and will continue to use, our statutory powers to obtain data from the industry to inform our monitoring and enforcement activities, as well as to inform our review of the reforms in 2021.

Appendix 1: ASIC's enforcement outcomes following REP 413

278 Table 2 sets out the enforcement outcomes we have achieved since the publication of REP 413.

Table 2: Enforcement outcomes since REP 413

Details	Reference
<p>We have imposed conditions on the licence of the Suncorp-owned business Guardian Advice following a surveillance that uncovered deficiencies in the advice provided to retail clients, including life insurance advice.</p> <p>Note: Guardianfp Limited ABN 40 003 677 334 AFSL & Australian Credit Licence No. 237641 (referred to as 'Guardian Advice'). Guardian Advice is an AFS licensee and an Australian credit licensee. Guardian Advice is a company in the Suncorp Group Limited ABN 66 145 290 124 and is a related body corporate of Suncorp-Metway Limited ABN 66 010 831 722 (Suncorp-Metway).</p>	<p>Media Release (15-003MR) ASIC imposes conditions on Guardian Advice licence (7 January 2015)</p>
<p>We have banned a financial adviser, Mr Brian Farber, for a period of four years following a review of his life insurance advice.</p>	<p>Media Release (15-178MR) ASIC bans life insurance financial adviser for 4 years (9 July 2015)</p>
<p>We have banned a financial adviser, Mr Lukas Zelka, for a period of three years following a review of his life insurance advice.</p>	<p>Media Release (15-269MR) ASIC bans life insurance financial adviser (24 September 2015)</p>
<p>We have accepted an enforceable undertaking from Mr Jason Churchill following a review of his life insurance advice.</p>	<p>Media Release (16-008MR) ASIC accepts enforceable undertaking from Queensland financial adviser (19 January 2016)</p>
<p>We have permanently banned a financial adviser, Mr Andrew Moroney, following a review of his life insurance advice.</p>	<p>Media Release (16-036MR) Former Guardian Advice insurance adviser permanently banned from financial services (16 February 2016)</p>
<p>We have accepted an enforceable undertaking from a financial adviser, Mr Michael Melamed, following a review of his life insurance advice.</p>	<p>Media Release (16-147MR) ASIC accepts enforceable undertaking from Victorian financial adviser to withdraw from financial services for three years (17 May 2016)</p>

Appendix 2: Regulatory framework

279 Table 3 summarises the legislation relating to life insurance that is administered by ASIC and APRA.

Table 3: Regulatory framework for life insurance in Australia

Legislation	Overview of requirements
Corporations Act: s764A, 766A, 912A, Pts 7.7, 7.7A and 7.9	<p>A life insurance product is a financial product. Insurers and advisers must hold an Australian financial services (AFS) licence, or be the representative of an AFS licensee, as they deal in a financial product (insurers) and provide financial product advice (advisers).</p> <p>AFS licensees must comply with various obligations under the Corporations Act and other financial services laws, including (but not limited to):</p> <ul style="list-style-type: none"> • the general obligations in s912A to: <ul style="list-style-type: none"> – provide financial services efficiently, honestly and fairly; – manage conflicts of interest; – ensure representatives are competent to provide financial services; – have an internal dispute resolution system and membership of an approved external dispute resolution system; and • the financial services disclosure obligations in Pt 7.7 if the licensee is the providing entity. <p>Part 7.7A introduced new conduct obligations for the provision of personal financial product advice to retail clients, such as the best interests duty and related obligations.</p> <p>Part 7.9 includes the product disclosure obligations.</p> <p>Under the Corporations Act, PDS disclosure and significant event notices for superannuation products are required to include information about insurance. Most superannuation products would have a shorter PDS (see Sch 10D).</p>
ASIC Act: s12CA, 12CB, 12DA and 12DB	<p>The consumer protection provisions in the ASIC Act operate to protect consumers from misleading and deceptive conduct or unconscionable conduct by AFS licensees and representatives in the provision of financial services. These provisions mirror the Australian Consumer Law in the <i>Competition and Consumer Act 2010</i>.</p>

