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Financial Markets Policy
Building, Resources & Markets
Ministry of Business, Innovation & Employment

By email: financialconduct@mbie.govt.nz

Thank you for the opportunity to submit on the Options Paper - Conduct of Financial Institutions.

Finance and Insurance sales in the motor industry

Provident Insurance Corporation Limited is a specialist insurance company that operates in a niche industry that offers insurance products to purchasers of motor vehicles.

A number of competing insurers operate in this segment of the market.

The importance of finance and insurance sales in the market

A motor vehicle is generally the second largest asset purchase a consumer will make, so the provision of credit (finance, by car dealers and finance companies and brokers) is very important to help consumers purchase motor vehicles.

A credit contract, however, is a **liability** to a consumer, so insurance is a very important component to help protect the customer, their investment in the vehicle and their obligations over the term of the credit contract.

Specifically with regard to credit-related insurance (payment protection), this type of policy protects the liability of the customer (the vulnerable customer especially) in the event that they are off work and **unable to meet their loan repayments** due to events such as death, accident, illness, redundancy, bankruptcy, hospitalisation and strike-related action. Vulnerable consumers are the highest “at risk” demographic likely to suffer these events and it would be **irresponsible** to remove the protection that insurance, **when sold responsibly, as prescribed under the CCCFA**, provides for these consumers loan payments. It protects their loan payments and their livelihood.

It is important to note that it is not the insurance products that present the risk to the vulnerable borrowers it is the provision of credit itself that presents the risk. If they cannot afford the small extra cost of insurance they should not be taking on the risk of the loan.

In compliance with the CCCFA, lenders have a responsibility to:-

- assess the risk
- ensure products sold are fit-for-purpose
- fully disclose the policy to the customer and provide the customer a summary of the products features, benefits, limitations and exclusions at the point of sale
- advise the customer the amount of the premium and the total amount of interest payable over the term of the loan
- advise the customer the policy is optional and not compulsory
- advise the customer of the cooling-off period
- provide all this information to enable the customer to make an “informed decision”.

Remember also that credit-related insurance also protects **the lender** (and gives the lender a level of assurance that if their borrower suffers an insured event, the insurance company will keep making the payments on behalf of the borrower).

If the ability to sell credit-related insurance is removed or restricted, lenders will be more reluctant to lend to those vulnerable (at risk) customers and such regulation would then have the unintended consequence of driving vulnerable customers to third tier lenders that will prey on vulnerable customers, putting them at more risk. Alternatively, if mainstream financiers do continue to lend to more “at risk” customers, interest rates will ultimately increase to reflect the increased risk of defaults. The cost will be reflected somewhere and insurance plays an important part in this eco-system.

About our products

Our products include:-

- Mechanical breakdown insurance
- Guaranteed asset protection (Gapcover)
- Credit contract indemnity insurance
- Motor vehicle insurance

How our products are sold

Our products are sold via Intermediaries (car dealers, finance brokers and finance companies) to people purchasing motor vehicles.

Training in all aspects of product knowledge and the delivery of our products to customers is an essential element supporting the sale of our products.

We have very well-prescribed regulation in the form of the CCCFA, which contains the Responsible Lending Code. This code also prescribes how credit-related insurance must be sold.

Credit insurance and the way we sell it in NZ is different from the way products were designed and being sold in Australia and the UK

In NZ our products must be sold “fit-for-purpose” (as required by the CCCFA) so we have separate policies for 3 different classes of customers (salary/wage earners, self-employed persons and beneficiaries) with benefits designed specifically to cover each of their respective circumstances.

In practice, car dealers offer the relevant credit-related insurance product to the customer based on their needs.

We have developed an “Insurance Disclosure Form” which a dealer will use to explain their obligations under the CCCFA. The dealer will then provide a “Summary of Cover” explaining the features, benefits, limitations and exclusions of the policy. After explaining the Summary of Cover, the dealer will ask the customer to accept or decline the cover and sign the form to confirm their understanding and agreement.

