

## Form G

Commonwealth of Australia  
*Competition and Consumer Act 2010 — subsection 93 (1)*  
**NOTIFICATION OF EXCLUSIVE DEALING**

To the Australian Competition and Consumer Commission:

Notice is hereby given, in accordance with subsection 93 (1) of the *Competition and Consumer Act 2010*, of particulars of conduct or of proposed conduct of a kind referred to subsections 47 (2), (3), (4), (5), (6), (7), (8) or (9) of that Act in which the person giving notice engages or proposes to engage.

PLEASE FOLLOW DIRECTIONS ON BACK OF THIS FORM

### 1. Applicant

- (a) Name of person giving notice:  
*(Refer to direction 2)*

N97419

**Automotive Financial Services Pty Limited** (ABN 73 003 622 375) (AFS).

- (b) Short description of business carried on by that person:  
*(Refer to direction 3)*

AFS provides financing and leasing products in relation to the purchase or lease of motor vehicles, motorcycles, marine vessels, caravans and motorhomes (**Vehicles**) to both personal and business customers. This can include finance for the cost of acquiring certain related insurance products, which relevantly include:

- (i) comprehensive Vehicle insurance;
  - (ii) consumer credit insurance;
  - (iii) security shortfall insurance; and
  - (iv) mechanical breakdown insurance.
- (c) Address in Australia for service of documents on that person:

Mr Michael Corrigan  
Partner  
Clayton Utz  
Level 15, 1 Bligh Street  
Sydney NSW 2000

### 2. Notified arrangement

- (a) Description of the goods or services in relation to the supply or acquisition of which this notice relates:

As part of finance provided for the purchase or lease of Vehicles, supply of financing for the costs of certain related insurance products by AFS.

(b) Description of the conduct or proposed conduct:

AFS's related body corporate, **Australian Insurance Corporation** (ABN 14 082 812 619) (**AIC**) markets, distributes and administers certain insurance programs for insurance products that may be acquired in connection with the purchase or lease of Vehicles. The insurance policies are issued by The Hollard Insurance Company Pty Ltd (ABN 78 090 584 473) (**Hollard**).

AFS provides finance for certain insurance products (as part of a broader finance or lease facility in respect of a Vehicle) being consumer credit insurance, security shortfall insurance and mechanical breakdown insurance products.

AFS proposes to limit its finance offering in this respect to insurance policies that are issued by Hollard and marketed, distributed and administered by AFS's related body corporate, AIC.

The proposed conduct outlined above may constitute conduct amounting to exclusive dealing of the kind prohibited by sections 47(6) and/or 47(7) of the *Competition and Consumer Act 2010* (Cth) in that AFS will only supply, or offer to supply, finance to a consumer for the costs of consumer credit insurance, security shortfall insurance or mechanical breakdown insurance products, **if** the consumer acquires the products from Hollard via AIC. Also, AFS may refuse to supply financing for these types of insurance products for the reason that the customer has not acquired or has not agreed to acquire, the products from Hollard, distributed via AIC.

AFS will continue to finance Vehicles where the borrower chooses not to seek finance for the costs of these types of insurance products as part of the relevant loan or lease. That is, customers may always obtain such products from their own funds or by obtaining finance from other financiers. Additionally, AFS will continue to provide finance for comprehensive Vehicle insurance without restriction. Additionally, AFS does not offer finance for the acquisition of the relevant insurance products on a stand-alone basis; only as part of a finance or lease product of AFS in respect of a Vehicle.

*(Refer to direction 4)*

**3. Persons, or classes of persons, affected or likely to be affected by the notified conduct**

(a) Class or classes of persons to which the conduct relates:  
*(Refer to direction 5)*

Persons who acquire finance for consumer credit insurance or security shortfall insurance products as part of a loan or lease provided by AFS.

(b) Number of those persons:

(i) At present time:

Greater than 50.

(ii) Estimated within the next year:  
*(Refer to direction 6)*

Greater than 50.

- (c) Where number of persons stated in item 3 (b) (i) is less than 50, their names and addresses:

Not applicable.

#### 4. **Public benefit claims**

- (a) Arguments in support of notification:  
(Refer to direction 7)

The proposed conduct will be of benefit to the public because it provides consumers with the opportunity to obtain higher quality products, as compared to the market generally, backed by a reputable established insurer, Hollard, and to access high levels of customer service and support from AIC in relation to those products.

- (b) Facts and evidence relied upon in support of these claims:

AFS is concerned to ensure that the consumer credit insurance, security shortfall insurance and mechanical breakdown insurance products that it finances under its loan and leasing products are high quality products provided by a reputable insurer of appropriate financial standing. Additionally, AFS wishes to ensure that its finance customers obtain appropriate customer service and support in respect to their insurance products and has confidence that its related body corporate, AIC is able to provide such customer services and support. AFS has confidence that the customers will obtain high quality consumer credit insurance, security shortfall insurance and mechanical breakdown insurance from Hollard, as administered and managed by AFS's related body corporate, AIC.

Hollard is an established insurer of significant financial standing. Hollard has been in operation for over 30 years and is a global insurer with businesses throughout Africa as well as Europe, India, China, the United States and Australia. Hollard employees over 2,740 employees and has around 7.2 million policy holders worldwide. Hollard's business in Australia was established in 1999. Hollard has over 800 employees in Australia and over 700,000 customers.

