

## **Introduction**

Protecta Insurance New Zealand Limited is an underwriting agent for Virginia Surety Company, a licensed insurer with an A rating in New Zealand.

In 2018 Virginia Surety Company became part of Assurant, a global underwriter specialising in customer sold insurance products through financial institutions.

Protecta has 33 years' experience in marketing Mechanical Breakdown Insurance, Payment Protection Insurance, Guaranteed Asset Protection and Motor Vehicle Insurance through financial institutions. Over the 33 years of trading, Protecta has had very few complaints or issues relating to the sale of insurance products, whilst maintaining a high level of customer service. Over the years Protecta has seen the emergence and closure of similar product providers be they licensed or non-licensed Insurers. We provide excellent training to the financial institutions that become our agents and provide meaningful products to the many thousands of our policy holders. Protecta takes pride in what we do, and through our regular surveys there is evidence of helping our customers in time of financial need.

## **General Comments**

It is not clear from the Options Paper what "delivering good outcomes" actually looks like or what is expected of financial institutions to deliver such outcomes. In the case of insurance, for example, a good outcome for the insured would be that they never have to make a claim on their insurance policy, but the policy holder might not necessarily see that the payment of their insurance premiums for a policy, on which they never make a claim, is the best possible outcome for them.

I think clarity with regard to the inherent challenge of the significant imbalance of knowledge and power between financial institutions and consumers as discussed further in paragraphs 39 – 41 of the Options Paper; Protecta suggests that such an imbalance exists between any institution and its consumers – not just financial institutions. Regardless of the product being sold – financial or otherwise – the provider has considerably more knowledge than the consumer. Also, not all financial products are complex just as not all non-financial products are simple.

A further point Protecta wishes to make is that there is a great deal of confusion within the Options Paper as to who it is the proposals are trying to help. This is because there is inconsistency in the terms used to describe who the good outcomes of appropriate conduct and culture are being delivered to. In paragraphs 16 and 17 the Options Paper refers to "customers". In paragraph 15 it refers to "consumers". Protecta submits that there needs to be clarity as to whose outcomes the regime is aimed at, would be helpful. If it is "customers" then that would include a person or company that buys goods or services in New Zealand, if it is "consumers" then that would include a person but not a company.

- 1. Which overarching duties should and should not be included in the regime? Are there other duties that should be considered? Do you agree with the pros and cons of each duty? Do you have any estimates of the size of the costs and benefits of these options? Are there other impacts that are not identified?**

As to the overarching duties we can't speak on behalf of all financial institutions however all licensed insurers already have appropriate regimes, such as an external dispute resolution scheme regarding complaints over a claim.

**2. Do you think the overarching duty for managing conflicts of interest should be general (as it is currently worded) or focus on conflicts of interest that arise through remuneration? What are some examples of conflicts of interest that arise outside of conflicted remuneration and incentives?**

The overarching duty for managing conflicts should be general, but Protecta believes that there is a strong case as mentioned in the report highlighting parent companies such as a Bank or a Financial institution having ownership of a subsidiary entity holding a current Life or Fire and General Insurance License. This ownership structure allows the parent company to obtain commission and leverage further the ability to maximise remuneration from the sale of credit related insurance products. We believe this structure allows transfer pricing across the legal entities to profit further. Additionally, some financial institutions have the ability to distribute such products as a repayment waiver, which in essence is a replica product of a current credit related insurance product, however this product is not underwritten nor does the financial institution need to obtain an insurance license from the RBNZ. This repayment waiver product is retailed at the same price point as other credit related insurance products that are underwritten by insurers. We believe as this is not underwritten it should be legally removed.

**3. Is a code of practice required to provide greater certainty about what each overarching duty means in practice?**

Introducing further codes will only add more confusion to the customer when referring to multiple codes already in practice. Protecta's preference would be to ensure that the customer is aware of the current codes in practice and that better promotion of these codes should be undertaken.

**4. Which options for improving product design do you prefer and why? Do you agree with the pros and cons of the options? Are there other impacts that are not identified? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of the options?**

We think a redesign of product is unnecessary and we would like to see some evidence that shows that products listed in the report mentioned in paragraph 147 are not of value to the customer. Both payment protection insurance and add on car insurance are an essential part of responsible lending and duty of care. In many cases Protecta is able to provide cover for customers even when they are unable to obtain this insurance from the major insurers, this protection being necessary in the event of hardship when trying to maintain loan repayments in the event of temporary unemployment or vehicle accident. Protecta believes that the current CCCFA imposes appropriate obligations on providers of credit related insurance products in section 45 of the act. As mentioned in our earlier answer in question 2, these products should be underwritten and other forms of this product such as repayment waivers should be legally removed.

**5. If a design and distribution requirement like option 3 were chosen, are there particular products for which this is more necessary than others? If so, please explain what and why.**

We believe the current products on offer are more than adequate and are designed with the customer in mind. The customer determines the value in which products they purchase are necessary, however it is difficult to segment and offer products specifically to individual needs when customers want limited underwriting hurdles to obtain protection and want peace of mind in the event of a job loss or vehicle accident. Protecta has the view that the financial institution requires more enforcement under the existing law when the sales of these products are to customers who were unable to make a claim due to their circumstances when the product was sold. The responsibility needs to fall back on us as wholesale product providers, to ensure our distribution is well informed, trained and is of appropriate skill set to distribute these products.

**6. Which options to improve product distribution do you prefer and why? Do you agree with the pros and cons of the options? Are there other impacts that are not identified – such as unintended consequences or impacts on particular business models? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of the options?**

Remuneration incentives exist in every industry and are an essential part of recognition and reward for both the seller and the customer; of all the options tabled we prefer option 1.