Legislation	Overview of requirements
Insurance Contracts Act: s13, 14, 14A and 29	<p>ASIC is responsible for the general administration of the Insurance Contracts Act, which regulates the content and operation of insurance contracts. It creates an implied contractual term that requires both the insurer and the policyholder to act towards the other, in respect of any matter arising under or in relation to the contract, with the utmost good faith. If reliance on a contractual provision by either the insurer or a policyholder would involve a failure to act with utmost good faith, the party cannot rely on that provision.</p> <p>The Insurance Contracts Act also sets out what consumers must do when applying for an insurance policy, including their duty to disclose to the insurer all relevant information about the risks the insurer is accepting. Section 29(3) allows an insurer to avoid a policy within the first three years where the policyholder fails to comply with their duty of disclosure even if the failure was not fraudulent. If the failure or misrepresentation was fraudulent, the contract can be avoided at any time.</p> <p>The <i>Insurance Contracts Amendment Act 2013</i> amended the remedies available for insurers under s29 in cases of non-fraudulent non-disclosure, so the insurer can, instead of avoiding the contract, alter the sum insured (s29(4) and (10)) or retrospectively vary the contract in such a way as to place the insurer in the position it would have been in if the non-disclosure or misrepresentation had not occurred: (s29(6), (7), (8) and (9)).</p>
Life Insurance Act: s17(1), 16U, 180, 195, Pt 10 other than s206–210.	<p>APRA supervises life insurers under the Life Insurance Act and the Life Insurance Regulations 1995. The Act prohibits a person from issuing or undertaking liability under a life insurance product or 'life policy' unless they are a life company registered by APRA under s21 or a friendly society.</p> <p>The Life Insurance Act gives ASIC specific administrative responsibilities for life insurance policies including their issuance, payment of policy money, unclaimed money and lost or destroyed policies. It also ensures that ASIC is made aware of certain significant events such as the transfer and amalgamation of life insurance business and winding up.</p> <p>ASIC also has specific remedies including the power to apply for a court injunction to restrain conduct. ASIC's administrative powers include reviewing and requiring production from a life insurance company of proposal and policy forms. ASIC has the power to require life insurance companies to provide us with a statement about unclaimed money held in retirement savings accounts and first home saver accounts.</p>
SIS Act: s52(7), 68AA, 101 SIS Regulations: regs 1.03C and 4.07D	<p>The insurance covenants in s52(7) of the SIS Act require the trustee to formulate an insurance strategy for the benefit of beneficiaries. This provision also requires a trustee to consider the cost to beneficiaries of insurance cover and only offer cover that does not inappropriately erode retirement benefits (s52(7)(c), and to do everything that is reasonable to pursue an insurance claim for a beneficiary if the claim has a reasonable prospect of success (s52(7)(d)).</p> <p>Also relevant is s68AA of the SIS Act, which requires MySuper members to generally be offered, on an opt-out basis, life and TPD cover.</p> <p>Further, s101 of the SIS Act requires trustees to establish arrangements for dealing with inquiries or complaints. In addition, SIS Regulations may have an impact on benefit design, particularly for TPD definitions</p>

Key terms

Term	Meaning in this document
2021 ASIC review	A review of the life insurance industry that the Government has asked ASIC to undertake in 2021 to establish whether the reforms have improved industry practice and consumer outcomes
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A.
APRA	Australian Prudential Regulation Authority
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
claims handling review	A review we are currently undertaking to determine whether there is evidence that there are systemic problems with claims handling across the life insurance industry
CommInsure	Colonial Mutual Life Assurance Society Limited
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
CP 245 (for example)	An ASIC consultation paper (in this example numbered 245)
direct or non-advised insurance	Insurance where, during the sale of the policy, personal advice is not provided, but general advice or factual information may be
EDR	External dispute resolution
EDR review	A review of the EDR and complaints framework in the financial services sector established by the Government in May 2016
FOFA	Future of Financial Advice
FOS	Financial Ombudsman Service
FSC	Financial Services Council
FSI	Financial System Inquiry

Term	Meaning in this document
IDR	Internal dispute resolution
Insurance Contracts Act	<i>Insurance Contracts Act 1984</i>
Life Insurance Act	<i>Life Insurance Act 1995</i>
legacy product	An insurance product held by a policyholder which is no longer sold by the insurer, but is still in force
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
PDS	Product Disclosure Statement
Product Disclosure Statement	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
reg 7.1.33 (for example)	A regulation of the Corporations Regulations (in this example numbered 7.1.33), unless otherwise specified
REP 470 (for example)	An ASIC report (in this example numbered 470)
RG 183 (for example)	An ASIC regulatory guide (in this example numbered 183)
s1101A (for example)	A section of the Corporations Act (in this example numbered 1101A), unless otherwise specified
SCT	Superannuation Complaints Tribunal, established under the SRC Act
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>
SIS Regulations	Superannuation Industry (Supervision) Regulations 1994
SOA	Statement of Advice
SOA review	A review of SOAs issued by life insurance advisers that the Government has asked ASIC to undertake in the second half of 2016
Statement of Advice	A document that must be given to a retail client for the provision of personal advice under Subdivs C and D of Div 3 of Pt 7.7 of the Corporations Act Note: See s761A for the exact definition.
SRC Act	<i>Superannuation (Resolution of Complaints) Act 1993</i>
Trowbridge report	J. Trowbridge, <i>Review of retail life insurance advice: Final report</i> , FSC, 26 March 2015