



HERBERT
SMITH
FREEHILLS

Financial Services Council

**Application for interim and final
authorisation under s88(1) of the
*Competition and Consumer Act
2010 (Cth)***

Lodged by:

Financial Services Council (FSC)

on behalf of its Member Life Insurance Companies

6 April 2020



1 Application for authorisation

This application is made to the Australian Competition and Consumer Commission (**ACCC**) by the Financial Services Council (**FSC**), on behalf of its member life insurance companies (**Member Life Insurance Companies**).

Given the broad, varied and rapidly evolving impact of COVID-19 and the FSC, on behalf of its Member Life Insurance Companies, is seeking authorisation from the ACCC to enable the Member Life Insurance Companies to discuss, agree and give effect to a commitment that has the purpose of assisting and supporting Australian frontline healthcare workers that may be adversely impacted by the outbreak of COVID-19 for a period of 12 months from the grant of final authorisation.

Whilst the FSC considers that there are strong grounds to conclude that relevant commitments do not give rise to any contravention of the *Competition and Consumer Act 2010*; nevertheless, the FSC is seeking authorisation on the basis that the implementation of the proposed conduct, absent authorisation, may give rise to a contravention of sections 45AF, 45AG, 45AJ, 45AK and/or 45 of the *Competition and Consumer Act 2010*.

In light of the rapidly evolving crisis associated with COVID-19, the FSC also seeks interim authorisation for the period until the ACCC has granted final authorisation to enable Member Life Insurance Companies to develop, agree and give effect to the proposed commitment.

2 The Applicants

2.1 FSC

The FSC is a leading peak body which sets mandatory standards and develops policy for its member companies in Australia's financial service industry. The FSC's full member companies (**Member Companies**) represent Australia's retail and wholesale funds management businesses, superannuation funds, life insurers and financial advisory networks, amongst others. The FSC advocates on behalf of its Member Companies for policy outcomes which enable the sector to deliver innovative, flexible and consumer-focused products and services.

2.2 FSC member life insurance companies seeking authorisation

The FSC seeks authorisation on behalf of its Member Life Insurance Companies (together, the **Applicants**).

Each Member Life Insurance Company is listed in **Annexure 1**. The FSC also seeks authorisation on behalf of any life insurance companies that become FSC members in the future.

The FSC has applied for authorisation on behalf of all of its Member Life Insurance Companies to allow them to engage in the proposed conduct if, and when, they elect to do so. The implementation of any Proposed Conduct will not be mandatory for any Member Life Insurance Company and Member Life Insurance Companies can opt in or out of the Commitment at any point during the period of the authorisation.



Each Member Life Insurance Company that has currently indicated an intention to agree to the Commitment is listed in confidential **Annexure 2**. The FSC will notify the ACCC of any life insurance companies who choose to opt into the Commitment.

3 Proposed conduct to be authorised

3.1 Description of conduct to be authorised

The FSC and Member Life Insurance Companies anticipate that the rapidly evolving impact of COVID-19 will have an impact on customers and in particular frontline healthcare workers. Frontline healthcare workers may seek to consider their insurance options in light of the pandemic.

The FSC, on behalf of Member Life Insurance Companies, therefore seeks authorisation to implement a commitment that has the purpose of assisting and supporting Australian frontline healthcare workers.

This commitment will ensure that frontline healthcare workers are not prevented from obtaining life insurance cover purely through exposure, or potential exposure, to COVID-19. The commitment is given in respect of new policies. Healthcare workers as well as other consumers will continue to obtain all existing benefits under current policies.

Under this commitment, for relevant healthcare workers, exposure or potential exposure to COVID-19 will not of itself be used to:

- a) decline an application for cover; or
- b) charge a higher premium; or
- c) apply a COVID-19 pandemic risk exclusion to any of the benefits offered.

(the **Proposed Conduct**).

It is proposed that the Proposed Conduct is subject to the following conditions:

- The agreement applies to new underwritten applications for individual life insurance benefits up to the financial limits below for relevant healthcare workers.
- The normal underwriting process and rules will apply to individuals for health conditions unrelated to COVID-19.
- Applicants who have tested positive for COVID-19, or who are waiting for a test result, will not be immediately eligible for cover.

Relevant healthcare workers will include, but will not be limited to, all the following people working in any capacity in Australia, in any of the following:

- Doctors, nurses and all hospital workers;
- Ambulance workers and paramedics;
- People working at a GP Surgery or Clinic;
- Workers at a COVID-19 testing site;
- People providing mental healthcare services;
- Workers developing a COVID-19 vaccine or treatment;
- Pharmacists;
- Police;



- Age Care workers;
- Volunteers helping to support people with COVID-19.

The Proposed Conduct applies to the total amounts of cover the applicant would have, including both the cover being applied for any existing individual and group insurance cover with all life insurers in aggregate, up to the following amounts:

- \$750,000 of lump sum death cover.
- \$500,000 of total permanent disability cover (**TPD**).
- \$200,000 of trauma and/or critical illness cover.
- \$4,000 a month in total of any combination of income protection, salary continuance or business expenses cover.

