Answer to question in writing:

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON ECONOMICS

REVIEW OF THE ASIC ANNUAL REPORT (SECOND REPORT) 2019

ASIC12QW

Question

ASIC's first Consultation Paper proposing reforms on the sale of insurance in car yards was released three years ago, and its Original Instrument was released for consultation 10 months ago. ASIC is proposing a 9 month delay for the main operative section in the New Instrument (Section 6).

(a) What has caused this delay? Why is it necessary in ASIC's view?
(b) What calculations have ASIC done to gauge the impact of the altered timeline on consumers?
(c) Can ASIC guarantee there won't be further delays after 9 months?
(d) What would be the cost of acting sooner?

Answer

<u>Question (a)</u>

In 2016, ASIC released three reports identifying consumer harms resulting from the sale of add-on insurance and warranties by car-yard intermediaries. In 2017 ASIC issued Consultation Paper 294 *The sale of add-on insurance and warranties through caryard intermediaries* which canvassed two proposals for reform in this distribution channel.

This work was paused during the Financial Services Royal Commission (FSRC) in 2018. The FSRC also examined the sale of motor vehicle add-on insurance and recommended that the Government implement a deferred sales model for all add-on insurance products (FSRC Rec 4.3).

Following the Government's response to the FSRC, ASIC continued the work on a deferred sales model proposal. Under section 1023F of the *Corporations Act 2001*, ASIC is required to consult with persons who are reasonably likely to be affected by a proposed product intervention order (PIO). This consultation was undertaken in October 2019 via Consultation Paper 324 *The sale of add-on financial products through caryard intermediaries* which sought submissions on a proposal to use the product intervention power in relation to add-on insurance and warranties sold with the sale or lease of a motor vehicle. This consultation included the draft PIO.

Following stakeholder feedback, ASIC made material changes to the scope and operation of the proposed PIO. ASIC undertook a second round of public consultation on the changes made to the proposed PIO in August 2020, including a proposed 9-month transition period for the obligations.

A final decision has not yet been made about whether to implement a PIO and, if so, an appropriate transition period. If a PIO is made, ASIC will consider the need for a transition period, and the appropriate length of any transition period, balancing the need for timely implementation with an appropriate amount of time for insurers, warranty providers and motor vehicle dealers to make any necessary system changes in order to comply, and ensure that implementation is effective and consumer outcomes are not compromised.

<u>Question (b)</u>

ASIC has collected data from industry participants and consumer representatives in order to measure the effect of the COVID-19 pandemic and related lockdowns on the significant consumer detriment identified in ASIC's research and reporting, including sales figures and claims ratios.

<u>Question (c)</u>

ASIC has not yet made a final decision on whether to make the proposed PIO. Should ASIC decide to implement the PIO, consideration will be given to the appropriate length of the transition period.

<u>Question (d)</u>

There are a number of steps ASIC must undertake in developing a proposed PIO and proceeding to a decision. These include:

- complying with our consultation obligations under s 1023F of the Corporations Act;
- collecting evidence of significant consumer detriment sufficient to satisfy the ASIC delegate of the relevant jurisdictional thresholds; and
- designing a PIO to appropriately address the consumer harms.

Failure to follow these steps in making a PIO may increase the risk of the order being judicially challenged or failing to achieve its public policy purpose.

An appropriate transition period in any PIO will be considered in light of:

- providing sufficient time for appropriate implementation to help ensure beneficial consumer outcomes;
- implementation costs on the motor vehicle retailing industry at a time of significant economic uncertainty; and
- giving motor vehicle dealers sufficient time to make necessary changes to their business practices.