



24 October 2018

Hon Kenneth Hayne AC QC
 Commissioner
 Royal Commission into Misconduct in the Banking,
 Superannuation and Financial Services Industry
Submitted online

Dear Commissioner

Life Insurance: Approved Product Lists

ClearView Wealth Limited (ClearView) appreciates the opportunity to make a submission on the policy issues relating to the Life Insurance industry raised in round six of the Royal Commission hearings. The issues raised in our submission also intersect with some of the issues raised in round two on Financial Advice.

ClearView itself appeared before the Commission in round six to address questions about the failures of our former Direct Life Insurance business which closed in mid-2017. ClearView has apologised to customers, staff and other stakeholders and is close to completing a Direct Remediation Program to compensate affected customers.

The focus of this submission is on Approved Product Lists (APLs) used in the life insurance industry. As the Commission is aware, an APL sets out the financial products that an Australian Financial Services (AFS) licensee has approved for recommendation by its authorised representatives.

Contrasting Positions of ClearView and the Financial Services Council

ClearView's longstanding position is that APLs in life insurance should be 'open architecture' and that this should be a licence requirement for all AFS licensees. While we are a longstanding member of the Financial Services Council (FSC), which is making a separate submission to the Commission on behalf of members, our views are very different to the FSC's. In 2017, the FSC was pushed very reluctantly to establish an Industry Standard on APLs – unfortunately, the pusillanimous and insubstantial result of this process demonstrates that the FSC continues to believe that offering advisers (and, therefore, consumers) very restricted choice is sufficient.

ClearView's contention is that financial advisers should have the ability to recommend the most appropriate solutions to their clients, based on their personal needs and goals. As such, we believe advisers should have unrestricted access to all retail advised life insurance providers in the Australian market, of which there currently are only 11.

ClearView's approach is consistent with recent legislative and policy reforms to ensure financial advisers become bona-fide professionals by introducing higher educational and ethical standards. Restricted APLs represent a sales and distribution culture that is the very anathema of a professional, client-first culture. They do not represent the future of professional advice.

T +61 2 8095 1300 F +61 2 9233 1960
 Level 15, 20 Bond Street, Sydney NSW 2000
 GPO Box 4232 Sydney NSW 2001
www.clearview.com.au

ClearView Wealth Limited
 ACN 106 248 248
 ASX Code CVW



Particularly in the circumstance of there being only a small number of retail life insurers in the Australian market, a truly competitive and efficient market can only be achieved if customers have access to all providers.

Overview of Retail Advised Life Insurance Market

There are currently approximately 22,000 registered financial advisers on ASIC's Financial Adviser Register. As identified by the Commission, 44% of advisers (both aligned and non-aligned) operate under an AFS licence (i.e. through a dealer group) controlled by the largest 10 financial institutions. (*Some Features of the Australian Financial Planning Industry, Background Paper 6 (Part A)*, Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, 2018, p.3).

It is important to note that the FSC represents only a very small number of dealer groups, roughly 20 of the estimated 2,000 AFS licensees in Australia.

Self-employed aligned advisers pay their dealer group fees in exchange for services such as compliance, brokerage, research, education and training. The fees charged by institutionally-owned dealer groups only cover a fraction of the cost to provide these services and are heavily subsidised. In this circumstance, dealer groups operate as a 'loss leader' for the parent company which recoups costs and turns a profit from the sale of related products. This is achieved under the current regulatory framework through the use of restricted APLs which are wholly or substantially populated with in-house investment and insurance products.

ClearView's observation is that APLs are an arbitrary mechanism, typically constructed by institutional executives not advice professionals. They aim to control advisers and direct client monies into in-house products. In this circumstance, to go 'off-APL' advisers must gain special permission. This is often a lengthy and cumbersome process, designed to discourage advisers from recommending a product not on the restricted APL.

