

Article

Dispute Resolution & Insolvency



The Importance of an Appropriate AFSL

By Joe De Ruvo and Helene Chryssidis

iExtend launched in 2021 and was designed to offer an alternative life insurance solution for consumers considering cancelling their policy. While a range of processes and conditions were attached to iExtend's service, in summary, it offered to co-own life insurance policies with consumers who intended to cancel their life insurance policy. Under the arrangement, iExtend would jointly own the life insurance policy, cover ongoing premiums for its share of the policy, and then take a portion of the insurance payout with the chosen beneficiaries or policy owner's estate.

iExtend offered this service via financial advisers to clients who were committed to cancelling their cover. When describing the services offered by iExtend, its CEO, David Sarkis, stated that *"iExtend wants to fill a gap in the insurance market and to partner with financial advisers and insurance providers to ensure policyholders can continue the valued relationship they have with them by accessing a flexible, innovative and alternative insurance option."*

On 17 June 2022, ASIC commenced an investigation into iExtend Holdings, along with its subsidiary iExi, because of concerns that it was operating a financial services business without holding the requisite Australian financial services licence (**AFSL**). In essence, ASIC's concern was that iExtend was dealing in financial products by issuing co-ownership deeds and providing general financial product advice to policyholders.

iExtend was cooperative with ASIC and admitted to the conduct identified. With this admission, ASIC agreed to issue undertakings as an alternative to commencing court proceedings against iExtend.

Court-enforceable undertakings are a regulatory tool used by authorities to ensure compliance with laws and regulations without resorting to formal legal proceedings, providing an opportunity for parties to rectify issues voluntarily while still being held accountable for their actions.

The undertakings issued by ASIC gave a number of conditions that needed acceptance, which required that iExtend:

- Apply for an AFS licence to:
 - o issue financial products in respect of the co-ownership deed;
 - o varying and disposing of life products, including investment life insurance and life risk insurance;
 - o provide general advice; and
 - o provide claims handling and settling services.
- Not enter into any co-ownership deeds until the AFS license is granted.
- Become and remain a voluntary member of the Australian Financial Complaints Authority
- Engage a law firm to review and report on their:
 - o dispute resolution process;
 - o promotional material accessible to policyholders;

- o template co-ownership deeds to be executed by policyholders;
 - o policies and procedures for identifying and dealing with vulnerable persons; and
 - o policies and procedures for identifying suitable financial advisers to introduce the product to clients.
- Submit the law firms' report to ASIC for implementation of further recommended actions identified within the report.
 - Send a copy of the enforceable undertaking to all policyholders and financial advisers who have engaged with the company.
 - In a prominent place on their website, publish a notice that they are unable to onboard new policyholders, with a link to the enforceable undertaking.

The approach taken by ASIC illustrates the importance of holding or operating under an appropriate ASFL.

ASIC's Deputy Chair, Sarah Court, emphasised the importance of financial services businesses being sufficiently licensed to ensure compliance with legal obligations regarding disclosure, design, and distribution of financial products.



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