



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2005/1672-02  
Contact Officer: Nadia Cooke  
Contact Phone: (03) 9290 1478

8 March 2006

«Name»  
«Address1»

Dear «Sal»

**Re: Investment & Financial Services Association Ltd (IFSA)  
applications for revocation and substitution of authorisations - final determination**

The Australian Competition and Consumer Commission (ACCC) has issued a determination granting re-authorisation in respect of the applications for revocation and substitution of authorisation lodged by IFSA on 4 October 2005.

IFSA sought re-authorisation for clauses 10.1 and 10.3 of its Standard No. 11.00, Genetic Testing Policy (Genetic Testing Policy). The clauses provide for an agreement between IFSA members that they will not require applicants for life insurance to undergo any genetic testing and will not induce applicants to undergo such testing by offering individuals insurance at a lower than standard rate of favourable genetic test results.

*Summary of ACCC considerations*

Having considered the application and submissions from IFSA and interested parties, the ACCC has decided to grant authorisation for five years.

The ACCC considers that some anti-competitive detriment is likely to result from clauses 10.1 and 10.3 of IFSA's Genetic Testing Policy as life insurers are prevented from giving preferential treatment or preferred rates to consumers with favourable genetic test results. The clauses mean that individuals with a good genetic profile are unable to obtain lower premiums based on their genetic disposition. Overall, this may result in slightly higher premium rates, due to a lack of differentiation, than might otherwise be the case.

However, the ACCC also considers that clauses 10.1 and 10.3 are likely to continue to result in a benefit to the public as they prevent insurers from coercing applicants for life insurance to undergo genetic testing. Further, the ACCC is of the view that there is a public benefit in maintaining the status quo with regard to the use of genetic testing in insurance to allow time



for the newly established Human Genetics Advisory Committee to consider associated issues and make any recommendations in this regard.

On balance, the ACCC considers that IFSA's arrangements are likely to result in a public benefit that will outweigh any public detriment. Therefore, the ACCC has decided to grant authorisations A90986 and A90989 to IFSA and its members in respect of clauses 10.1 and 10.3 of IFSA's Genetic Testing Policy for five years. The ACCC considers it appropriate that, in the event of significant changes to the environment in which life insurers operate, including the passage of legislation and/or legislative amendments that have a material effect on the use of genetic information in insurance, the authorisations should be reviewed at that time.

A copy of the determination is available on the ACCC's website <[www.accc.gov.au](http://www.accc.gov.au)> by following the links 'Mergers and authorising anti-competitive conduct', 'Authorisations' and 'General authorisations list'.


*Application for review*

Pursuant to section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for a review of the determination. An application for review must be made within 21 days of the date of this determination; that is, on or before 29 March 2006. If no application to review is lodged by this date, the ACCC's determination will come into force on 30 March 2006.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter or would like a copy of the determination sent to you, please do not hesitate to contact Nadia Cooke on (03) 9290 1478.

Yours sincerely



 Gavin Jones  
Director  
Adjudication Branch

### **Interested party**

Health Consumers Council  
Australian Medical Research  
Australian Council of Social Service  
Combined Pensioners & Superannuants Association of NSW Incorporated  
Financial Services Consumer Policy Centre  
Institute of Actuaries of Australia  
Murdoch Children's Research Institute  
John Curtin School of Medical Research  
School of Medicine, Flinders University  
Cancer Voices NSW  
Consumer Health Forum of Australia  
Department of Premier and Cabinet  
Queensland Health  
Department of Health and Human Services, Tasmania  
Department of Human Services, South Australia  
Territory Health Services, Northern Territory  
ACT Health  
Human Rights and Equal Opportunity Commission  
The Centre for Genetics Education  
NSW Department of Health Genetics Service  
Hunter Genetics  
Financial Planning Association of Australia Limited  
Australian Huntington's Disease Assoc (NSW)  
The St James Ethics Centre  
Department of Treasury  
Australian Securities and Investments Commission  
AMAQ  
Genetic Support Council WA (Inc)  
Westmead Health  
Consumer Credit Legal Centre (NSW) Inc  
Consumer Credit Legal Service (WA)  
Consumers Federation of Australia C/- Consumer Credit Legal Service Victoria  
Senator Natasha Stott Despoja  
Biotechnology Australia  
Centre for Law and Genetics, University of Melbourne  
PrefSure Life Limited  
AXA Health Insurance  
Swiss Re Australia limited  
AMP Life Limited  
Australian Medical Association  
Department of Health and Ageing  
Australian Consumers Association  
Breast Cancer Action Group  
Royal College of Pathologists Australasia  
Human Genetics Society of Australasia  
Department of Human Services, Victoria  
NSW Department of Health

**Interested party**

WA Department of Health  
Insurance Council of Australia  
Attorney General's Department  
Austrian Prudential Regulation Authority  
South Australian Department of Health