Restricted APLs have been openly criticised by major reports and regulatory reviews of the industry since the Storm Financial collapse, including the Financial System Inquiry (FSI) and the Review of Retail Life Insurance Advice (Trowbridge Report). As variously noted in these reports, the impacts of restricted APLs include:

- Reduced customer choice;
- Advisers unable to autonomously recommend that a customer remains with their current life insurance product if that product is not on their APL, even if it is in the customer's best interest;
- Advisers unable to autonomously recommend an alternative product if it is not on their APL, even if it is in the customer's best interest;
- It is difficult, if not impossible, for the affected adviser to comply with their "best interest" duty; and
- A culture that strongly and often inappropriately binds product and advice.

The category of non-institutionally aligned advisers comprises those who either hold their own AFS licence or who are authorised by a non-institutionally-owned dealer group. The majority of non-aligned advisers are able to choose from the 11 retail advised life insurance providers in the Australian market. (ClearView currently has a relationship with 450 non-aligned AFSLs, representing around 4,000 financial advisers, but is not on the APL of a single institutionally-owned licensee).

APLs: An Example of Failed Industry Self-Regulation

The interim Trowbridge Report noted that the customer benefits of choice extend beyond just the "product" (term, condition and price) and include better response times on underwriting, renewals and enquiries, better modelling or quoting software, tele-underwriting services, specialist underwriting services, and more efficient, fairer claims handling.

Symptoms of a market that is not operating in a competitive manner include: dominant players continuing to increase premiums on old products with outdated definitions and features; outdated approaches to customer care and service; and little or no attention given by dominant players to their claims handling approach.

In late 2015, following the FSI and Trowbridge Reports, the Government tasked the FSC with the responsibility of developing an Industry Standard in relation to APLs as part of the Life Insurance Framework package. The Government's expectation was that the industry would arrive at a position that completely, or at least substantially, dealt with the issue of restricted APLs, and then appropriately monitor and enforce that set of rules.

The FSC industry standard, which commenced on 1 January 2018 is not worthy of the name. It puts the commercial interests of its members ahead of consumers and fails to understand the dangers of conflicted advice.

The FSC's rationale for persisting with restricted APLs is principally based on claims by its larger members about the potential administrative costs and risks associated with the credit standing of some life insurers. As all Australian life insurers are regulated to high risk management and regulatory capital standards by APRA, ClearView maintains that any such concerns are spurious and misplaced. It also flies in the face of the majority of AFS licensees who currently have open APLs and do not find practical problems with this approach. The comparison made by the FSC between the life insurance industry (which has only 11 providers), and the investment industry which has hundreds of providers and thousands of products that must be researched, is not valid.

While ClearView is a member of the FSC, we believe the FSC's APL standard is grossly inadequate and will not result in improved consumer outcomes. The application of the standard is voluntary and states that a member's Life Insurance APL must contain the *"choice of 3 or more life insurance providers"*. Given all institutional dealer groups include their parent company's products on their APL, the FSC standard effectively only requires members to consider including two other providers.

By comparison, the Trowbridge Report recommended that APLs feature a minimum of seven life insurers.

The FSC's position on APLs is restated in its submission to the Commission on round six of hearings, which ClearView has reviewed and unsuccessfully sought to make input. ClearView believes that open life insurance APLs serve the best interests of consumers because they enable advisers to recommend the most suitable insurance arrangements for their clients. A licence condition or industry standard that provided for open architecture APLs would ensure better management of structural conflicts of interest and promote competition and innovation, ultimately leading to better consumer outcomes.

Round six of the Commission's hearings highlight the need for better management of conflicts of interest, genuine competition and fairer claims handling. Restricted APLs only serve the commercial interests of large vertically-integrated institutions. They do not serve the interests of consumers, and also serve to undermine the ability of financial advisers to act as bona fide professionals and fiduciaries.



Recommendation

ClearView believes that ASIC should either be tasked with the formulation of a regulatory instrument that mandates open architecture APLs in life insurance, or else directed to impose a licence condition on all vertically integrated dealer groups (AFS licensees) requiring them to offer unrestricted choice of life insurer.

If ASIC advises that it does not believe it has the necessary powers in this regard, ClearView believes that restricted APLs should be prohibited through appropriate legislative changes.

Please do not hesitate to contact the undersigned if further information is required.

Yours sincerely,



Simon Swanson
Managing Director