**7. To assist us in comparing the pros and cons of various options, please provide information about remuneration and commission structures currently in use (i.e. what are common structures, average amounts of remuneration/commissions, qualifying criteria etc.).**

We do not have a commission or remuneration structure that suites all distributors. All distributors have cost structures within their own business that are varied and very dependent on multiple factors. Our experience shows that our brokers, dealers and agents across New Zealand have unique service deliverables that add value to the customer, particularly at time of claim. We believe to impose restrictions in commission will have a negative impact on the customer.

**8. What is your feedback on imposing a duty to ensure claims handling is fair, timely and transparent? Do you agree with the pros and cons? Are there other impacts that are not identified? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of this option?**

I am not sure that this is necessary as we believe that this is currently being addressed in the MBIE Options Paper “Insurance Contract Law Review”. Multiple events can impact delays in claims handling, the immediate one being a catastrophe of some sort, or economic downturn effecting employment. It is in our interest to turn around claims in a prompt manner and we do inform our customers our obligations under the external disputes resolution.

**9. If this option were to be adopted, should an attempt be made to clarify what fair, timely and transparent mean? Why? Why not? What are the benefits and costs of doing so?**

The following codes are more than adequate to satisfy customers

- Insurance Council of NZ Fair Insurance Code
- Financial Services Council's Code of conduct
- Financial Services Federation Responsible Credit-Related Insurance Code

**10. What is your feedback on requiring the settlement of claims within a set time? Are there other impacts that are not identified? How do you think that exceptions should be designed? Should there be different time requirements for different types of insurance? Do you have any estimates of the size of the costs and benefits of this option?**

The claim experience and duration of the claim is still dependant on the information provided by the customer, we agree and support the comments mentioned in the "Cons" statements on page 49 of the Options Paper.

**11. Do you agree with this option to empower and resource the FMA to monitor and enforce compliance? Do you agree with the pros and cons? Are there other impacts that are not identified? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of the options?**

The Commerce Commission regulates credit-related insurance under the CCCFA so bringing a further regulator will ultimately increase costs to government and aid unnecessary law reformists. The increased government costs mean more taxpayer funding.

**12. What is your feedback on the option to require banks and insurers to obtain a conduct licence? Do you agree with the pros and cons? Are there other impacts that are not identified? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of the options?**

We refer and agree with the comments mentioned under the "Cons" statements on page 51. This would be costly and would suggest the larger financial institutions having an advantage to comply. Therefore the additional costs would force the more agile customer focused financial institution to rethink their existence.

**13. What is your feedback on this broad range of regulatory tools? Do you agree with the pros and cons? Are there other impacts that are not identified? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of the options?**

We think a clearer understanding of who is the actual regulator and understand if those tools already exist. We believe the administrative tools listed in paragraph 194 page 52 already exist.

**14. Do you think that the maximum pecuniary penalties available for breaches of any conduct duties should be the same as the existing FMC Act penalties? Is there a case for making the penalties higher?**

We currently take very seriously the penalties imposed via the CCCFA. We don't have a strong view other than to have consistency across all financial institutions.

**15. What is your feedback on the options of executive accountability? Do you agree with the pros and cons? Are there other impacts that are not identified? Are there other options that should be considered? Do you have any estimates of the costs and benefits of the options?**

We support the concept of accountability but strongly believe the challenges of attracting senior managers or executives in our sector of the industry difficult. Additional liability would discourage current and future talent. Pages 54 of the report show the "Cons" outweigh the "Pro's". We support the proposed amendments to the CCCFA which will introduce liability to directors and senior managers of creditors and also include a regime whereby the Commerce Commission will be tasked with certifying all such people working in the business they regulate.

**16. What is your feedback on the whistleblowing option? Do you agree with the pros and cons? Are there other impacts that are not identified? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of the options?**

Most organisations have a robust whistle blowing procedures. A standard approach may not work for different organisations, particularly smaller businesses. We feel that the current resource to external disputes resolution is adequate.

**17. What is your feedback on the option of regular reporting on the industry? Do you agree with the pros and cons? Are there other impacts that are not identified? Are there other**

This would be a very onerous task and the alignment of information would have too many variances. Any statistical information gathered would have to appropriately put into context, i.e. a customer complaint no matter how big or small needs to be understood. It would be unfair to highlight multiple complaints when the organisation has a huge amount of customers.

**18. What is your feedback on the role of industry bodies? Do you agree with the pros and cons? Are there other impacts that are not identified? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of the options?**

We support the "Cons" suggested on page 56 of the report. We do not have other options for consideration.

**19. What is your feedback on the options regarding who the conduct regime should apply to? In particular: Do you agree with the pros and cons of the options? Are there other impacts that are not identified e.g. do the proposed overarching duties conflict with existing regulation that applies to other financial institutions? Are there other options that should be considered? Do you have any estimates of the size of the costs and benefits of these options? Which options do you prefer and why?**

It is unlikely that the introduction of a conduct regime would remain solely applicable to banks and insurers when the regulators who would enforce such a regime have a mandate to also regulate the entire financial services industry. On this basis, some real clarity as to what applies to whom would be very helpful. There is definitely scope for a new conduct regime to overlap with existing regulation and the case for this is set out fairly clearly in paragraphs 224-226 under "Credit" on page 59 of the Options Paper. Protecta is very strongly of the view that any such regulatory overlap should be avoided at all costs due to the cumbersome burden it puts on businesses and the subsequent increase in cost of compliance which is necessarily passed on to customers.

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