



**Australian
Competition &
Consumer
Commission**

Our Ref: C2005/1672
Contact Officer: Shashi Sivayoganathan
Contact Phone: (03) 9290 1832

GPO Box 520
Melbourne VIC 3001

Level 35 The Tower
360 Elizabeth Street
Melbourne VIC 3000

ph (03) 9290 1800
fax (03) 9663 3699

www.accc.gov.au

8 November 2005

Dear

Request for interim authorisation - Application for revocation and substitution of Authorisations (A90986 & A90989) lodged by the Investment & Financial Services Association ("IFSA")

The Australian Competition and Consumer Commission ("the ACCC") has considered the request for interim authorisation in relation to the above applications for revocation and substitution of authorisations lodged by IFSA on 4 October 2005.

Interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Trade Practices Act 1974* while the ACCC considers and evaluates the merits of the application.

Based on the information provided and the submissions received from interested parties, the ACCC has decided to grant interim authorisation for Clause 10.1 and 10.3 of IFSA Standard No 11.00 ("the Standard"), until the ACCC issues a determination in this matter (unless circumstances warrant revocation or amendment of the interim authorisation at an earlier stage).

Clause 10.1 and 10.3 of the Standard provide for an agreement between IFSA members that they will not require applicants for life insurance to undergo genetic tests and will not induce applicants to undergo such testing by offering insurance at a lower than standard insurance premium.

In assessing the request for interim authorisation the ACCC considered that:

- the conduct has been occurring for an extended period of time, and granting interim authorisation will merely maintain the status quo
- denial of interim authorisations may cause market place disruptions and changes in the dynamics of the market
- denial of interim authorisation may unfairly disadvantage individuals who are coerced into obtaining genetic tests in the interim period, if authorisation were later to be



granted to the conduct. This could occur if the denial of interim authorisation results in IFSA members changing their policy regarding genetic testing.

You should be aware that the ACCC's decision in relation to interim authorisation should not be taken as an indication that the ACCC would make a similar decision in its final determination.

Next steps

The next step in the process is for the ACCC to release a draft determination which will take into account any submissions from IFSA and interested parties and will indicate the ACCC's preliminary views on the merits of the application. The ACCC will provide both IFSA and interested parties with the opportunity to provide a further submission on the draft determination before the ACCC issues its final decision.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Shashi Sivayoganathan on (03) 9290 1832.

Yours



h Scott Gregson
General Manager
Adjudication Branch

	Name	Company
1	Ms Michelle Kosky Executive Director	Health Consumers Council
2	Ms Susan Wareham Manager of Marketing and Planning	Australian Medical Research
3	Dr William Glasson President	Australian Medical Association
4	Mr Donn Corcoran	Department of Health and Ageing
5	Ms Megan Mitchell Director	Australian Council of Social Service
6	Ms Alison So Policy Officer	Australian Consumers Association
7	Mr Gerard Thomas	Combined Pensioners & Superannuants Association of NSW
8	Mr Chris Connolly Chairman	Financial Services Consumer Policy Centre
9	Ms Sally Crossing	Breast Cancer Action Group
10	Ms Helen Martin President	Institute of Actuaries of Australia
11	Director	Murdoch Children's Research Institute Royal Children's Hospital
12	Mr Vince Caruso	Royal College of

	Name	Company
	President	Pathologists Australasia
13	Director	John Curtin School of Medical Research Australian National University
14	Dr David Turner Department of Haematology and Genetic Pathology	School of Medicine Flinders University
15	Dr Kerry Breen	Australian Health Ethics Committee
16	Ms Sylvie Garner	Office of the Federal Privacy Commissioner
17	Professor Jennifer Blackwell	Human Genetic Society of Australasia
18	Prof Margaret Otlowski Department of Law	University of Tasmania
19	Ms Helen Hopkins Executive Director	Consumer Health Forum of Australia
20	Ms Linda Hornsey Secretary	Department of Premier and Cabinet
21	Dr John Carnie Director Disease Control and Research	Department of Human Services
22	Ms Robyn Kruk Director General	NSW Department of Health

	Name	Company
23	Dr Robert Stable Director General	Queensland Health 19 th Floor, Queensland Health Building
24	Mr John Ramsay Secretary	Department of Health and Human Services
25	Mr Jim Birch Chief Executive	Department of Human Services
26	Mr Mike Daube Director General	Health Department of Western Australia
27	Mr Robert Griew CEO	Territory Health Services
28	Ms Penny Gregory Chief Executive Officer	ACT Department of Health, Housing and Community Care
29	Professor Allan Pettigrew Chief Executive Officer	National Health and Medical Research Council
30	Mr Vincent Green-Gibson Manager, Member Services	Insurance Council of Australia
31	The Secretary	Australian Privacy Charter Council Faculty of Law University of NSW
32	Ms Janine Ward Assistant Secretary	Attorney General's Department
33	Mr Graeme Innes Deputy Disability Discrimination Commissioner	Human Rights and Equal Opportunity Commission

	Name	Company
34	Prof David Weisbrot President	Australian Law Reform Commission
35	Dr Kristine Barlow-Stewart Director	The Centre for Genetics Education
36	Ms Jennifer Blackwell Executive Officer	NSW Department of Health Genetics Service
37	Dr Matthew Edwards Clinical Genetics	Hunter Genetics
38	Ms Kerrie Kelly Chief Executive	Financial Planning Association of Australia Limited
39	Ms Robyn Kapp Executive Officer	Australian Huntington's Disease Assoc (NSW)
40	Dr Simon Longstaff Director	The St James Ethics Centre
41	Mr Michael Rawstrom General Manager Corporations and Financial Services Division General Manager Financial Institutions Division	Department of Treasury
42	Ms Jennifer O'Donnell Deputy Executive Director	Australian Securities and Investments Commission
43	Dr Steve Hambleton President	AMAQ
44	Ms Sharon Van-der Lann Executive Director	Genetic Support Council WA

	Name	Company
		(Inc)
45	Associate Professor Judy Kirk Clinical Associate Professor	Westmead Health
46	Ms Karen Cox Manager	Consumer Credit Legal Centre (NSW) Inc
47	Ms Su Mahalingham Coordinator	Consumer Credit Legal Service (WA)
48	Ms Carolyn Bond Coordinator	Consumers Federation of Australia C/- Consumer Credit Legal Service Victoria
49	Ms Heather Neilson	Financial and Consumer Rights Council
50	Mr John Laker Chairman	APRA
51	Senator Natasha Stott Despoja Democrats Senator for South Australia	Australian Democrats
52	Mr Rod Shaw	Biotechnology Australia
53	Brenda Masters	Centre for Law and Genetics
54	Managing Director	PrefSure Life Limited

	Name	Company
55	Managing Director	AXA Health Insurance
56	Mr Keith Scott Chief Operating Officer	Swiss Re Australia limited

	c/o Vicki Toppinen Chief Executive Officer	Ms Toppinen	AMP Life Limited Level 24, 33 Alfred Street SYDNEY 2000 NSW
--	---	-------------	---