

28 April 2016

Manager
Financial Services Unit Unit
Financial System Division Division
The Treasury
Langton Crescent
PARKES ACT 2600

Email: LifeInsurance@treasury.gov.au

Dear sir/madam,

Re: Life insurance remuneration reform regulations

In brief:

AIST supports the removal of the exemption to conflicted remuneration of life insurance commissions. Whilst we the additional clarification contained in the draft regulations, we emphasise that this would not be necessary if commissions had been completely outlawed as they have been on other financial products.

AIST thanks Treasury for the opportunity to comment on these draft regulations, designed to support parts of the *Corporations Amendment (Life Insurance Remuneration Arrangements) Bill 2016*. Our comments in this submission are predicated on the assumption that the Bill will eventually pass. We note that this Bill was introduced to Parliament to remove the exemption on benefits paid in relation to life insurance products from the ban on conflicted remuneration. AIST supports the removal of this exemption. However, as we wrote in our submission to the Senate Economics Legislation Committee regarding this Bill, it still allows for payments from life insurers to advisers – which we strongly disagree with.

We recommended at the time that a sunset clause should be added to the legislation to ensure that commissions can be eventually phased out. Since then, the Bill has lapsed owing to Parliament being prorogued. Consequently, the industry must once again wrestle with the uncertainty of announced but un-enacted measures, with a further question being raised in the form of a looming Federal election. Although we are aware that this is a generally uncontroversial Bill with bipartisan support, whether the re-introduction of this Bill is a priority for an incoming Government is unknown, regardless of who is elected.

This means that there is an additional question mark over these draft regulations, with no certainty as to their introduction. In the event that the Bill is not reintroduced to Parliament, the work being undertaken on the draft regulations will be unable to continue. This is regrettable.

Nevertheless, we offer the following comments.

AIST supports the repeal of Regulation 7.7A.12A of the *Corporations Regulations 2001*. Remuneration (in fact) does not cease to be conflicted just because it does not meet a definition in legislation and we support the removal of this exemption.

We note that measures contained in these draft regulations propose that straightforward issues such as stamp duty should form part of the policy cost, to other issues such as outlining technical details of when clawbacks should or shouldn't apply. AIST queries why issues such as the application of clawbacks are included, given ongoing processes to remove commissions from all other retail financial products.

The removal of the proposed event where clawback doesn't apply in regulation 7.7A.12EC(a) will come as cold comfort for families of those coping with the death of a loved one through suicide. This is especially true, given that a premium will still have been paid for a policy which is unlikely to pay a benefit during the first 12 or 13 months. We note that in other events where a clawback does apply, this amount is to be pocketed by the life company, rather than distributed to the consumer who essentially paid for it. This appears somewhat arbitrary and ill-conceived. We believe that surely a better outcome would be to ensure that these amounts go to the dependents.

Regulation 7.7A.12ED is designed to ensure that where a policy cost is reduced, for example where the life insured stops smoking, a clawback doesn't occur. The non-smoker criterion used by insurers is normally someone who hasn't touched tobacco products in at least 12 months before they can be considered a non-smoker, meaning that for that whole time, they would have been paying smoking rates. This period, incidentally, is the hardest period a smoker goes through during the quitting process.

Also, by ceasing smoking, they have taken active steps to improve their health. Once again, would it not be better for someone who has taken this action to be rewarded for this by ensuring that a partial clawback occurs with the consumer the ultimate beneficiary?

We further note the perpetuation of grandfathered arrangements and question the wisdom of allowing these to continue, particularly when APRA statistics show that \$50 billion remains in accrued default amounts ahead of the 30 June 2017 migration into cheaper MySuper products.

We stress that these regulations add to the national compliance burden and would be entirely unnecessary if commissions had been properly outlawed.

If you have any further questions regarding this submission, please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at rwebb@aist.asn.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tom Garcia', is written over a light blue horizontal line.

Tom Garcia
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

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