We provide significant training to our dealer clients, meeting them face-to-face on a regular weekly call cycle and regularly running training programmes (in-house and external) on product knowledge, regulation and responsible selling.

We maintain a National Training Register of all training provided to all our intermediary clients and are currently developing a Training Academy to introduce levels of accreditation to ensure continual personal development in our industry.

When sold “**responsibly**” our products provide the necessary protection and good customer outcomes expected of insurance.

General comments relating to the content of the Options paper:-

We agree with the desired outcome to ensure good outcomes for all customers. We also believe our products provide very good protection for customers and, through the very low level of complaints received, do provide good outcomes for our customers.

We believe NZ is a well-regulated market. Unlike other overseas markets, the NZ government developed the CCCFA, providing the overarching legislation relating to the sale of finance and insurance products to consumers.

The CCCFA was amended in June 2015 to include the CCCF Amendment Act, incorporating the **Responsible Lending Code**, in order to provide further guidance for lenders and reinforcing the requirements of disclosure.

Through the Financial Services Federation we have further developed the **Responsible Credit-Related Insurance Code**, designed to reinforce compliance in

the way credit-related insurance is offered to customers and to run parallel to the Responsible Lending Code.

Our Submission

We have addressed the questions your Options Paper has raised as follows:-

Options for overarching duties

- 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?*

We believe the obligations to meet these duties already exists in regulation, for example CCCFA (Responsible Lending Code), FSLAA, requirement to belong to external Disputes Resolution scheme, and that there is no need for additional codes. However, if it was deemed necessary to develop a further code, the following options could be included:-

- Option 1 – A duty to consider and prioritise the customers interest, to the extent reasonably practicable, **based on a Code of Practice developed by the Regulator.**
- Option 2 – A duty to act with due care, skill and diligence – **training staff and identifying and addressing any capability gaps among their staff.**
- Option 3 – A duty to pay due regard to the information needs of customers and to communicate in a way that is clear and timely, **to ensure customers have the necessary information to help them make informed decisions**

- 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?*

We support the concept of keeping any duty to manage conflicts of interest general rather than specifically focussing on conflicts of interest that might arise through remuneration.

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

As stated in question 1, we believe there is no need for the development of further codes.

Options to improve product design

- 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 do not believe there should be any ability to stop or ban any particular insurance products. There should, however, be a requirement for insurers to meet specific performance obligations with regard to claims settlement. Products should be designed with specific features/benefits and claims must be settled in accordance with the promises the policy makes.

Option 2 refers to the banning of certain products and cites payment protection insurance and add-on car insurance (which we presume to mean comprehensive motor vehicle insurance sold via car dealers as opposed to being sold direct or via the internet) as policies that represent "poor value". We strongly disagree with this point and submit that both these products, when sold responsibly (in accordance with the Responsible Lending Code), provide very good protection for customers.

Please refer to my opening comments in this submission. With regard to credit-related insurance (payment protection insurance - and please note our policies designed in NZ are significantly different to those that were being sold overseas), this policy provides very good protection for customers entering into the liability of a credit contract. A "vulnerable" customer in this situation often needs the protection provided by payment protection insurance. Payment protection covers customers in very common events such as death, accident, illness and redundancy. Death can occur to anyone at any time. Our health system is bulging at the seams with customers suffering accident and illness and as the economy tightens, redundancy becomes a very real issue, placing many vulnerable customers under financial strain.

We submit that, in line with the requirements of the FTA, the CGA and the CCCFA, our products are required to be designed, and are designed, to provide sufficient consumer protection.

- 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.*

All products should be designed with the customer in mind and sold "fit-for-purpose". We believe our market is very well regulated and current regulation very appropriate. Better enforcement of existing regulation would be the more appropriate than developing more prescriptive regulation.

Options to improve product distribution

- 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?