AFS notes that:

- (i) AFS will continue to offer finance for Vehicles and for related comprehensive vehicle insurance, without any restriction as to the insurer for the comprehensive vehicle insurance;
- (ii) customers are able to pay the premiums for any consumer credit insurance, security shortfall insurance or mechanical breakdown insurance products they wish to take out from their own funds or to obtain finance separately for those policies;
- (iii) there is no requirement for customers to obtain consumer credit insurance, security shortfall insurance products or mechanical breakdown insurance products;
- (iv) consumers will continue to have a wide variety of choice available to them for financing the costs of these insurance products.

AFS notes that:

- A. AFS's offer of finance for the relevant products is only available where the customer is also obtaining finance for a Vehicle;
- B. there are a significant number of effective competitors for the supply of financing for Vehicles and related insurance products, including ANZ Bank (trading as Esanda), St George Bank, Commonwealth Bank of Australia, Bank of Queensland, Macquarie Leasing Pty Ltd and a range of vehicle manufacturing financing companies, including Toyota Finance Australia, BMW Australia Finance, Volkswagen Financial Services Australia;
- C. the distributors who introduce business to these finance companies (which include motor dealerships and finance brokers) will typically have access to multiple financiers, meaning that there will generally be a number of financing options for the Vehicle and related insurance at any particular distributor, meaning that consumers can readily access alternative offers that extend to financing insurance products offered by other insurers; and
- D. the market for the supply of financing for Vehicles and related insurance products is characterised by strong and vigorous competition.

AFS believes that the benefits from the proposed conduct outlined above will outweigh any possible detriment considered to arise from the conduct.

## 5. Market definition

Provide a description of the market(s) in which the goods or services described at 2 (a) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions): *(Refer to direction 8)*

AFS submits that the markets primarily relevant to the assessment of the notification are:

- (a) the national market for the supply of retail finance, including financing for Vehicles and associated insurance products; and
- (b) the national market for the supply of consumer credit insurance, security shortfall insurance and mechanical breakdown insurance.

Each of the markets set out above are highly competitive, which enables consumers to make choices based on the price, quality and availability of the products and services offered. At any given time, in each of the product categories listed above, there are a large number of competitive suppliers of substitutable products.

**6. Public detriments**

- (a) Detriments to the public resulting or likely to result from the notification, in particular the likely effect of the notified conduct on the prices of the goods or services described at 2 (a) above and the prices of goods or services in other affected markets:  
*(Refer to direction 9)*

AFS does not consider there to be any public detriments arising from the conduct. Any offer of insurance finance made by AFS to a customer will be just one of a range of offers available from various competitors from which the customer will have the opportunity to choose. The customer may take finance for the Vehicle acquisition or lease from AFS without also being required to take any finance for insurance products and without being required to acquire any insurance products at all, including insurance products from Hollard.

- (b) Facts and evidence relevant to these detriments:

There is no obligation on a customer to choose AFS or Hollard when obtaining financing for Vehicle insurance. AFS's offer will be one of many in a competitive market that the customer may choose from. It is at the customer's ultimate discretion as to whether they enter into a contract with AFS to obtain Vehicle financing or financing for Vehicle insurance with AFS or Hollard or with one of many competitors. The proposed conduct does not fetter the consumer's ultimate discretion in this regard in any way.

**7. Further information**

- (a) Name, postal address and contact telephone details of the person authorised to provide additional information in relation to this notification:

Michael Corrigan  
Clayton Utz  
Level 15  
1 Bligh Street  
SYDNEY NSW 2000  
Tel: (02) 9353 4000

Dated..... 21 May 2014 .....

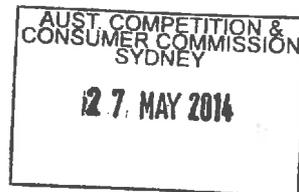
Signed by/on behalf of the applicant

.....  
(Signature)

MICHAEL THOMAS CORRIGAN  
.....  
(Full Name)

CLAYTON UTZ  
.....  
(Organisation)

PARTNER  
.....  
(Position in Organisation)



## DIRECTIONS

1. In lodging this form, applicants must include all information, including supporting evidence that they wish the Commission to take into account in assessing their notification.

Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.

2. If the notice is given by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the notice, and the notice is to be signed by a person authorised by the corporation to do so.
3. Describe that part of the business of the person giving the notice in the course of which the conduct is engaged in.
4. If particulars of a condition or of a reason of the type referred to in section 47 of the *Competition and Consumer Act 2010* have been reduced in whole or in part to writing, a copy of the writing is to be provided with the notice.
5. Describe the business or consumers likely to be affected by the conduct.
6. State an estimate of the highest number of persons with whom the entity giving the notice is likely to deal in the course of engaging in the conduct at any time during the next year.
7. Provide details of those public benefits claimed to result or to be likely to result from the proposed conduct including quantification of those benefits where possible.
8. Provide details of the market(s) likely to be affected by the notified conduct, in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the notification.
9. Provide details of the detriments to the public which may result from the proposed conduct including quantification of those detriments where possible.