

## INDUSTRY NEWS

# Proposed design and distribution obligations

In December 2016, the Australian Government issued the *Design and Distribution Obligations and Product Intervention Power Proposals Paper*. The Government accepted the Financial System Inquiry recommendation to introduce design and distribution obligations on issuers and distributors of financial products and a product intervention power for ASIC. The Proposals Paper is in response to that recommendation.

The Proposal Paper outlines that issuers of financial products are expected to:

- identify appropriate target markets for products;
- select appropriate distribution channels for their identified target market; and
- review arrangements frequently to ensure arrangements continue to be appropriate.

In addition, distributors will be expected to put in place reasonable controls to ensure products are distributed in accordance with issuers' expectations and comply with reasonable requests for information related to product.

ASIC's product intervention power would apply to all financial products made available to retail clients.

It is proposed that ASIC could make interventions in relation to the product (or product feature) or the types of consumers that can access the product or the circumstances in which the consumer can access it. Examples of possible interventions include imposing additional disclosure obligations, mandating warning statements, restricting or banning the distribution of the product.

ASIC would only be able to use the intervention power if it identifies a risk of significant consumer detriment, undertakes appropriate consultation and has considered the use of alternative powers.

It is proposed that the obligations will apply to new products issued 6 months after the reforms receive Royal Assent. For products already available to consumers before Royal Assent, it is proposed that these products can continue to be offered to consumers for a period of 2 years before having to comply with the new obligations.

Feedback on the Governments' Proposal was required by 15 March 2017. The Government will consider responses in designing legislation giving effect to the measures. Depending on the outcome of this consultation process, it is expected that there will be consultation on draft legislation by mid-2017.

For life insurers, the reforms contemplated by the Proposals Paper may not create many additional obligations because the design and distribution obligations largely reflect obligations in the Life Insurance Code of Practice. For example, the "Policy design and disclosure" aspects of the Code of Practice.