It is important to note that nothing in this commitment prevents any Member Life Insurance Company from providing additional coverage in excess of the above.

3.2 Duration of authorisation

The FSC proposes that the commitment starts on the date of ACCC authorisation and continue until at least 1 July 2020.

However, the FSC seeks authorisation for the Proposed Conduct for a period of 12 months from the date of which authorisation is granted, to avoid the need to further engage with the ACCC on 1 July 2020 if an extension is required.

This period reflects the uncertainty of the duration of the current crisis, and its impact on Australian customers.

We note that the ACCC could under section 91B of the CCA revoke the authorisation should there be a material changes in circumstances (e.g. the effects of the pandemic subside).

3.3 Interim authorisation

The FSC also applies for interim authorisation for the period up until the ACCC has granted final authorisation. Interim authorisation will allow FSC Members and the FSC to immediately implement the commitment which will provide assurances to healthcare workers regarding the availability of cover in circumstances where they are taking on increased risk for the benefit of the broader community

4 Significant public benefits

The COVID-19 pandemic has increased the demand for healthcare workers and the relevant risks taken by such workers in exercising their duties. Experience overseas, which the FSC hopes is not replicated in Australia, suggests that such workers are at a greater risk for COVID-19 illnesses.

In this context, the FSC and its Member Life Insurance Companies want to ensure that frontline healthcare workers will continue to be able to access life insurance products and not face increased premiums, despite their increased risk of exposure to COVID-19.

The FSC and Member Life Insurance Companies consider that the Commitment recognises the invaluable services provided by such workers on behalf of the broader community and provides direct support to such health workers both by providing



assurances that insurance will be available and support to families and beneficiaries should the insurance be required.

Adopting an industry approach to the Commitment through the FSC allows for consistent messaging and communication to consumers, which provides a public benefit by alleviating consumer concerns.

An industry Commitment also increases the availability of offers to relevant members of the public. The Commitment increases the likelihood of relevant offers being made available. By encouraging and facilitating material levels of adoption of the Commitment no individual insurers risk profile is likely to be materially affected by the adoption of the Commitment.

The FSC submits that the Proposed Conduct is manifestly in the public interest.

5 The public benefits outweigh any competitive detriments

The FSC and Member Insurance Companies submit that there are no anti-competitive detriments associated with the Proposed Conduct because:

- The Proposed Conduct is not of a restrictive nature as it does not limit the supply of life insurance products to particular people but rather provides life insurance coverage which might not otherwise be available.
- The Proposed Conduct also does not relate to pricing or place any limitation on the price that life insurers can charge for their products (other than in the context of any particular offer a healthcare worker does not face additional premiums by reason of potentially increased exposure to COVID-19).
- There is nothing in the Proposed Conduct that prevents a Member Life Insurance Company from providing additional coverage in excess of the commitment set out above.
- All Member Life Insurance Companies will have the opportunity to participate in the Proposed Conduct if, and when, and to the extent they elect to do so.

6 Conclusion

For the reasons set out above, the FSC applies for:

- Authorisation of the Proposed Conduct for a period of 12 months from the date on which authorisation is granted.
- Interim authorisation, until the final authorisation comes into effect.



Annexure 1 – Member Life Insurance Companies

AIA Australia Limited
Allianz Australia Life Insurance Limited
AMP Life Limited
Asteron Life & Superannuation Limited
ClearView Life Assurance Limited
EMLife Pty Ltd
General Reinsurance Life Australia Ltd
Hallmark Life Insurance Company Ltd (part of the Latitude Financial Services Group)
Hannover Life Re of Australasia Ltd
HCF Life Insurance Company Pty Ltd
Integrity Life Australia Limited
MetLife Insurance Limited
MLC Limited
Munich Reinsurance Company of Australasia Limited
NobleOak Life Limited
OnePath Life Limited (a company of Zurich Australia Limited)
Pacific Life Re (Australia) Pty Ltd
QInsure Limited
RGA Reinsurance Company of Australia Limited
SCOR Global Life Australia Pty Ltd
St Andrew's Life Insurance Pty Ltd
St George Life Limited
Swiss Re Life & Health Australia Limited
TAL Life Limited
The Colonial Mutual Life Assurance Society Limited (trading as CommInsure)
Westpac Life Insurance Services Limited
Zurich Australia Limited



Confidential Annexure 2 – Member Life Insurance Companies
who have indicated that they will adopt the Commitment

[CONFIDENTIAL]

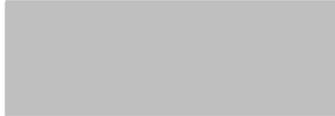


Declaration by applicant

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Paul Callaghan

General Counsel, Financial Services Council

This 6th day of April 2020