Firstly we are very pleased MBIE is not considering a ban on commissions as this would lead to significant unintended consequences for the industry, the customer and also government. In the motor vehicle industry (in which we operate), motor vehicle dealers will always sell finance (as the majority of customers purchasing motor vehicles need finance to complete the purchase). A credit contract is a liability and the provision of payment protection insurance (for example) protects the customers obligations under the credit contract. Motor vehicle insurance and mechanical breakdown insurance also provide significant protection to customers. If we take away the remuneration a motor vehicle dealer can make from the sale of insurance products, the dealer will quickly revert to selling unregulated products such as paint and fabric protection at huge margins that provide little value to the customer or the liability of the credit contract they have entered into.

We do support Option 1 and Option 2, to design remuneration and incentives in a manner that is likely to provide good customer outcomes. We submit there is a strong need for commissions and incentives but would agree to remove target-based incentives.

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.?)*

In our industry we sell 4 main products via motor vehicle dealers with commission and incentive structures as follows:-

Product	Dealer Commission	Salesperson Incentive
Payment Protection Insurance	Generally 30% of retail premium	Generally 7% of retail premium
Guaranteed Asset Protection	Up to 50% of retail premium	\$15
Mechanical Breakdown Insurance	Up to 50% of retail premium	\$20
Motor Vehicle Insurance	10% of retail premium	\$10

The commissions and incentives paid to motor vehicle dealers are generally paid up-front with no trail commissions. The exception is motor vehicle insurance which has between 5 - 10% renewal commission.

Options relating specifically to insurance claims

Option 1: Duty to ensure claims handling is fair, timely and transparent

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?*

We agree with this option and agree clarification with what this means.

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?*

No further comment

Option 2: Requirement to settle claims within a set time, with exceptions for certain circumstances

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?*

There should be different time-frames for more complex claims.

Options for tools to ensure compliance

Option 1: Empower and resource the FMA to monitor and enforce compliance

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?*

We do not agree with this option as we believe this will increase compliance costs that we will ultimately have to pass onto the consumer.

Option 2: Entity licensing

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?

The industry is already licensed by RBNZ so we see no reason for conduct license as this will create dual licensing, cause confusion in the market, further increase compliance costs and do little to improve consumer protection.

Option 3: Broad range of regulatory tools

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?

No comment

Option 4: Strong penalties for non-compliance

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?

Existing penalties are sufficient.

Option 5: Executive accountability

15. What is your feedback on the option 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 size of the costs and benefits of the options?

We do not agree with Executive accountability as this will only increase compliance costs that will be borne by the business through increased D&O insurance cover – a cost that will ultimately be passed onto the consumer in increased premiums. It may also make it difficult to attract the required experienced executives.

Option 6: Require whistleblowing procedures to be in place

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?

We do not agree with this option as we already have whistle-blowing policies in place.

Option 7: Require regular reporting about the industry

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 options that should be considered? Do you have any estimates of the size of the costs and benefits of the options?

Reporting and the collection of data, unless required for specific purpose, will significantly increase compliance costs. It will also increase compliance costs for the regulator to have to collate and publish reports and take such further actions as required.

Option 8: Greater role for industry bodies

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?

All financial institutions should be required to be members of an industry body. This will help ensure consistency across the industry, provide one voice and not allow anyone to opt-out. The industry body could monitor codes of conduct in consultation with the regulator and ensure good outcomes are applied consistently across the industry via all members.

Who should the conduct regulation apply to?

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?

We agree with Option 2. There must be a level playing field for all who provide similar products and services.

At present we have a situation whereby some finance companies offer products called "Payment Waivers" to their customers, which are payment protection policies in disguise. They provide the same features and benefits and customers pay very similar premiums. The finance companies benefit more from the sale of these policies as they receive the full retail premium without having to be regulated under the IPISA and without having an insurance company underwriting their policy. These finance companies are selling these policies in the market with no regulation.

Thank you again for the opportunity to submit on this Options Paper. I would be happy to answer any further questions you may have on this matter.

Yours sincerely,

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Mobile Ph:- Privacy of natural persons
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