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The final tranche in the move against CCI products

ASIC's third and final tranche in the push against CCI products was announced recently.

On 13 May 2020, ASIC commenced the third tranche in a three-pronged approach to consumer credit insurance (**CCI**) products offered by financial lenders. Piper Alderman has previously reported on the first two tranches here.

Nearly a year after Report 622 *Consumer credit insurance: Poor value products and harmful sales practices* (**REP 622**) was published which found that in ASIC's view the design and sale of CCI had consistently failed consumers, ASIC announced over $160 million in compensation for consumers who were sold this "junk"[1] insurance. ASIC has outlined the situations and compensation payable as below.[2]

Applicable situation	Compensation payable
Lenders sold consumers CCI policies although they were ineligible or unlikely to benefit or need the insurance	$105.8 million paid to over 244,000 customers
Lenders used unfair sales tactics such as pressure selling and making false representations	$37.34 million paid to over 48,000 customers
Consumers who were incorrectly charged for CCI or their claims were incorrectly declined	$13.9 million paid to over 57,000 customers
Lenders had inadequate consumer-focused processes to assist consumers in hardship or trustees of deceased estates who had a existing CCI policy to claim	$5.06 million paid to over 1,000 customers
Consumers received no or very little value from the product	$5.77 million paid to over 84,000 customers

Although this was ASIC's intended 'final' tranche, ASIC has announced it will continue to monitor, collect and publish how CCI products provide value to consumers, to ensure there is ongoing public transparency. ASIC also announced in August 2019 their intent to publish a follow-up review within two years that will reassess how CCI is being sold.[3]

Providing CCI – practical tips for providing compliant insurance

ASIC announced in their REP 622 that they have certain expectations of lenders and insurers who sell, design and price CCI and handle customer claims. If lenders and insurers are incapable of abiding by ASIC's guidelines, they should cease selling CCI or ASIC will consider taking enforcement action or otherwise intervene by utilising their product intervention power.

There are four main areas which should be carefully assessed by lenders and insurers to ensure their CCI offering abides by ASIC's expectations. These are outlined below.

- Product design and value

Lenders should sell CCI unbundled to allow customers to select the specific insurance product they require. Furthermore, lenders should assess the product design and value of CCI, ensuring the product accurately reflects the consumer value and includes the claims ratios of new and existing products. CCI benefits should also reflect the actual needs of consumers rather than implementing arbitrary limits.

- Compliance and monitoring

CCI products should be sold in accordance with ASIC's standards and 10 recommendations identified in REP 256. Upon review, if these standards are currently not being met then lenders should conduct a review to assess any harm felt by consumers and ensure the affected consumers are identified and remediated in a timely manner.

- Sales practices

If there are any outbound unsolicited phone sales of CCI, they should cease.

When making informed sales, there should be stringent filters applied to ensure only eligible consumers are being contacted about CCI. To confirm eligibility, lenders should be proactive in obtaining clear consent before discussing the sale of CCI.

Furthermore, 'knock-out' questions should be implemented in sale scripts to assist in differentiating eligible from ineligible customers. Lenders should also incorporate a four-day deferred sales model for all CCI products, commencing the day after the consumer is advised their loan is approved.

- Post-sales conduct

Lenders and insurers should not charge premiums for CCI where the primary benefits are no longer available to them under the policy. Consumers should maintain clear communication with consumers about their policy to provide annual updates about the price, limits and exclusions of their policy and remind them to lodge a claim if a claimable event had occurred within 12 months. Every two years, lenders and insurers should contact consumers with a CCI product about whether they would like to continue with their cover.

If a consumer applies to vary their loan contract as a result of financial hardship, lenders should notify the insurer for an assessment of their claim details. Insurers should also record details pertaining to withdrawn claims and claims which did not proceed.

Therefore, if lenders continue to offer CCI, they should take great caution to ensure the eligibility criteria is met by potential consumers and consideration is given to the customer's best interests. Furthermore, the sale practices concerning CCI should be assessed to make sure they are 'fair' and conscionable and no undue pressure is being forced onto customers.

[1] 13 May 2020, 20-115MR ASIC secures over $160 million in remediation for junk consumer credit insurance.

[2] Ibid.

[3] Sean Hughes, Speech, 'Banking in the Spotlight', 36th Annual Conference of the Banking and Financial Services Law Association, Gold Coast, Queensland, 30 August 2019.